

**REGULAR MEETING:** City of Pontiac Planning Commission Meeting Minutes on July 30, 2013; Pontiac City Hall, 47450 Woodward Avenue, Pontiac, Michigan 48342

**CHAIRPERSON THOMAS CALLED MEETING TO ORDER AT 6:32 P.M.**

**MOMENT OF MEDITATION:**

**ROLL CALL: PRESENT:** Hollis, Hudson, Fegley, Cadd, Thomas

**EXCUSED:** None.

**ABSENT:** Payne, Glass.

Mr. Sabo reported a quorum is present.

**COMMUNICATIONS:** None.

**MINUTES FOR REVIEW:** None.

Chairperson Thomas read a statement into the record concerning the procedural order of the Planning Commission.

**PUBLIC HEARINGS AND SITE PLAN REVIEWS:**

**5.1 PF-13-61 ZONING MAP AMENDMENT - KENNETT ROAD**

PRESENTATION OF ZONING MAP AMENDMENT REQUEST GIVEN BY MR. SABO.

Overhead photographs were shown.

**5.2 PF-13-62 PRELIMINARY SITE PLAN REVIEW AND CONCEPT APPROVAL - 000 KENNETT ROAD**

PRESENTATION OF PRELIMINARY SITE PLAN REVIEW AND CONCEPT APPROVAL REQUEST GIVEN BY MR. SABO.

Overhead photographs were shown.

Petitioner Richard Burns, NTH Consultants, 18 West Lawrence, Pontiac, Michigan; clarified the conditions of the rezoning and indicated he has a signed agreement with the city. Mr. Sabo indicated if the petitioner fails to move forward, the property will revert back to previous zoning.

**CHAIRPERSON THOMAS DECLARED PUBLIC HEARING OPEN.**

Mr. Burns indicated the property is on a beautiful stretch of land and wants to preserve that aspect of the property. Mr. Burns feels a waste transfer is best suited for the property.

Mr. Burns stated he would bring in long term employment. He has a 99 year lease for manageability and the community agreement was approved previously. The cost of the land was \$150,000. Mr. Burns indicated no odors will emanate from the building and environmental codes have been satisfied.

CHAIRPERSON THOMAS DECLARED PUBLIC HEARING CLOSED.

Comm. Hollis inquired of the allowed different uses at this site. Mr. Sabo indicated parks, golf course, but no housing.

Comm. Hollis inquired how would the proposed use enhance quality of life. Petitioner indicated it's a competitive recycling environment, keeps the community clean.

Comm. Hollis inquired if the petitioner would like this type of facility in his backyard. Petitioner indicated yes, if it was properly operated.

Comm. Cadd concerned with gas migration, water contamination and traffic congestion. Petitioner commented a traffic study is being completed, 6-8 trucks per hour would visit the property. Ingress would be on Telegraph and Egress on Kennett. Exits will only be right turns. Hours of operation 6 a.m. to 6 p.m. tentatively.

Petitioner Burns indicated there is a very extensive permit process with the State of Michigan in Lansing.

Comm. Cadd inquired where the waste materials were coming from. Petitioner indicated 4-5 different counties and indicated transfer stations reduce traffic.

Comm. Cadd inquired of the storage of autos. Petitioner indicated it will be used as an investment aspect and qualifications are still pending.

Comm. Cadd inquired of growth and control of vermin. Petitioner indicated growth and expansion maybe further down the road depending on the growth of the business. Petitioner indicated

vermin are attracted by a food source and there is no food source at this location and it's also regulated by the State. Com. Hudson commented resetting the economic compass and if a lease was in effect for public viewing online as far as terms and conditions.

Rick Varnum, attorney, 3785 Fox Hunt, indicated once the lease is accepted, the information then becomes public information. The lease is currently with the city's legal department.

Mr. Sabo indicated the lease is not subject to the opening meeting, but agreed once signed, it is a public document.

Comm. Hudson inquired if there were deadlines on the negotiations. Petitioner indicated no, but the lot was split. There was a title search by First American Title and he was unsure of any previous dumping on the site, but it meets the requirements today. Liability protection will be in place to further protect the land. There will be an 8 foot screened fence.

Comm. Hudson inquired of a comparison between the smell of a transfer station to an active dump. Mr. Burns indicated the smell of a transfer station is comparable to a landfill because the food is rotting. Transfer station has fresh waste, no odor. If there is an odor, it's minimal, it's in a closed facility and it's removed every day.

Comm. Hudson inquired if approved, when will work start. Mr. Burns indicated approximately next summer.

Comm. Fegley inquired if the materials get dumped into another truck. Mr. Burns indicated yes, mechanically and compacted on to a transfer trailer truck. It's sorted on a line mechanically with some hand sorting.

Comm. Fegley concerned with accountability if residences complain about noise, odor, traffic, et cetera; what will be the safety net. Mr. Burns indicated there maybe minimum odor. There will be odor control deodorizers and the waste will be moved ASAP because that's how revenue is generated. He corrected himself that he might have misspoke if he said there was no odor. He indicated state will not allow odors and Mr. Burns indicated they can install more odor controllers than state requirements.

Mr. Burns indicated he will work with the community and they can make complaints on their website, so Mr. Burn's company can handle the situation. If it is not handled, then the state and county will investigate.

Comm. Fegley inquired if the roads are destroyed who is responsible. Mr. Burns indicated that could be discussed and a part of their negotiations and it would be hard to tell if it was their trucks or every day road trucks. A traffic study will determine those issues.

Comm. Fegley inquired of the parties involved in the Host Community Agreement. Mr. Burns indicated himself and the City of Pontiac. Comm. Fegley commented if the residents, schools and others in the community were not involved in the host community agreement, that leaves the community out of the negotiations.

Comm. Fegley inquired of Mr. Sabo of the Pontiac Municipal Hours of construction. Mr. Sabo indicated fines will be increased for violations and hours may be reduced or remain the same.

Comm. Fegley inquired of the trucks leaving the site. Mr. Burns indicated they will be one trailer tractors, 100 cubic yards, covered with a tarp and certain road on the site will be paved for truck traffic.

Comm. Fegley inquired of any soil testing in the last 15 years. Mr. Burns indicated there was a site investigation in the late 1990's, but they will test the soil for their own edification.

Chairperson Thomas reiterated his statement, resetting the compass due north is the goal and inquired if the \$150,000 has been received by the City or coming soon. Mr. Burns indicated they have posted a bond with conditions and upon approval, \$135,000 will be released to the City.

Chairperson Thomas inquired of the tax base being approximately \$200,000 years. Mr. Burns indicated they are proposing to pay what the land would be taxed at, plus improvements on the building. The tonnage fees are based on .50 per ton.

Chairperson Thomas inquired if the taxes are \$200,000 in 2013, in 2053 will there be an inflation clause added into the lease. Mr. Burns indicated the inflation clause (CPI) is in the host agreement, but unsure if it is in the lease.

Chairperson Thomas asked for clarification of the new car storage proposal. Mr. Burns reported that a real estate broker compiled a report for the best suitable investment return on the property which resulted in outdoor storage with car and parts facility.

Chairperson Thomas inquired of the rationale between lease versus purchase of the property. Mr. Burns indicated there is potential liability with the existing landfill because it has been unmonitored for years and no current samples available. He indicated they will do a Baseline Environmental Assessment (BEA) in the near future; the result from a legal perspective is to lease the property rather than a full purchase at the present time.

Chairperson Thomas inquired of the sites owned by Rizzo. Mr. Burns indicated they are currently in Sterling Heights with expansions at that location currently and actively looking for other sites in Michigan; they are a well-funded company.

Chairperson Thomas expressed concerned with the proper business operating on the proper site.

Comm. Cadd concerned with terms and conditions of the lease and Hawthorn Park being included in the proposal, and it needs to be in writing. Mr. Burns assured her there was a hand shake agreement as far as the city promising to split the lots and the original agreement only deals with half of the property on Kennett Road. Mr. Burns indicated the host agreement specifically speaks to the Kennett Road property.

CHAIRPERSON THOMAS DECLARED PUBLIC HEARING OPEN FOR THE REZONING.

Councilperson Carter indicated that the Hawthorn Park Sidwell Number is 14-18-100-105, 160 acres and this contract is a violation of City Charter 3.113 and should not be approved. Councilperson Carter commented he is very familiar with Kennett Road property and area.

Ian Simpson, 546 Pontiac Lake Road does not believe the property in question is a good candidate for R1 area and the property has repeatedly been compared with an active landfill, which does not exist.

John Stevens, 2550 Crooks Road, Attorney for the Temple, disappointed with the analysis made by the City Planner because it does not address the concerns of the community and Mr. Stevens insists there is a recorded conservation easement, which one has addressed. Mr. Stevens indicated the petitioner is saying no one will know the business is there and Mr. Stevens feels the community will know it is there because the smells emanating from the business and State standards are insufficient in controlling smells.

Mr. Stevens indicated the applicant is not Rizzo. The applicant is Kennett LLC, which is a limited liability company with less than 2 years in business with no assets. Will Rizzo be responsible? He believes this proposal is inconsistent with the Master Plan.

Lou Collins, 514 Moonlight Drive, lives near proposal. Ms. Collins is not in favor of the rezoning the property and she inquired of the type of jobs that would be available and the contents of the soil type, which has not been tested. Ms. Collins indicated there are already junk yards and landfills in this immediate area and indicated there is plenty of vacant land on Joslyn Road, north of Walton Road.

Charlie Rash, Oakland County Deputy Association, indicated they have union meetings across the street for the proposed property and they are 100 percent against this proposal and encouraged the board to deny the requests. Mr. Rash indicated if this proposal is approved, their building will be for sale.

Mr. Rash commented that there is no way possible to control the truck traffic at the proposed site, which in turn will cause traffic congestion on Kennett Road and they trucks may wait in the Oakland County Deputy parking lot. Mr. Rash indicated trash and debris will blow whichever way the wind blows.

Margaret Kumar, 6732 Vershawn Drive, Bloomfield Township, indicated she works in the area and the community walks along that and with the odors and the traffic, they will no longer be able to walk in that area; also she believe the property values will decrease.

CHAIRPERSON THOMAS DECLARED PUBLIC HEARING CLOSED FOR THE REZONING.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING OPEN FOR SITE PLAN REVIEW.

Brenda Carter, encouraged the commissioners to investigate the newly formed LLC because it could be a conflict of interest pertaining to the people involved. Ms. Carter commented that the odors and gases need to be investigated also because they could be in the form of acid rain, which is a possible cancer agent.

John Stevens, Attorney for the Temple, commented that no definite analysis has been concluded as to the soil in the landfill for many years and feels a decision should not be made until completion of the soil testings.

Margaret Kumar indicated animals and verment attracts outdoor storage of cars, especially raccoons and rates. Ms. Kumar reminded the Planning Commissioners they are in place to protect the community and serve the residents.

Ian Simpson commented there are other zoning classifications possibly for this proposal.

Councilman Carter inquired once and if construction starts, who will control the ground water run off?

CHAIRPERSON THOMAS DECLARED PUBLIC HEARING CLOSED FOR SITE PLAN REVIEW.

Answers were given for the above questions. Who will be responsible for the road repair. Petition indicated they are still in discussion with the city. No specific agreement is in place for the user to contribute to the repair of city or county roads.

Who will be responsible for the odors? Petitioner indicated the odors will be addressed by business owners to alleviate such odors. Jobs will include day laborers, general laborers and office employees.

How will the traffic flow of truck traffic be limited to 8 trucks. Petitioner indicated it will be well-monitored and they will try to manage the traffic flow to eliminate any build ups on the main egress road.

In regard to the LLC, Petitioner indicated it is a very common practice and the State mandates funds be set aside in a perpetual care enclosure fund for clean closure in case the building ceases operation.

Mr. Sabo indicated there are possible other zonings for this proposal, but they can only act on what business owners bring as proposal requests.

Control of the water run off will be the responsibility of the Petitioners/business owners and there has to be compliance with State requirements.

Comm. Hollis inquired of the Fiero plant and its developments process.

Comm. Hudson read into the record alternative uses for the site which are available and added the following three requirements that should be included in staff findings. 1, that only egress and ingress be on Telegraph Road; 2, Post lease and other agreements online for public access; 3, an easement be reserved for Columbia Road.

Comm. Hudson commented feels there is a better use for this land than what is proposed and is not in favor of the proposal.

Chairperson Thomas commented the site has been closed for 40 years and Pontiac does need revitalization. The City does own this property and it would bring an immediate payday for the City.

Chairperson Thomas indicated the Planning Commission has to make the best decision with the facts that have been presented and this is an intensive use at the gateway to the City, which is problematic for him.

COMM. HUDSON MADE A MOTION TO DENY THE PROPOSED CONDITIONAL REZONING REQUEST FOR PF-13-61 000 KENNETT ROAD LANDFILL FROM R-1 ONE FAMILY DWELLING AND M-1 LIMITED INDUSTRIAL DISTRICTS TO M-2 GENERAL INDUSTRIAL DISTRICT AND COMM. HOLLIS SUPPORTED.

CHAIRPERSON THOMAS: Roll call, please.

VOTE:           AYES:           Hudson, Hollis, Fegley, Thomas, Cadd.  
                  NAYS:           None.  
                  ABSTAIN:       None.

Vote 5-0-0 for Denial of the Rezoning (ZBA 13-61)

COMM. HUDSON MADE A MOTION TO DENY THE PRELIMINARY SITE PLAN APPROVAL AND CONCEPT APPROVAL FOR PF-13-62 OOO KENNETT ROAD, KENNETT ROAD LLC AND COMM. FEGLEY SUPPORTED.

CHAIRPERSON THOMAS: Roll call, please.

VOTE:           AYES:           Hudson, Fegley, Hollis, Cadd, Thomas.  
                  NAYS:           None.  
                  ABSTAIN:       None.

Vote 5-0-0 for Denial of the Site Plan Review (ZBA 13-62)

ADJOURNMENT.