

**MINUTES
REGULAR MEETING OF THE OWOSSO PLANNING COMMISSION
COUNCIL CHAMBERS, CITY HALL
MONDAY NOVEMBER 23, 2015 – 7:00 P.M.**

CALL TO ORDER: Commissioner Bill Wascher called the meeting to order at 7:04 p.m.

PLEDGE OF ALLEGIANCE: Recited by all present.

ROLL CALL: Roll call was taken by Recording Secretary Denice Grace.

MEMBERS PRESENT: Chairman Bill Wascher, Commissioners Brent Smith, Tom Taylor, Garfield Warren, Michelle Collison and Janae Fear.

MEMBERS ABSENT: Vice-Chair Craig Weaver, Commissioners Frank Livingston and Mike O’Leary.

OTHERS PRESENT: Susan Montenegro, Assistant City Manager and Director of Community Development; Charles Rau, Building Official; Jed Dingsen; Bob Selleck and several property owners regarding the 401 E. Howard Street rezoning.

APPROVAL OF AGENDA:
MOTION BY COMMISSIONER FEAR, SUPPORTED BY COMMISSIONER TAYLOR TO APPROVE THE AGENDA FOR NOVEMBER 23, 2015, WITH THE REMOVAL OF THE ITEM REGARDING THE REZONING OF 820 E. MAIN STREET.
YEAS ALL. MOTION CARRIED.

APPROVAL OF MINUTES:
MOTION BY COMMISSIONER SMITH, SUPPORTED BY COMMISSIONER TAYLOR TO APPROVE THE MINUTES FOR OCTOBER 26, 2015 AS PRESENTED.
YEAS ALL. MOTION CARRIED.

- COMMUNICATIONS:**
1. Staff memorandum
 2. PC minutes for October 26, 2015
 3. Rezoning applications for 401 E. Howard Street, 514 Division Street and 515 S. Saginaw Street.
 4. Public hearing notices for 401 E. Howard Street, 514 Division Street and 515 S. Saginaw Street.
 5. Site plan application for 401 E. Howard Street
 6. Site plan staff review for 401 E. Howard Street
 7. Section 38-397 of the Owosso ordinance – accessory language for swings

COMMISSIONER/PUBLIC COMMENTS: None

PUBLIC HEARINGS:

1. 401 E. Howard Street rezoning.

Ms. Montenegro gave an overview of the request for rezoning of this parcel. This is a unique situation as the parcel is divided with another parcel running down the middle of it, yet the entire area is used as one lot. The owners, Bob Selleck and Carrie Hoag do not wish to combine the lots at this time. Parcel 050-680-002-003-00 is zoned I-2 while parcel 050-680-001-002-00 is zoned I-1. Setbacks are different for each zoning district and affect the ability to use the space. The applicant asks to rezone parcel 050-680-002-003-00 to I-1.

MOTION BY COMMISSIONER TAYLOR, SUPPORTED BY COMMISSIONER SMITH THAT THE OWOSSO PLANNING COMMISSION HEREBY APPROVES THE REZONING REQUEST FOR 401 E. HOWARD STREET FROM I-2 TO I-1.

YEAS ALL. MOTION CARRIED.

2. 514 Division Street rezoning

Ms. Montenegro explained the request for the rezoning of this parcel. Current zoning setbacks would make it impossible to operate on this lot and I-1 zoning would decrease the setback requirements.

Commissioner Fear questioned if this would create spot zoning since the property to the north of this lot would remain I-2. Ms. Montenegro reminded the commission that rezoning this area was part of the Master Plan and had been discussed earlier this year.

MOTION BY COMMISSIONER TAYLOR, SUPPORTED BY COMMISSIONER SMITH THAT THE OWOSSO PLANNING COMMISSION HEREBY APPROVES THE REZONING REQUEST FOR 514 DIVISION STREET FROM I-2 TO I-1.

YEAS ALL. MOTION CARRIED.

3. 515 S. Saginaw Street rezoning

The commission had no questions on this parcel due to the explanations given for 401 E. Howard and 514 Division Street.

MOTION BY COMMISSIONER TAYLOR, SUPPORTED BY COMMISSIONER SMITH THAT THE OWOSSO PLANNING COMMISSION HEREBY APPROVES THE REZONING REQUEST FOR 515 S. SAGINAW STREET FROM I-2 TO I-1.

YEAS ALL. MOTION CARRIED.

SITE PLAN REVIEW:

1. 401 E. Howard Street.

Jed Dingens presented the site plan for 401 E. Howard Street. Mr. Dingens asked planning commission to consider fencing options for this site along with 514 Division Street and 515 S. Saginaw Street. The site plan for review is only for 401 E. Howard Street. Options for the other two properties were lightly discussed but no determination or rulings were made at this time as they are not part of the original site plan application. The other two properties are separate parcels and will require separate site plan applications and review.

Mr. Dingens explained how the current fencing requirement would inhibit the ability to back trucks into the property for loading and unloading. Rather than placing fencing around the property he suggests using bollards to identify the property lines along the road. A six foot fence will be placed along the residential boarder to the east that abuts 429 E. Howard Street.

MOTION BY COMMISSION SMITH, SUPPORTED BY COMMISSIONER TAYLOR TO APPROVE THE SITE PLAN FOR 401 E. HOWARD STREET WITH THE FOLLOWING CONDITIONS:

- 1. MUST SHOW LOADING, UNLOADING AND STORAGE AREAS.**
- 2. A SIX FOOT FENCE MUST BE INSTALLED ALONG THE RESIDENTIAL PROPERTY ABUTTING 401 E. HOWARD STREET.**
- 3. ADDITIONAL FENCING WILL NOT BE REQUIRED DUE TO THE UNIQUENESS OF THE PROPERTY AND ROAD CONFIGURATION. FIVE (5) BOLLARDS WILL BE PLACED ON THE PROPERTY LINE ALONG DIVISION STREET AND HOWARD STREET AND WILL BE USED AS PROPERTY LINE DEMARCATION.**

YEAS ALL. MOTION CARRIED.

BUSINESS ITEM:

1. Amending Section 38-379 to add swing sets as an accessory item.

Discussion was held among commission members regarding the insertion of language defining a swing set as an accessory structure and in which yard it can be placed.

MOTION BY COMMISSIONER WARREN, SUPPORTED BY COMMISSIONER TAYLOR THAT THE OWOSSO PLANNING COMMISSION RECOMMENDS AMENDING SECTION 38-379 OF THE ZONING ORDINANCE BY ADDING A NEW SEC. 38-379(3) AS FOLLOWS:

Sec. 38-379. - Accessory buildings.

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

- (1) Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this chapter applicable to main building.
- (2) Accessory buildings shall not be located in any required yard, except a rear yard.
- (3) Accessory play structures shall not be located in any required yard, except a rear yard.**
- (4) An accessory building shall not occupy more than twenty-five (25) percent of a required rear yard, plus forty (40) percent of any nonrequired rear yard, provided that in no instance shall the accessory building(s) exceed the ground floor area of the main building.
- (5) No detached accessory building shall be located closer than ten (10) feet to any main building nor shall it be located closer than three (3) feet to any side or rear lot line.

In those instances where the rear lot line is coterminous with an alley right-of-way the accessory building shall not be closer than one (1) foot to such rear lot line. In no instance shall an accessory building be located within a dedicated easement right-of-way.

- (6) No detached accessory building in R-1, R-2, RT-1, RM-1, RM-2, OS-1, B-1 and P-1 districts shall exceed one (1) story or fourteen (14) feet in height.

Accessory buildings in all other districts may be constructed to equal the permitted maximum height of structures in said districts, subject to board of appeals review and approval if the building exceeds one (1) story or fourteen (14) feet in height.

- (7) When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, the building shall not project beyond the front yard setback required on the lot in rear of such corner lot. In no instance shall an accessory building be located nearer than nineteen (19) feet to a street right-of-way line.
- (8) 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.
- (9) All recreational vehicles, boats, snowmobiles, jet skis and comparable devices along with the trailers for these items stored on individual lots shall respect the requirements of this section applicable to accessory buildings, except that side yard storage is permitted against the wall of a principal structure when these items are beneath a legal conforming carport structure or are setback at least three (3) feet from the property line and eleven (11) feet from a principal building of an adjoining parcel. Storage in a driveway is permitted when the stored item can be placed entirely behind the front wall of the principal structure.

(10) Regulations for dish-type satellite receiving antennae and similar structures (hereinafter referred to as satellite dishes):

a. Ground mounted:

1. In residential districts a satellite dish must be located in the rear yard. If a usable satellite signal cannot be obtained in a rear yard then a side yard location may be selected if all other provisions of this section are able to be enforced.
2. In all commercial and industrial districts, a satellite dish may be located on a rear or side lot if all other conditions of the ordinance can be followed, and if the side yard of the commercial or industrial lot is not adjacent to a residential district or detached single family use.
3. No satellite dish including its concrete base, slab, a similar substructure or projected portion shall be constructed less than eight (8) feet from any property line or easement of the rear or side yard, or be within twenty-five (25) feet from a right-of-way line of a public street.
4. In residential districts no satellite dish shall be constructed without appropriate evergreen landscaping to reasonably conceal said satellite dish from view. The planting shall be completed prior to final approval by the building inspector. Vegetative screening shall not be required where reception of a usable satellite signal would be adversely affected.
5. In residential districts a satellite dish shall not exceed a grade height of fourteen (14) feet. In all other districts the grade height limit is twenty (20) feet.
6. All structural support shall be of corrosion resistant metal.
7. A satellite dish shall be designed to withstand a wind force of seventy-five (75) miles per hour without the use of supporting guy wires.
8. The color of the satellite dish cannot be contrasting with its surroundings or setting. A contrasting color is one that does not blend with the background as defined by the normal senses.
9. In residential districts a satellite dish cannot be used as a sign.
10. The number of satellite dishes over four (4) feet in diameter is limited to one (1) on residential lots under one (1) acre in size.
11. No satellite dish (ground or roof mounted) shall be linked physically or electronically to a receiver which is not located on the same lot, premises, or parcel of land as is the satellite dish.
12. Wiring beneath a satellite dish and receiver shall be installed according to the specifications of the National Electrical Code.
13. A satellite dish must be bonded to a grounding rod.
14. Any driving motor exceeding fifty (50) volt power design shall require an electrical permit.

b. Roof-mounted:

1. In the event that a usable satellite signal cannot be obtained by locating the antennae in the rear or side yard, such antennae may be placed on the roof of a primary or accessory structure.
2. Satellite dishes shall be mounted directly upon the roof of a primary or accessory structure or on a ground anchored pole projecting through an eave of the structure. Satellite dishes shall not be mounted upon appurtenances such as chimneys, trees, or spires.
3. For residential uses, a satellite dish shall not exceed a height of more than three (3) feet above the roof upon which it is mounted.
4. In residential uses, a satellite dish shall not exceed eight (8) feet in diameter.

5. A satellite dish shall be designed to withstand a wind force of eighty-five (85) miles per hour without the use of supporting guy wires.
 6. Any driving motor exceeding fifty (50) volt power design shall require an electrical permit.
 7. A satellite dish must be bonded to a grounding rod.
- (11)** 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 (5) 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 at 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 eight (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.
 - d. 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 (2) small wind energy systems only, except properties of at least one (1) contiguous acre may be allowed one (1) additional system for each additional one-half (½) 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 thirty (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 ninety (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 fifty (50) dB(A) as measured from any offsite habitable structure or fifty-five (55) dB(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.

YEAS: CHAIRMAN BILL WASCHER, COMMISSIONERS TAYLOR, WARREN AND COLLISON.

NAYS: COMMISSIONERS FEAR AND SMITH.

MOTION CARRIED.

Chairman Wascher stated that the Section 38-5 of the zoning code should also be updated to define what a play structure is.

MOTION BY COMMISSIONER WARREN, SUPPORTED BY COMMISSIONER TAYLOR THAT THE OWOSSO PLANNING COMMISSION RECOMMENDS THAT SECTION 38-5, DEFINITIONS, SHALL BE AMENDED TO ADD A DEFINITION FOR “PLAY STRUCTURE” AS FOLLOWS:

SECTION 38-5. – DEFINITIONS.

***PLAY STRUCTURE.* A PLAYSTRUCTURE IS DEFINED AS A JUNGLE GYM, SWING SET, SLIDE, PLATFORM OR OTHER SIMILAR UNENCLOSED STRUCTURE OR DEVICE INTENDED FOR THE USE OF CHILDREN’S PLAY.**

YEAS: CHAIRMAN BILL WASCHER, COMMISSIONERS TAYLOR, WARREN AND COLLISON.

NAYS: COMMISSIONERS FEAR AND SMITH.

MOTION CARRIED.

ITEMS OF DISCUSSION: None.

COMMISSIONER/PUBLIC COMMENTS:

The Commissioners asked about the color choices for the building on the corner of M-21 and Hickory Street.

ADJOURNMENT:

MOTION BY COMMISSIONER TAYLOR, SUPPORTED BY COMMISSIONER SMITH TO ADJOURN AT 8:43 P.M. UNTIL THE NEXT MEETING ON DECEMBER 14, 2015.

YEAS ALL, MOTION CARRIED.

Janae Fear, Secretary

dg