

**MINUTES  
REGULAR MEETING OF THE OWOSSO PLANNING COMMISSION  
Council Chambers, City Hall  
February 23, 2015 – 7:00 pm**

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

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was recited by all in attendance.

**ROLL CALL:** Roll Call was taken by Recording Secretary Marty Stinson.

**MEMBERS PRESENT:** Chairman William Wascher, Vice-Chairman Francis Livingston, Secretary Tom Kurtz (arrived 7:03 p.m.), Commissioners David Bandkau, Mike O’Leary, Craig Weaver, and Randy Woodworth.

**MEMBERS ABSENT:** Commissioners, Brent Smith and Thomas Taylor.

**OTHERS PRESENT:** Susan Montenegro, Assistant City Manager and Director of Community Development; Janae Fear, Independent; Charles Rau, Building Official; many audience members in attendance for the rezoning.

**AGENDA APPROVAL:**  
**MOTION BY COMMISSIONER LIVINGSTON, SUPPORTED BY COMMISSIONER O’LEARY TO APPROVE THE AGENDA FOR FEBRUARY 23, 2015.**  
**YEAS ALL. MOTION CARRIED.**

**MINUTES APPROVAL:**  
**MOTION BY COMMISSIONER WEAVER, SUPPORTED BY COMMISSIONER BANDKAU TO APPROVE THE MINUTES FOR THE MEETING FOR JANUARY 26, 2015.**  
**YEAS ALL. MOTION CARRIED.**

- COMMUNICATIONS:**
1. Staff memorandum.
  2. PC minutes from January 26, 2015
  3. Smoking lounge ordinances for review
  4. New site plan application for review

**COMMISSIONER / PUBLIC COMMENTS:** None

**PUBLIC HEARING:** M-71 Corridor Rezoning  
Ms. Susan Montenegro, Assistant City Manager and Director of Community Development introduced herself and welcomed the audience. She mentioned the proposed change for the M-71 Corridor rezoning and said that nothing has been changed yet.

Commissioner Kurtz arrived at 7:03 p.m.

Public hearing began at 7:03 p.m.

Ms. Michelle Hall asked why her property is being rezoned at 406 Maple. It’s residential now. Rumor has it that at some point the railroad wants to expand. Chairman Wascher replied that the city’s master plan was done a couple years ago and this brings the zoning more in line with that plan. Nothing to do with what the railroad is planning to do. Newspaper says there is something from Detroit to Traverse City. Per Chairman Wascher that is on existing track. That has nothing to do with this rezoning.

Mr. Dale Frasier is the owner of D & L Auto Sales and also 510, 514 S Saginaw; 517 S. Park. He wants to go for I-2 and put up a warehouse for used parts in the future. I put \$100,000 in used parts last year. I had to fix this property and make it right and now I have to fight you. Chairman Wascher said that we had no idea what you were doing and now we have a better understanding. Mr. Frasier continued it's not a junk yard. I'll be building a new building like a wholesale. Commissioner Woodworth said that we actually gave thoughtful consideration to your site. We saw what you have done, but had no understanding of what your plan was. We spoke positively about your property. That's why we have this open forum tonight.

Commissioner Bandkau asked if this is your intent only to do open warehousing. It sounds like an I-1 is a better zoning. Our concern about an I-2 zoning has a significant environmental impact. Because it is close to town and residential areas, we're trying to protect the air quality, etc. A garbage incinerator is legal in I-2 and no one wants one to be near residential or near downtown.

Mark Hanna came to the podium and stated that he represents Mr. Frasier. He asked Commissioner Bandkau to read what is permitted in I-2 zoning. Commissioner Bandkau read such. Mr. Hanna said that I-2 is compatible with his future intended use. Mr. Frasier strongly objects to changing from I-2.

Mr. Lonnie Carlson, 638 Corunna Avenue has an empty lot to sell vehicles from. If it's rezoned to residential, he would not like that changed because it would keep him from putting vehicles out there to sell. 634 Corunna Avenue is next to him. He was thinking about purchasing that as well and he doesn't want that changed either. Commissioner Weaver said they were trying to make it continuous zoning rather than spot zoning – everything else is I-1. Mr. Carlson wants to keep it B-4 for his business. Commissioner Kurtz noted that any time the zoning is changed; the permitted use is allowed to exist. It only changes if the use is changed.

Mr. Hanna spoke about the issue of non-conforming use and the future use of properties. When someone owns a business, they count on current income and count on future value of the business after years of development. Change of zoning could cut that off. Mr. Hanna submits that the commission is moving against the will of the people. Chairman Wascher said the zoning change doesn't change the zoning use. Commissioner Kurtz said if the zoning changes, he can continue that use.

Mr. Les Donelson owns the property in front of Mr. Frasier. It's zoned I-1; 515 S. Park St. He bought it because of the zoning. You are proposing to change it to B-4. Doesn't that destroy the value of the property? Commissioner Woodworth says B-4 is more palatable to some users. Some people pay more for business use than industrial. Depends on location. Mr. Hanna said that zoning actually sets the value. Commissioner Woodworth said we are dealing with highest and best use according to the master plan. Mr. Hanna said the plan doesn't have any more weight than what people are demanding. Industrial is more valuable than business.

Mr. Roger Snyder, 211 N. Washington, stated that the master plan of 2012 is the worst thing the city has ever had. This is all nonsense. Let people do what they want to do. You must want to put people out of business.

Ms. Christie Moorman asked what is the master plan and what has to be complied with. Chairman Washer answer that the state required every community to have a master plan. Ms. Moorman asked what is the master plan goal? Commissioner Weaver answered that they are trying to develop areas of residential and to put industrial in other areas. Ms. Moorman then talked about having public meetings. Commissioner Woodworth said that all meetings are public that this is also a public meeting. This commission will make decisions based on the new information from tonight. The process is working.

Commissioner Bandkau stated the next step is that recommendation will be made. At that point this commission will go back to drawing board. If the public is in line with commission, then we make a recommendation to council; then it goes to public hearing again to council. There is a lot of opportunity to make the public opinion known.

Mr. Rod Rust stated that he owned property on Howard Street along the tracks. What he bought was industrial property – that's why he bought it. What with railroad stuff going on, he doesn't want the zoning changed. Maybe the railroad would be interested in getting it back.

Public hearing closed at 7:42 pm

**MOTION BY COMMISSIONER BANDKAU, SUPPORTED BY COMMISSIONER WEAVER TO STUDY THE MINUTES FROM THIS MEETING AND HAVE A DEEPER CONVERSATION ABOUT THIS AT THE MARCH MEETING OF THE PLANNING COMMISSION. YEAS ALL. MOTION CARRIED.**

**SITE PLAN REVIEW: None**

**BUSINESS ITEMS:**

**1. Smoking (Hookah) Lounge Language for Owosso Code of Ordinance.**

Commissioner Bandkau asked about the smoke in the buildings. Building Official Charles Rau said it would be under the Michigan Mechanical Code – they would have to get a permit and air changers would be required. This is already enforced.

Ms. Montenegro encourages passing this because it will take two more meetings through Council. Discussion on considering shared usage – the statute prohibits a joint use facility. Should we add Item #5. Smoking lounges have to be 1000 feet from medicinal marihuana dispensaries?

Commissioner Bandkau asked if they are permitted in the same facility, suppose there is one that opens halfway down Washington and Ball, and we have the existing tobacco specialty shop. Now we have forced two within 1000 feet or you have prohibit the other one? Where do you go with that? Commissioner Kurtz noted that they would go to Zoning Board of Appeals for a special use case.

**MOTION BY COMMISSIONER WEAVER, SUPPORTED BY WOODWORTH THAT THE OWOSSO PLANNING COMMISSION HEREBY RECOMMENDS TO THE OWOSSO CITY COUNCIL AMEND THE FOLLOWING ORDINANCE BY ADDING, SECTION J TO SECTION 38-217, PRINCIPAL USES PERMITTED TO THE OWOSSO CODE OF ORDINANCES:**

**J. SMOKING LOUNGES SHALL NOT BE LOCATED WITHIN ONE THOUSAND (1,000) FEET OF ANOTHER SMOKING LOUNGE, ANY PARK IDENTIFIED AND SO SIGNED BY THE CITY, OR ANY PUBLIC OR PRIVATE SCHOOL, COLLEGE, OR UNIVERSITY PROPERTY, NOR SHALL ANY SMOKING LOUNGE BE LOCATED WITHIN FIVE HUNDRED (500) FEET OF THE FOLLOWING USES, AS DEFINED AND MEASURED BY THE MICHIGAN LIQUOR CONTROL ACT, MCL 436.15031:**

- 1. ANY HOUSE OF WORSHIP;**
- 2. ANY PARCEL ZONED AND USED FOR RESIDENTIAL PURPOSES;**
- 3. ANY LICENSED DAY CARE FACILITY;**
- 4. ANY PUBLIC LIBRARY.**

Public comment:

A representative from the Hickory Lounge commented that the non-smoking law has killed their business. Can they have both a smoking lounge and drinking? They have had to reduce the number of employees at their establishment because they don't have the clientele because they can't allow smoking.

Bandkau agrees that it doesn't make sense. The state implemented that rule about not smoking, but then implemented the rule about smoking bars. Medicinal marijuana was allowed in 2012. In December it was going to be allowed in a smoking lounge.

Ms. Christie Moorman wants to be able to have a smoking bar. Commissioner Woodworth doesn't disagree, but we've been handed a loophole from the state. This isn't a city ordinance we're dealing with. We're just trying to deal with the state law. I don't think we can do anything legally to help your situation.

Commissioner Kurtz suggested contacting the state. They have both done that per Ms. Moorman. Washington DC has classes of use. Cigar bars that also hold liquor licenses. Commissioner O'Leary said there is a tremendous over regulation.

Building Official Rau stated that in the Mechanical Code of 2012, Table 403.3, there is a classification.

**AYES: BANDKAU, KURTZ, LIVINGSTON, WASCHER, WEAVER, WOODWORTH.**  
**NAYS: O'LEARY**  
**MOTION CARRIED.**

## **2. Smoking (Hookah) Lounge Language for Owosso Code or Ordinance.**

**MOTION BY COMMISSIONER KURTZ, SUPPORTED BY COMMISSIONER LIVINGSTON THAT THE OWOSSO PLANNING COMMISSION HEREBY RECOMMENDS ADDING THE FOLLOWING DEFINITION TO SECTION 38-5. -DEFINITIONS OF THE OWOSSO CODE OF ORDINANCES: SMOKING LOUNGE SHALL MEAN AN ESTABLISHMENT, WHICH HAS A STATE ISSUED SMOKING BAN EXEMPTION CERTIFICATE, AND THAT ALLOWS SMOKING OF TOBACCO PRODUCTS OR NON-TOBACCO PRODUCTS OR SUBSTANCES ON THE PREMISES. THE TERM "SMOKING LOUNGE" INCLUDES, BUT IS NOT LIMITED TO, FACILITIES COMMONLY DESCRIBED AS TOBACCO RETAIL SPECIALTY STORES, CIGAR BARS AND LOUNGES, HOOKAH CAFES AND LOUNGES, TOBACCO BARS AND LOUNGES, TOBACCO CLUBS OR 0% NICOTINE ESTABLISHMENTS.**

**AYES: BANDKAU, KURTZ, LIVINGSTON, WASCHER, WEAVER, WOODWORTH.**  
**NAYS: O'LEARY**  
**MOTION CARRIED.**

### **ITEMS OF DISCUSSION:**

#### **1. NEW SITE PLAN APPLICATION FOR REVIEW**

Ms. Montenegro introduced a new four page form for site plan reviews. Discussion about the design followed. Commissioner Kurtz commented that it needs another column for not required. Some items are not required. An example is that not every building has a sign. Based on staff review whether it is required to go to planning commission. Commissioner O'Leary asked about a performance bond. Commissioner Woodworth said that the Building Official also has the right to not give them a Certificate of Occupancy.

Commissioner Bandkau suggested a comment box be added. Too many columns may become laborious. He also suggested putting the ten most important items at the top of the list. Commissioner Kurtz wants to see this at the next meeting. Discussion continued that the flood plain should be on the list. Three state highways meet in the city; MDOT may be involved. Discussion to be continued at the next meeting.

#### **2 REVIEW OF PARKING ORDINANCE REQUIREMENTS – ZONING BOARD OF APPEALS ASKS PLANNING COMMISSION TO CONSIDER REVISIONS TO SECTION 38-380 (e) (1) FOR INDUSTRIAL PARKING AS THEY APPEAR TO BE OUTDATED.**

Ms Montenegro noted that the Zoning Board of Appeals requested that the Planning Commission review Section 38-380 (e) (1) FOR INDUSTRIAL PARKING ordinance for the way it is written. A recent business didn't need as many parking spaces as required by the square footage of the addition they were building.

Commissioner Woodworth commented that he has seen some parking on the lawns around industrial areas. We have a good recourse right now with the ZBA. It's tough to nail down one type of parking ordinance to encompass every style of industrial use.

Commissioner Bandkau commented could we simply strike a portion? Chairman Wascher asked if they approved it, they could sell it and some other manufacturer comes in and doesn't have adequate parking. Commissioner Kurtz agrees this is a ZBA issue. No change at this time – this has such a potential variation.

**MOTION BY COMMISSIONER BANDKAU, SUPPORTED BY O'LEARY TO ADD LIGHT INDUSTRIAL I-1 TO ITEMS OF DISCUSSION TO THE AGENDA.**

**AYES: ALL.**

**MOTION CARRIED.**

**3 REVIEW LIGHT INDUSTRIAL I-1 ZONING.**

Commissioner Bandkau started discussion about adding Item 13 to Section 38-291 regarding investment casting, and to add something like "enclosed and probably ventilated" regarding spray ceramic powder coating for small scale foundries.

Discussion among the commissioners noted that a proprietor has been working with a lot of different metals that could be hazardous metals. We need to open I-1 with more in depth conversation. We need to be careful how much is permitted with specific language. More recent innovations in metal makes our ordinances appear to be outdated. Possible variances may be necessary in specific instances.

Discussion continued about an on-site generator. Building Official Rau was asked about what could be allowed. Rau said a generator could have a curtain around it to muffle noise in the residential area.

**COMMISSIONER / PUBLIC COMMENTS:** None

**ADJOURNMENT:**

**MOTION BY COMMISSIONER BANDKAU, SUPPORTED BY COMMISSIONER KURTZ TO ADJOURN AT 8:44 P.M. UNTIL NEXT MEETING ON MARCH 23, 2015**

**YEAS ALL. MOTION CARRIED.**

---

Tom Kurtz, Secretary

mms