

Planning Commission

Regular Meeting Minutes

Thursday, April 2, 2015

7:00 p.m., Council Chambers



City of South Haven

1. Call to Order by Paull at 7:00 p.m.

2. Roll Call

Present: Heinig, Miles, Peterson, Smith, Stimson, Webb, Paull

Absent: Frost, Wall

Motion by Heinig, second by Smith to excuse Frost and Wall for personal reasons.

All in favor. Motion carried.

3. Approval of Agenda

Motion by Heinig, second by Peterson to approve the agenda as presented.

All in favor. Motion carried.

4. Approval of Minutes – March 5, 2015

Motion by Stimson, second by Miles to approve the March 5, 2015 regular meeting minutes as written.

All in favor. Motion carried.

5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

There were none.

6. New Business – Public Hearing

Public hearing for Phase 2 of Central Lofts Condominiums, 500 Erie Street. The applicant Erie Street Properties, LLC of Kalamazoo, MI seek to make Phase 2 improvements which include the development of ten (10) residential units in the detached building on Superior Street (commonly referred to as the old VB building). Parking for the units is proposed to be in the lower level of the building.

Because the zoning ordinance requires that condominium reviews be completed in the same manner as planned unit developments, a public hearing is required.

Motion by Smith, second by Heinig to open the public hearing.

All in favor. Motion carried.

Anderson noted that any motion regarding the site plan review of Central Lofts Phase II should be made in the form of a recommendation to City Council.

Anderson: The background of this development began in 2007 when the Planning Commission approved a special use permit to develop condominiums including twenty-two (22) condo units; indoor pool and other amenities. That developer gave up on the project in 2008. In February of 2013, after a second developer abandoned the project, the property was purchased by the current owner. Approval for parking and other property improvements has been made.

Anderson noted that the developer now submits a proposal to convert the former Vocation Building (VB) into ten (10) condominium units with some parking provided on the lowest level. This property was split off from the original condominium with the approval of Van Buren County. Anderson's concern upon learning of this split was that parking was being cut along with open space. After talking to the applicant and after the city attorney and the applicant's attorney communicated on the matter, Anderson learned that easements have been recorded to share parking and open space between the two areas. Anderson noted that Phase II was always part of this project, with the plan being to make this building into condo units with parking underneath.

Anderson explained that ten (10) residential units require twenty (20) parking spaces; seventeen (17) are to be provided in the proposed lower level parking with the remaining three being provided in the main parking lot. There are thirty-four (34) extra spaces in the large parking lot and three (3) will be used to meet this requirement. The applicants were granted a variance for parking space size in 2008 by the Zoning Board of Appeals (ZBA). Anderson reminded that a variance goes with the land and this variance included both the upper and lower lots; variances go with the land, not with the owner.

Anderson recommends approval with conditions, specifically noting any of the city engineer's outstanding issues. In speaking with Larry Halberstadt, City Engineer, Anderson learned that Halberstadt has no concern that the issues could not be addressed and he is currently working with the project engineers. Anderson advised that the board should include resolution of all engineering concerns in any approval. Anderson also recommends that details of wall lights (100% cut off) and any signs proposed, if planned, will need to be included for staff review.

Paull asked if the water connection engineering issue has been resolved.

Todd Olin, Land & Resource Engineering Inc., Grand Rapids introduced Randy Schipper, Attorney and Larry Hollenbeck, representing the developer.

Olin: Noted he has been with this project since the first developers; the drawings have been submitted and have had a comprehensive and thorough engineering review. There

is nothing here that we cannot resolve, and Olin explained that the water discrepancy is regarding the size of the water main in Center Street. Olin ordered the original survey and he believes that main is a six inch (6") main; but if it is not, the developers will have to go south to the next water main which is a twelve inch (12") main. "This is not a matter of do we or do we not have water; just a matter of where we connect."

Heinig questioned the statement at the bottom of first page regarding recommending specific site grading close to the public sidewalk. Heinig noted that this should be a requirement and not a recommendation. Olin said he (city engineer and developers) are looking at that; the city engineer are looking at slopes, safety etc. M-DOT sets the requirements and the developers will change the slope or add a barrier based on those requirements as required.

Chairman Paull asked if anyone else was there to speak to this issue.

Shannon Kerry, 500 Erie Street, Unit 114. Owner and President of Condo Association of Central Lofts: This is a transitional board since November 2014. Kerry is speaking on behalf of the association from the perspective of owners of a development which was turned over to them. The failed condominium development needed a developer to purchase the building and sell the remaining units. Stated that the board is grateful to Erie Street Properties LLC for facilitating those sales. Kerry stated, "Our purchase was the first transaction after Erie Street Properties LLC purchased the building; our relationship was not directly with Erie Street but mutually beneficial." Kerry explained that the unit she owns was not purchased from Erie Street Developers but from a private owner.

Kerry noted that she wanted to detail the experience residents have had with Erie Street Properties LLC and Larry Hollenbeck, which purchased the development in 2013 as a successor developer. In July 2013 Hollenbeck added and divided; hired himself as Association Manager with a salary and unit; removed a sentence on the property's master deed from the original developer that required him to pay association dues. Hollenbeck sold and closed many units without escrow funds as required by the Michigan Condominium Act and against the requirements of the escrow group. "Hollenbeck altered our master deed, removing 4 units, \$14,000 per year dues and storage units, using "scrivener's error" as a reason.

Paull noted that although Kerry was given the courtesy of speaking, her comments do not bear on the subject at hand.

Donna Cullen, Condominium unit owner, continued the previous speaker's written comments. She stated that material changes of the master deed require a two-thirds (2/3) vote of association members, which never happened. Members of the association board have not been notified or given a copy of the affidavit; this information was learned from one of the new owners. Storage units were used as an incentive to the thirteen (13) new buyers who purchased units from Mr. Hollenbeck to date as well as private owners who were told they would be built. Storage units are important for owners of units that were designed with no closets. Hollenbeck owns a unit not listed for sale which he keeps for his use. The Condominium Manager has attempted to issue a 1099 and no W-9 was ever issued from Hollenbeck or his accountant. Meters for billing purposes are now located in the non-association-owned part/unit of the development and Hollenbeck has threatened to hold it for ransom. The parking lot is not completed, something about the

snowplowing charges, Based on residents' experiences with Larry Hollenbeck and Erie Street Developers, the city should expect a difficult time finding reputable vendors.

Larry Hollenbeck, Developer Representative for Erie Street Properties. Hollenbeck stated that he had not intended to speak tonight but wanted to clarify that he took over a very difficult property that sat in this town for ten (10) years in foreclosure and disarray. It has been hard to get this property where it should be. He stated the past developers have done a great job cleaning up the property so development could continue. The association has been turned over to the homeowners who have decided not to ask us questions or deal with us; they have disassociated from the developer and that's their choice. The developers will do our best to bring this property to taxpaying status and appreciate your help with doing that.

Randy Schipper, Attorney representing Erie Street Properties. Has three (3) decades of real estate law experience. Stated there are many Issues due to this being a failed project because Condominium Project law was not written with the idea that projects would stall, much less stall for numbers of years. He wants to correct errors regarding the amendment that added storage units; stated that Larry Hollenbeck still plans to build them, but he is not required to build them. "It's a question of how and when that happens, due to condo law."

Motion by Smith, second by Stimson to close the public hearing.

All in favor. Motion carried.

Smith: "I am pleased that it is finally getting finished. I was here when it started. It's nice to see the parking lot finished; it looks a lot better."

Someone in the audience spoke out about the parking lot not being finished and was informed by Paull that the public hearing had been closed.

Heinig: Has a major issue with the flood hazard area being encroached upon by the fill. "Have you applied for a permit from the Department of Natural Resources (DNR)?"

Todd Olin: "There is no permit required." The developers are planning to submit additional information. An elevation certificate was submitted from FEMA but when the result from them was sent out it was sent out to an address unknown to us; we do not know where it went. The road commission drainage ways which caused flooding are now closed and a significant system is in place in that low area including a sixty inch (60") pipe and entire system. An established floodplain engineer and the city engineer are working with us; we are going a foot above the floodplain. "We just have to get that certificate to Larry Halberstadt."

Paull stated that it will be important, whatever motion you make, that you be sure answers to some of the issues that have been raised be resolved before a building permit is issued. Anderson said the motion should make clear that the issues referred to as needing resolution are the engineer's issues.

Motion by Smith to recommend to city council approval of the site plan for Phase II, Central Lofts, with the following conditions:

1. All engineering issues will be resolved before any permits are issued.
3. Details of any wall lights or signage proposed shall be approved by the Zoning Administrator prior to final approval.

Second by Heinig.

A roll call vote was taken.

Ayes: Heinig, Miles, Peterson, Smith, Stimson, Webb, Paull

Nays: None

Motion carried.

7. Commissioner Comments

Smith: Happy Spring

There were no other comments.

8. Adjourn

Motion by Heinig, second by Peterson to adjourn at 7:28 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,
Marsha Ransom
Recording Secretary