

**OFFICIAL PROCEEDINGS OF THE  
MARQUETTE CITY PLANNING COMMISSION  
August 16, 2022**

A regular meeting of the Marquette City Planning Commission was duly called and held at 6:00 p.m. on Tuesday, August 16, 2022, in the Commission Chambers at City Hall.

**ROLL CALL**

Present: W. Premeau, A. Andres, Vice-Chair M. Larson, N. Williams, N. Frischkorn

Absent: S. Mittlefehldt, Chair J. Cardillo (both excused)

**AGENDA**

*It was moved by N. Frischkorn, seconded by A. Andres and carried 5-0 to approve the agenda with the addition of an excerpt of the 3<sup>rd</sup> St. Corridor Sustainable Development Plan, the decision tree from p.3-32 of the Community Master Plan, and two items of correspondence received after the agenda was published.*

**CONFLICT OF INTEREST and EX-PARTE CONTACT**

No conflicts were stated.

**CITIZENS WISHING TO ADDRESS THE COMMISSION ON AGENDA ITEMS**

Jeff Kallery, 229 W. Park St., stated:

My property is to the west, the lot that is to the west of 225 W. Park Street, which is in the proposed zoning. He stated that lot runs right down his side yard to the end, and so he is talking that his whole side is here under the proposal. In the end it is all about four or five parking spots, so I don't see how someone should wreck the neighborhood for four or five parking spots. I am very well aware of the potential proposed uses. If something is made 3rd Street Corridor that opens up a can of worms, especially when dealing with the Vango's people, who like to do things their way. It is really just asking for problems because there are so many different potential uses that could be done, and that although not all of them would be done there, there are lots of potentials. It would open that up to be totally paved and commercial buildings put on it and I would not put it past her to level all buildings on those two properties, 221 and 225; and either A) put up a parking lot; or B) put a commercial business now that she's given free reign, and with the 3rd Street Corridor, that is basically commercial. I'm concerned about that extending into our neighborhood and about the use of it, no matter what. These people have shown no concern for anyone else's property. My fence and personal property have been damaged as a result of their use of that illegal parking lot. I know that that is not anything you are dealing with, but I'm saying that it been a total disregard for other peoples' property and that giving Ms. Butler free reign I don't expect that to change. With all that being said, the city does not benefit from these permits, and that the neighborhood does not benefit, and I certainly don't benefit from this and in fact I see it as a detriment. Michele Butler is the only one who would benefit from this. Thank you.

**PUBLIC HEARINGS**

**A. 04-REZ-08-22 – 221 W. Park St. (PIN 0320010) and 225 W. Park St. (PIN 0320020)**

City Planner and Zoning Administrator D. Stensaas read the memo for the case and presented visuals from the agenda packet including the application and staff comments, consultant replies to staff comments, the area and block map with the parcel outlined in blue, photos of the vacant site, excerpts from the Third St. Sustainable Corridor Development Plan that were added to the agenda during the agenda approval item of the agenda, and the Rezoning "decision tree" from the Community Master Plan that was added to the

agenda during the agenda approval item of the agenda. He also read two items of correspondence that were received earlier the same day and showed two of the photos that were included in one of the items of correspondence.

M. Larson invited the applicant to come up and speak about the project.

Ms. Michele Butler, 3132 Island Beach Rd., the applicant, stated:

I am representing Park-Third Inc., which is not just Michele Butler, but also Robert Caron and John Christianson, they are my partners in this. Well, first of all, just to clarify, we've always done everything we possibly can to create parking on 3<sup>rd</sup> Street, going way back into the 90s, when we moved a house, when the parking restrictions were really, really strict. Before that was all switched over, we did everything we could to have the ample amount of parking that was needed for the restaurant and/or our apartments at that place. This area has been used for parking in excess of probably 18 years, and we literally were not aware, short of correspondence that was shown to me back in 2005, that it was only supposed to be for tenant parking. But there was nothing written, nothing sent to us, we didn't have anything. So it's always just been just overflowing in the summer when it's very, very busy. When 3<sup>rd</sup> Street did their restructuring of the parking, we did not want to have the spaces in front of Vango's occupied because of the site distance coming out, so they didn't put one space there, but we also have a space in the back. We worked for years to creating and help 3<sup>rd</sup> Street. We joined the DDA because part of that process back when this was going on, was to help with parking situations on 3<sup>rd</sup> Street.

We own both parcels adjacent to Vango's, 221, 225 W. Park. We have no intent of taking those houses down. We have no intent of creating any additional commercial use there. But when I met with Mr. Stensaas and Ms. Landers, the only way that we could approve or have that use of that parcel for parking was to request that it be zoned so that it could be used as parking. We have limited our seating capacity within the restaurant to also help with parking issues. We have our employees work to park over in the Village Shopping Center, because we also own that parcel, which I do have one question and then I'll follow up with that just shortly. We hired a surveyor to lay out all of our parcels and stake them off so that we know exactly where our corner points are and what property is ours. We have spoken with Mr. Kallery, who brought it to our attention this spring, in regard to his issues and we said we would work on it, and we've spent about \$1,500 already getting the area cleared out around his fence to verify what damage is there and what we could do to take care of that for him. In regard to blocking his back yard, I don't buy that as a viable argument, because he's got a huge barn back there and that takes up his whole back yard. So it's not really affecting his yard in that regard.

We're the oldest restaurant in town, we support the community, we really believe in everything that we can do, not only for 3<sup>rd</sup> Street, but wherever parking's an issue. And, you know, there was talk that they were going to put in a parking structure where the old Jack's IGA is, and that never happened, and instead, all that parking has been eliminated. So we don't have any other recourse but to hope that we can get this passed so that we can have the additional parking necessary, not only for ourselves, but all of our neighbors, too. And part of the issue will be very difficult for White's and other areas, because right now because Ms. Strand has no place for her snow to go, so we let her snow to be plowed onto the back part of the lot behind White's, which is our property. We have a good neighbor policy with all of the businesses in that area and we all work together. I don't know if you have any questions or anything else that I can help with.

M. Larson asked if any Commissioner had question for Ms. Butler now. He also stated that they could bring Ms. Butler back up later if there are questions.

Ms. Butler stated that she did have one question. She stated:

On the map that you showed - can you bring that up to where it shows the corridor? because it doesn't show the Village Shopping Center going all the way to 4<sup>th</sup> Street.

D. Stensaas showed the portion of the map and stated that the property does go all the way to 4<sup>th</sup> Street.

Ms. Butler stated that so does the egress and the rest of it. She also stated that that whole area, which abuts the neighbors, is zoned in regard to...this was just similar situation with regards with how parking is and how ingress and egress is, et cetera. She stated that there are several other parcels, if people were to really take the time to go up and down through the street, where it can be seen that there is an extended area of parking in that area. She referred to an overlay map that they had.

D. Stensaas displayed the parcel using the online interactive Land Development Code map and stated that he can't explain right now why the portion of the parcel [abutting Fourth St.] is shown as Mixed Use, but some parcels have split zoning.

Ms. Butler stated that her point is that there are other areas where this situation is taking place and that they are not an exception to the rule in what they are requesting on today. She stated that she hoped that the Planning Commission would give them that consideration to help alleviate parking issues on 3<sup>rd</sup> Street. She thanked the commission members.

*It was moved by A. Andres, seconded by W. Premeau and carried 5-0 to suspend the rules for discussion.*

A. Andres stated that he was wondering that for the first step, how deep does the other parcels go back. He asked if they ever found that out.

D. Stensaas used the interactive mapping program again and showed the entirety of the Third St. Corridor District and the parcels on each block.

W. Premeau stated that the only thing he thinks is as the Village Shopping Center goes back, you also have a church right there, and he inquired where the church attendees parked.

Ms. Butler stated that she lets them park there, but it is actually their parking.

W. Premeau stated that the problem that he sees is that Ms. Butler may not always own these parcels and that similar problems that have been going on down the street could arise in that situation. He stated that those houses could be turned into any business that the owners wanted to, but that he would not foresee any problems with parking if there was a way to do that.

M. Larson stated that they needed to go through the interim step of whether this was spot zoning or not. He stated that this was necessary to ensure that they feel comfortable discussing it further and then afterwards they could talk to W. Premeau's point regarding if we rezone that it opens up those lots for a variety of other uses that go beyond just the current owner, and that if it gets sold at some point in time it could turn into another use in which maybe the community wouldn't see as the best, or the Master Plan does not lay out as an opportunity.

M. Larson stated that the characteristics of a spot zone are that number one – is it small in size? He asked D. Stensaas if they would consider each of these lots separately. D. Stensaas stated no, this is a request for the two lots and they are owned by the same party and contiguous, so you can consider this as one request. M. Larson stated thank you.

M. Larson stated that next, "does it grant a right that is not enjoyed by similar adjacent parcels?" He said I don't think it does, the adjacent parcel is currently a parking lot and has the applicability of those uses.

M. Larson stated that “is it dissimilar from the zoning that is around it?” He stated only on one side, it all depends on which side you are on.

M. Larson stated “is it inconsistent with the Future Land Use Plan and policies of the Community Master Plan?” He stated he thinks this is the one where discussion of this request lies, because currently in the Future Land Use Map it is shown as residential, and in policy of the Master Plan for the Third St. Corridor it is recommended to remain as a residential lot.

N. Frischkorn stated that he concurs that it is inconsistent with the Master Plan, but for this to be spot zoning it would have to meet all of those characteristics and it does not meet all of the characteristics.

M. Larson stated that is correct and so this would not qualify as a spot zone, however there are still some questions that we need to discuss, mostly around the concerns of the Future Land Use Map and the current Master Plan and Third St. Corridor planning.

N. Williams stated that one comment about whether it is consistent with the Master Plan, in Appendix G in the Master Plan, on page C 50, it reads “Another longtime favorite, Vango’s, is on the northwest corner. The color of the building is appropriately vibrant and the crowds that come would enjoy the dining deck in front. All of the sidewalk frontage improvements, along with a shared parking strategy would make fuller use of parking further away on Third Street, while taking pressure off creating more parking into the neighborhood.” He stated that it specifically mentions creating more parking around Vango’s.

M. Larson stated right, and “while taking pressure off creating more parking into the neighborhood.’

M. Larson asked Ms. Butler if she could speak to the shared parking strategy in the Plan.

Ms. Butler stated that she thinks that a lot of that discussion came out of when they had the gentleman come up and they were talking about the whole plan and then getting involved with the DDA, and they were all in it together. She stated that basically they were together now, like she had stated, with White’s, with Stucko’s – they have no parking at all, they use part of our parking. She stated that when Jeremy has a funeral, they use our parking, and vice-versa - if Jeremy does not have anything going on, he’s amendable to someone pulling into his parking lot. She stated that she thinks that that is generally how they all operate together. She stated that they have never called anybody out for pulling into their parking lot and running into White’s Party Store to get their product or vice-versa.

M. Larson asked Ms. Butler if she could you speak about the possibility of connecting the existing parking lots at 927, 923, and 909 to the 907 N. Third St. property.

Ms. Butler stated that 907 N. Third St. is not really wide enough to warrant the additional parking that could be created, and also they are in the process of turning that property over to their grandson.

A. Andres stated that his only concern if this is granted, they do not have any control over what comes after it, and is that going to be harmonious with the Master Plan or not. He stated that that is something they do not know and that this would be taking a chance. He stated that although Ms. Butler may be the greatest owner there is, but somebody else could come in and build whatever they wanted to. A. Andres stated do they want to take the chance that we could make one party happy now but possibly making the whole community worse down the road. He stated for him, he did not really want to take that chance.

N. Frischkorn stated that they are not just being asked to rezone a parking lot, but rather those entire parcels, which included the houses and it is not just the area in the back. He stated that if you go to Page

11 of the agenda, there is a table that shows of the uses that will be permitted uses. N. Frischkorn then stated that if they do rezone this it would be more or less permanent and that his concern is that all of those uses become permitted uses, not just for this owner but for all future owners of the property. He stated that there are a lot of uses that are not currently permitted in the zone, and that would be his concern - that commercial development would encroach further into the neighborhoods, which we have seen issues with that recently, and that is my concern at this time.

M. Larson asked for any further thoughts from any of the other Commissioners.

N. Williams stated that he didn't have any.

W. Premeau stated that he didn't have any.

M. Larson stated that he certainly has some things he would like to address concerning this. He stated that the lot has been used for a very long time as far as parking goes. He stated that he thinks that there are other things that, if they were to recommend it to be rezoned, it could become any of the items on the list. He stated that despite good intentions, it could become those uses on that list some time down the line and that that is what the issue is here. M. Larson stated that he did not know what alternatives there are in allowing parking and retaining residential.

Ms. Butler stated that when she discussed the issue with staff my questions were "what can we do" – can we split that lot out so only that section is zoned for parking.

D. Stensaas stated that if this was rezoned, the lots could be split, because there is no minimum lot size. He stated that it could be split into three lots, but you still have the 3<sup>rd</sup> Street Corridor district zoning on all three of those lots. He stated that again, there is no minimum lot size for the 3rd St. Corridor, so this would be the only solution.

D. Stensaas also stated:

There are Mixed-Use parcels across the street, but the minimum lot size for a Mixed-Use parcel is 4,800 square feet, and these two parcels are each very small...each parcel is roughly 5,000 square feet, one is a bit over and one is a bit under, and if you take even a few hundred square feet out of them they would not be large enough to be viable Mixed-Use parcels. Third St. Corridor is the only viable zoning for a lot that small, which is what is being discussed here – subdividing the two parcels into three and dedicating one to commercial parking. But there is also no way to establish that commercial parking is a use in itself that will only be applicable to that lot because if you look in the use table for the district there is no use classification for commercial parking. It is a retail or restaurant use, or one of the other uses here [in the table of Permitted Uses that was shown on the screen] and what would make sense is that this would be restaurant use. So that leaves open all restaurant uses, not just parking.

M. Larson stated asked whether it would be possible to state that the use remain parking, or to place that condition.

D. Stensaas stated:

If it was your recommendation to the City Commission that you would approve with the condition that parking was the only thing to be allowed, you can do that, but I don't think it would be a reasonable condition that the owner applies for a land division. You could, but I don't know if it would legally supportable to say that you will only support it if the owner goes through a land division and has the lot subdivided for parking. He stated that that would be a discussion for the City Commission to have with the City Attorney.

N. Frischkorn stated that even if they did that, the houses would still be part of 3<sup>rd</sup> Street corridor.

M. Larson stated:

You would probably have to enter into some sort of conditional rezoning and I'm not aware if you would even be able to do something like that; if you were to do a land split and enter into some sort of conditional zone where you just uncheck all of the other boxes and just leave them as residential units, but it starts to get really complicated really fast. If it's true that it has been used for parking for 18 years, I believe that's what had been stated, that those back lots had been used that long, that is a long use, even if it was in violation of current zoning for those parcels. And I certainly have concerns for the homeowner if there has been fence damage and things along those lines. On the surface I don't think it meets the conditions for rezoning. I think there could be a convoluted answer to it, I just did not know how to solve for "X" on that and because we're making a recommendation to the City Commission, I don't not know how to put that convoluted answer to them on how it might work. It doesn't make a lot of sense, but asked Mr. Stensaas if he understood what he was getting at.

D. Stensaas stated:

Whether you vote to deny this outright or vote to approve it with a limited set of conditions, the City Commission is going to have to discuss those scenarios probably before it holds a hearing. Even if they were to deny it, the City Commission can still hold a hearing to consider it and to consider the same thing that the Planning Commission is considering - is there a limited set of conditions that we can approve, because they can do the same thing. They can say we approve this but only with these conditions that will allow this to be used this way. He stated that he thought that the City Manager and City Attorney and a delegation from the Commission would probably need to have a discussion about any legally viable options. I've tried to have a discussion with the Attorney lately, but she has not been available. But, again that gets really complicated and I don't know if anybody can require a property owner to subdivide their property, that is an at-will kind of thing and then you are getting into contract law which is going to get very complex.

M. Larson stated that that is why he does not know if they can make a motion and pass that information along within that motion if they are going to make it, to say that the Planning Commission after discussion of scenarios...

D. Stensaas stated that he would say the first thing is to decide if there is any scenario that they think is a good idea, because I don't see that that has been done.

M. Larson stated that he thought that came back to Commissioner Premeau's point that is - is there any scenario that is a reasonable idea of where this remains, that the whole piece gets zoned.

W. Premeau stated that I think we've got to go with what we've got and gamble on it, but you might have every business on Third Street buying a house behind them and wanting to add parking, whatever, which is probably not a bad thing, but Third Street [zoning] would go all the way from High St. to Fourth St. eventually. Is it a good thing or bad thing, I don't know. He stated at this point he would make a motion, and you can't find a better citizen.

N. Frischkorn asked D. Stensaas – hypothetically, if all the residents of 225 and 221 Park St., and 923, 909, and 907 Third St. all parked in that area would that comport with zoning, even though they are tenants from different parcels.

D. Stensaas stated that if there was an agreement from the property owner that would allow people to park there.

Ms. Butler stated:

I know what he means, and I asked them that too, can all the tenants park back there instead, how do you know whose cars they are and how are you monitoring? I own the property and was told that I can't park there, and I said why can't I? We were remodeling and trying to get everything fixed up. We're willing to do whatever, we'll put an addendum on the title. All we want is to secure the parking for my partners and for the community. We're not going to tear the houses down.

D. Stensaas stated that the Code allows people to seek parking within 2,000 ft. of their property if you provide an agreement with another property owner for that parking. He stated that this area is part of a yard and you can park in your yard, but that parking is only supposed to be for residents.

N. Williams asked about residential areas in the Third St. Corridor district. D. Stensaas stated it is the same.

N. Frischkorn stated that the parking for the residential parking for these houses on Third St. is part of the same parking lot for the restaurant, its all one big parking lot. M. Larson stated minus the 907 parking, which isn't connected. N. Frischkorn stated right, but 909 and 923 basically shuffling all their residential parking to this lot so they aren't rezoned and then all the parking in the rest of the lot would be commercial. He stated I don't know if that would work or not, but if it would work it seems that would be a better solution than rezoning these parcels.

M. Larson stated that is certainly an idea that applicant can look into, but as it stands I don't think it meets how the Code is written and I think we need to decide on that and if it is a motion to deny then encourage the City Commission or City staff to consider other solutions. Maybe there are some clever solutions.

N. Frischkorn stated that is why he wanted to discuss some clever solutions, because I don't think its consistent with the Master Plan and as we've discussed there are a number of problems with this kind of rezoning.

N. Williams asked if anyone know how the Third St. Village Shopping Center lot got zoned Third St. Corridor all the way through to Fourth St.

M. Larson stated that its one large parcel.

D. Stensaas stated :

It was the Community Business District before the Third. St. Corridor and that was a similar type of mixed-use district without all of the form-based code language and requirements. The zoning district hasn't changed much in its extent, it's just changed in the type of code we have. There is nothing conflicting in the codes. He stated that to go back a bit, it's the Master Plan that doesn't comport with the request. The Future Land Use Map and the proposed Zoning map for these parcels doesn't jive.

M. Larson asked if anyone wanted to make a motion.

*It was moved by W. Premeau, seconded by N. Williams, and not carried 2-3 that after conducting a public hearing and review of the application and Staff Report with attachments for 04-REZ-08-22, the Planning Commission finds that the proposed rezoning is consistent with the Community*

*Master Plan and meets the requirements of the Land Development Code Section 54.1405 and hereby recommends that the City Commission approve 04-REZ-08-22 as presented.*

Vice-Chair M. Larson stated the above motion failed and inquired if there was anyone else who would like to make a motion.

N. Frischkorn stated that he would make a motion.

*It was moved by N. Frischkorn, seconded by A. Andres, and carried 4-1 that after conducting a public hearing and review of the application and Staff Report with attachments for 04-REZ-08-22, the Planning Commission finds that the proposed rezoning is not consistent with the Community Master Plan and does not meet the requirements of the Land Development Code Section 54.1405 and hereby recommends that the City Commission deny 04-REZ-08-22 because it is inconsistent with the Community Master Plan.*

N. Williams, during discussion on the motion, stated that there is a lot of talk within the Master Plan about the need for parking and there are projects going on all over the city to increase parking, so here is private property that is proposed to be used for parking.

W. Premeau stated that Master Plan is a guide, it's not a bible, and if we followed the Master Plan the city would look entirely different.

N. Frischkorn stated that in response to Commissioner Williams' comments, if this were just parking, if that was it, I think that I'd be inclined differently, but these parcels aren't just parking, there are two houses and they could become different things down the line.

A. Andres stated that he concurs with the last statement.

D. Stensaas stated that he just wanted to point out the Future Land Use Map, and this is where the inconsistency lies. He showed the map on the screen, zoomed in on the property and said that these two parcels are designated as single-family residential. He stated that the Michigan Planning and Enabling Act, state law, says that if your Future Land Use Map is inconsistent with the rezoning request, it is an inconsistent request. He stated, so if you voted to approve something that is inconsistent with the Community Master Plan, you are really in violation of the state law. He stated that the City Commission, our elected officials, can do that, but appointed officials are supposed to follow the state law, although you can make recommendations, following the decision tree in the Plan, that there is an error in the Master Plan or a change in community attitudes or conditions that would make the proposed rezoning appropriate despite non-compliance with the Plan, and that is the exercise you should go through when you see there is an inconsistency with the Plan. He stated the decision tree walks you through this in a dichotomous – yes/no way. He also stated that this is all based on process at the Planning Commission level, but the City Commission can doesn't have to follow the process in the same way, and they aren't liable to be sued for approving an inconsistent request like this. He said that it is okay for them to say the request is inconsistent, but we still are going to approve it, but its not okay for the Planning Commission to do that. He said that all of this is to say that the process is backed by state law, so its not just a guide.

## **TRAINING**

### **A. Article: *How Did We Get Here* (Michigan Planner May/June 2022)**

Staff and the Planning Commission discussed the article.



## **COMMISSION AND STAFF COMMENTS**

W. Premeau stated:

I'm not trying to raise hell, I'm just trying to get things moving, we need something to say no and something to say yes instead of just sitting here for hours throwing things back and forth. He also stated that we are unique up here. He also stated that I heard the VA is pulling out of here.

A. Andres stated:

September 10<sup>th</sup> is the SAIL cornhole tournament and if you're interested you could put a team together and I'd like to encourage everyone to come out to support the disabled community.

D. Stensaas stated:

There is a rezoning request on the docket for the next meeting, a request to add parcels to the Third St. Corridor District.

## **ADJOURNMENT**

The meeting was adjourned by Vice-Chair M. Larson at 7:20 p.m.

Prepared by:

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David Stensaas, City Planner and Zoning Administrator  
Planning Commission Staff Liaison  
Transcribed by iMedat/Edited by D. Stensaas