

MINUTES
REGULAR MEETING OF THE OWOSSO PLANNING COMMISSION
Council Chambers, City Hall
January 9, 2012 – 7 pm

Meeting was called to order at 7:00 p.m. by Chairman William Wascher.

The Pledge of Allegiance was recited by all in attendance.

Roll Call was taken by Recording Secretary Marty Stinson.

MEMBERS PRESENT: Chairman William Wascher, Vice-Chairman Francis Livingston, Secretary Melvin Renfrow, Commissioners David Bandkau, Terri Brown, Cindy Popovitch, Brent Smith, and Thomas Taylor.

MEMBERS ABSENT: Vacancy.

OTHERS PRESENT: Adam Zettel, Assistant City Manager and Director of Community Development; Sarah Warren-Riley, Housing Program Manager; Christopher Eveleth, Councilmember and Zoning Board of Appeals Member; Ted Hornus, Tri-Mer.

AGENDA APPROVAL:

MOTION BY COMMISSIONER POPOVITCH, SUPPORTED BY COMMISSIONER LIVINGSTON TO APPROVE THE AGENDA FOR JANUARY 9, 2012 AS PRESENTED WITH THE ADDITION OF BUSINESS ITEM # 3, APPOINT A REPRESENTATIVE FROM THE PLANNING COMMISSION FOR THE ZONING BOARD OF APPEALS.

YEAS ALL. MOTION CARRIED.

MINUTES APPROVAL:

MOTION BY COMMISSIONER BROWN, SUPPORTED BY COMMISSIONER TAYLOR TO APPROVE THE MINUTES OF THE MEETING OF DECEMBER 12, 2011.

YEAS ALL. MOTION CARRIED.

COMMUNICATIONS:

1. Staff memorandum
2. PC minutes from December 12, 2011
3. Housing conformance ordinance draft
4. Small wind energy ordinance draft
5. Housing focus group recommendations
6. Survey Update (attached)
7. Tri-Mer site plan (attached)

COMMISSIONER/PUBLIC COMMENTS: None

PUBLIC HEARING:

1. HOUSING CONFORMANCE ORDINANCE.

Mr. Adam Zettel, Assistant City Manager and Director of Community Development, stated this was a simple change in the ordinance. Occasionally there is difficulty in securing home improvement loans in non-residential areas. This previously had to go before the Zoning Board of Appeals at the time of the loss. The current ordinance doesn't allow for home improvement loans or replacements. Properties could be rezoned or we can put this revision into force. The staff strongly recommends adopting this ordinance. The only downside to this ordinance is that a property could continue to be used residentially for 100 years in an area where the city might wish another use.

Chairman Wascher opened the public hearing at 7:07 p.m. Hearing no comments, he closed the public hearing at 7:08 p.m.

Commissioner Livingston had a house in this situation and he had a lot of red tape to go through.

MOTION BY COMMISSIONER LIVINGSTON, SUPPORTED BY COMMISSIONER BROWN THAT THE OWOSSO PLANNING COMMISSION HEREBY RECOMMENDS APPROVAL OF THE HOUSING CONFORMANCE ORDINANCE TO THE CITY COUNCIL AS FOLLOWS:

AN ORDINANCE AMENDING CHAPTER 38 ZONING OF THE CODE OF ORDINANCES TO PERMIT THE CONTINUANCE OF RESIDENTIAL USES IN NON-RESIDENTIAL ZONES

Whereas, the city council of the city of Owosso realizes that there are numerous housing structures existing in non-residential zones in the city that are still viable.

Whereas, these residential uses may not be able to be placed to a higher and better use due to the condition of the economy;

Whereas, these home owners are finding it very difficult to secure lending for improvements and for purchase due to the non-conformance of the existing use;

Whereas, rezoning all such parcels would be very impractical and problematic.

Therefore, Be It Resolved, that the following amendments to Chapter 38, Zoning Code of the City of Owosso.

Section 1. That Chapter 38, Zoning Code of the City of Owosso Sections 38-172, 38-197, 38-216, 38-242, 38-267, 38-291 Principal uses permitted be amended by adding in the appropriate place:

Residential structures existing as of January 1, 2012.

Section 2. This amendment shall become effective 20 days after passage.

Section 3. This ordinance may be purchased or inspected in the city clerks' office, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.

(COMMISSIONER POPOVITCH ABSTAINED FROM VOTING AS SHE HAS POTENTIAL FAMILY MEMBERS INVOLVED WITH THIS TOPIC.)

YEAS ALL. MOTION CARRIED.

2. SMALL WIND ENERGY ORDINANCE DRAFT

Mr. Zettel stated there were some changes in this draft since the last meeting. (1) It has some conflict resolution wording added, (2) there is wording to quantify noise and flicker allowances, and (3) freestanding wind turbines are to meet setbacks. This is a performance based ordinance. The turbines are to be neutral colors, no advertising, and it encourages green technologies.

The public hearing opened at 7:13 p.m.

Mr. Chris Eveleth, councilmember and member of the Zoning Board of Appeals approached the podium. He stated that about two and half years ago, this topic arose from an issue with Tial Products. We didn't have anything in the ordinances at the time they requested a wind turbine installed on their property at 450 S. Shiawassee St. They needed (1) an interpretation (2) a variance for the front yard (3) a variance for the decibel and (4) a variance for the setback. Mr. Eveleth spoke with the city manager to set a

process rather than going through variances in the future. He favored the ordinance and wants to see it at council.

The public hearing ended at 7:15 p.m.

Commissioner Popovitch commented on the fund deposits for studies. Mr. Zettel stated they would be around \$100. The person in possession of the turbine is responsible if there is a problem or the complainant is, if there is no problem.

Commissioner Brown asked if a homeowner sells and leaves the wind turbine and the new owner doesn't want it, does the previous owner dispose of it. What if it sets abandoned? Mr. Zettel commented that a vacant property is different from abandoned. The turbines must have regular maintenance. There is wording in the ordinance regarding abandonment and the action that can be taken under the circumstances.

Chairman Wascher said page 3, "L" also answers this if it's out of service six months or more.

MOTION BY COMMISSIONER BANDKAU, SUPPORTED BY COMMISSIONER LIVINGSTON THAT THE OWOSSO PLANNING COMMISSION HEREBY RECOMMENDS APPROVAL OF THE SMALL TURBINE WIND ENERGY ORDINANCE TO THE CITY COUNCIL, AS ATTACHED.

AN ORDINANCE AMENDING CHAPTER 38 ZONING OF THE CODE OF ORDINANCES TO REGULATE WIND ENERGY CONVERSION SYSTEMS

Whereas, the city council of the city of Owosso realizes the benefits of wind energy turbines for the entire community that includes:

- **Reduced pressure on the local electrical grid**
- **Increased security that can provide back-up power to essential and public services**
- **Increased local energy independence**
- **Enhanced reliability and power quality of the electrical grid**
- **Diversified energy supply portfolio**
- **Reduced pollutants**
- **Increased market competition**
- **Reduced utility costs**

Whereas, Owosso has sufficient wind energy to support a variety of small and potentially medium sized wind energy conversion systems;

Whereas, the city council wants to establish procedures and standards to ensure that location and function of wind energy conversion systems including generation, transmission, and potential distribution are compatible with the protection of the public health, safety and welfare;

Therefore, Be It Resolved, that the following amendments to Chapter 38, Zoning Code of the City of Owosso.

Section 1. That Chapter 38, Zoning Code of the City of Owosso Sec. 38-5 Definitions be amended by adding in the appropriate place:

Small Tower-Mounted Wind Energy System (STWES) is a tower-mounted small wind energy system that converts wind energy into electricity by using equipment that includes any base, blade, foundation, generator, nacelle, rotor, tower, transformers, vane, wire, inverter, batteries, or other components ancillary to such use in the system. The SWES is an accessory building that does not exceed 50 kilowatts or 120 feet.

Small Structure-Mounted Wind Energy System (SSWES) is a structure-mounted small wind energy system that converts wind energy into electricity by using equipment that includes any base, blade, foundation, generator, nacelle, rotor, tower, transformers, vane, wire, inverter, batteries, or other components ancillary to such use in the system. This structure an accessory building that is permanently affixed to a structure's roof, walls, or other elevated surface. The SSWES does not exceed 10 kilowatts or 15 in height as measured from the highest point of the roof, excluding chimneys, antennae, and similar protuberances.

Small Wind Energy System (SWES) represent all SSWES and STWES systems.

Shadow Flicker is the moving shadow, created by the sun or other permanent light source shining through the rotating blades of a wind energy system (WES). The amount or degree of shadow flicker is calculated and quantified by computer models.

Section 2. That Chapter 38, Zoning Code of the City of Owosso Sec. 38-379 (2) Accessory buildings be amended to read as follows:

Accessory buildings, except as otherwise permitted in this chapter, shall be subject to the following regulations:

(2) Accessory buildings shall not be located in any required yard, except a rear yard.

Section 3. That Chapter 38, Zoning Code of the City of Owosso Sec. 38-379 (7) Accessory buildings be amended to read as follows:

(7) On residential lots of less than seventeen thousand five hundred (17,500) square feet, only two (2) accessory buildings shall be permitted. On residential lots seventeen thousand five hundred (17,500) square feet or greater, only three (3) accessory buildings shall be permitted. These limits shall not apply to wind energy systems, satellite dishes, or dog pens.

Section 4. That Chapter 38, Zoning Code of the City of Owosso Sec. 38-379 Accessory buildings be amended by adding (10) as follows:

(10) A small wind energy system shall be an accessory building in all zoning districts subject to the following requirements:

a. Setbacks and location, as measured from the furthest outward extension of all moving parts.

1. A STWES shall be set back a distance equal to its total height plus an additional five feet from any occupied building, street or highway right-of-way; any overhead utility lines; all property lines; and any existing guy wire, anchor or small wind energy tower on the property.

2. A SSWES shall be a minimum of fifteen (15) feet from the property line, public right-of-way, public easement, or overhead utility lines if mounted directly on a roof or other elevated surface of a structure.

3. A SSWES shall not be affixed to the roof or wall of a structure facing a street.

4. A STWES shall not be located in any front yard except for properties zoned and used for industrial purposes.

5. The lowest extension of any blade or other exposed moving component of a WES shall be a least fifteen (15) feet above the ground as well as any outdoor surface intended for human use.

6. Setbacks may be reduced to not less than twenty (20) feet if the applicant provides a registered engineer's certification that the WES is designed to collapse within a zone

smaller than the height of the tower, yet still remain within the owner's property or the applicant acquires an easement to meet the required setback distance.

- b. **Access.**
 - 1. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
 - 2. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground.
- c. **Electrical wires.** All electrical wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the wind tower wiring, the wind tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
- c. **Lighting.** A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA). Lighting of other parts of the small wind energy systems, such as appurtenant structures, shall be limited to that required for safety purposes, and shall be reasonably shielded from abutting properties.
- e. **Appearance, color, and finish.** The wind generator and wind tower shall remain painted or finished the color or finish that was originally applied by the manufacturer.
- f. **Signs.** All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, wind tower, building, or other structure associated with a small wind energy system visible from any public road shall be prohibited.
- g. **Code compliance.** A small wind energy system including wind tower shall comply with all applicable construction and electrical codes.
- h. **Utility notification and interconnection.** Small wind energy systems that connect to the electric utility shall comply with the Public Service Commission regulations.
- i. **Small wind energy systems may be attached to any building, including guy wires, provided the city approves the submittal of documentation sealed by an engineer licensed by the state of Michigan showing the proposed connection of the system to the structure and whether any additional reinforcing is required. The city may not be found liable for damage caused by noise or vibration created by the system.**
- j. **Meteorological towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a small wind energy system.**
- k. **Each property is eligible for two small wind energy systems only, except properties of at least one contiguous acre may be allowed one additional system for each additional one-half acre or portion thereof**
- l. **A small wind energy system that is out-of-service for a continuous six-month period will be deemed to have been abandoned. The zoning administrator may issue a notice of abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The owner shall have the right to respond in writing to the notice of abandonment setting forth the reasons for operational difficulty and providing a reasonable timetable for corrective action, within 30 days from the date of the notice. The administrator shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides information that demonstrates the wind energy system has not been abandoned.**

- m. If the small wind energy system is determined to be abandoned, the owner of a small wind energy system shall remove the wind generator from the wind tower at the owner's sole expense within 90 days of the date of the notice of abandonment. If the owner fails to remove the wind generator from the wind tower, the administrator may pursue a legal action to have the wind generator removed at the owner's expense.
- o. Noise emanating from a small wind energy system shall not exceed 50 dB(A) as measured from any offsite habitable structure or 55dB(A) to any lot line.
- p. Wind energy systems shall not interfere with communication systems such as radio, telephone, television, satellite, emergency communications, or Wi-Fi.
- q. Shadow Flicker created by a STWES shall not exceed thirty (30) hours per year as observed on the windows or outdoor spaces (such as porches, patios, and decks) of any offsite building intended for human habitation or occupation. The zoning administrator may request a study to demonstrate the impact of a WES proposal.
- r. Public inquires and complaints by an aggrieved property owner that alleges that a STWES or SSWES does not meet noise or shadow flicker requirements shall be processed as follows:
 - 1. The property owner shall notify the city in writing regarding the concerns related to noise and/or shadow flicker.
 - 2. If the city zoning administrator or engineer deem the complaint sufficient to warrant an investigation, the city will request the aggrieved party to deposit funds in an amount sufficient to pay for a noise level test conducted by a certified acoustic technician and/or a shadow flicker study as performed by a professional.
 - 3. If the tests(s) show that the WES does not exceed the noise or shadow flicker requirements of this chapter, the city will use the deposit to pay for the test.
 - 4. If the WES is violating this chapter's noise requirements, the owner(s) shall reimburse the city for the testing and take immediate action to bring the WES into compliance, include ceasing operation of the WES till the violations are corrected. The city will refund the deposit to the aggrieved property owner.

Section 5. This amendment shall become effective 20 days after passage.

Section 6. This ordinance may be purchased or inspected in the city clerks' office, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.
YEAS ALL. MOTION CARRIED.

SITE PLAN REVIEW:

1. TRI-MER OFFICE EXPANSION / PARKING UPDATES – 1400 MONROE ST.

Mr. Zettel explained that only the parking is at issue. He introduced Mr. Ted Hornus from Tri-Mer Corporation. Mr. Hornus said they were adding office parking spaces on the north side of the lot; moving parking spots in front, and having overflow parking on the south side added. The southeast corner is additional parking. It is stone now and will be asphalt in the spring. This is a one story addition. The parking will loop all the way around the building. The back parking is aggregate.

**MOTION BY COMMISSIONER LIVINGSTON, SUPPORTED BY COMMISSIONER TAYLOR THAT THE OWOSSO PLANNING COMMISSION HEREBY APPROVES THE SITE PLAN APPLICATION FOR TRI-MER CORPORATION, LOCATED AT 1400 MONROE STREET, AS ILLUSTRATED ON PLANS DATED DECEMBER 14, 2011,
YEAS ALL. MOTION CARRIED.**

BUSINESS ITEMS:

1. ZONING BOARD OF APPEALS REPRESENTATIVE.

Chairman Wascher volunteered to be the representative to the Zoning Board of Appeals.

MOTION BY COMMISSIONER POPOVITCH, SUPPORTED BY COMMISSIONER LIVINGSTON TO RECOMMEND TO THE MAYOR THAT HE APPOINT CHAIRPERSON WASCHER TO BE THE PLANNING COMMISSION REPRESENTATIVE TO THE ZONING BOARD OF APPEALS. YEAS ALL. MOTION CARRIED.

ITEMS OF DISCUSSION:

1. MASTER PLAN SURVEY REPORT

Mr. Zettel stated that he went to six civic classes in one day at the high school. He discovered that the younger group identified more with the downtown area, while the older groups had expressed concern about Westown. Now is the time to draft the master plan. This should go much quicker than the information gathering. Possibly in the next two weeks the plan can begin to be developed.

2. HOUSING FOCUS GROUP RECOMMENDATIONS

Sarah Warren-Riley, Housing Program Manager, reviewed the meeting notes from the Housing and Neighborhoods Focus Group. They set three goals – 1) Improve the physical appearance of the existing housing stock; 2) Improve the functionality of the existing housing stock; and 3) Ensure all varieties of housing types exist in order to retain current and attract new residents. She said there was a lot of discussion on the functionality. There is a lot of housing stock which is probably past its prime and may need to be eliminated. The group talked about partnerships in the community.

Mr. Zettel added that code enforcement was talked about a lot also. There was discussion of the social aspect of neighborhoods / block groups and the desire to bring the social groups back for activities and clean-up events. We need to build up these programs including coordinated garage sales.

Ms. Warren-Riley stated the neighbors would hold each other accountable and help those who are not able to do their own work. This would also bring about individual accountability.

ADJOURNMENT:

MOTION BY COMMISSIONER BANDKAU, SUPPORTED BY COMMISSIONER LIVINGSTON TO ADJOURN AT 7:57 P.M. UNTIL JANUARY 23, 2013.

m.m.s.

Melvin Renfrow, Secretary