

THE REGULAR MEETING OF THE BERKLEY CITY PLANNING COMMISSION WAS CALLED TO ORDER AT 7:00 PM, FEBRUARY 27, 2024 AT BERKLEY PUBLIC SAFETY BY CHAIR LISA KEMPNER.

The minutes from this meeting are in summary form capturing the actions taken on each agenda item. To view the meeting discussions in their entirety, this meeting is broadcasted on the city's government access channel, WBRK, every day at 9AM and 9PM. The video can also be seen, on-demand, on the city's YouTube channel: <https://www.youtube.com/user/cityofberkley>

PRESENT: Shiloh Dahlin Lisa Hamameh
Joe Bartus Mike Woods
Lisa Kempner
Eric Arnsman

ABSENT: Josh Stapp

ALSO, PRESENT: Kristen Kapelanski, Community Development Director
Greg Patterson, City Council Liaison
Megan Masson-Minock, Planning Consultant

Motion by Commissioner Woods to excuse the absence of Commissioner Stapp. Motion supported by Commissioner Dahlin.

Voice Vote to approve the absence of Commissioner Stapp.

AYES: 6

NAYS: 0

ABSENT: Stapp

MOTION CARRIED

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APPROVAL OF AGENDA

Motion by Commissioner Bartus to approve the agenda and supported by Commissioner Woods.

Voice vote to approve the agenda

AYES: 6

NAYS: 0

ABSENT: Stapp

MOTION CARRIED

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APPROVAL OF THE MINUTES

Motion by Commissioner Hamameh to approve the minutes of the regular Planning Commission meeting on January 24, 2024 and supported by Commissioner Dahlin.

Voice vote to approve the meeting minutes of January 24, 2024.

AYES: 6

NAYS: 0

ABSENT: Stapp

MOTION CARRIED

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COMMUNICATIONS

The most recent copy of Michigan Planner was shared with the Commission members.

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CITIZEN COMMENTS

NONE

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OLD BUSINESS

NONE

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NEW BUSINESS

1. **PUBLIC HEARING PSU-01-24: 2758 Coolidge Hwy.:** The applicant, Upper Michigan Land Company Headquarters, is requesting special land use approval to occupy a building at 2758 Coolidge Hwy. with a first-floor office use in the Downtown District, on the east side of Coolidge Hwy., between Franklin Rd. and Dorothea Rd.

Community Development Director Kapelanski went over the specifics of the request for first floor office use in the Downtown District, a special land use. There are no exterior site changes proposed. The Planning Commission should consider the standards outlined in the staff review. This matter would be for a recommendation to City Council.

Dan Haberman, the applicant, approached the Commission. He noted he is excited to move his business to Berkley and is available to answer any questions.

Commissioner Hamameh confirmed with staff that commercial uses are allowed by right at this location. She asked why office would be a special land use.

Community Development Director Kapelanski said she wasn't sure why office was listed as a special land use. She noted in making her recommendation, she was looking at negative impacts, like noise and traffic, to surrounding properties and past decisions of the Commission on similar requests.

Chair Kempner opened the public hearing at 7:05PM.

Nick Appleyard, owner of Perch, opposed the request. Retail in this area of Coolidge had a good community going. Office in this location will not be good for retail business. It doesn't help add to the community that exists.

Uli Laczkovich, owner of Ullman's Health and Beauty, agreed with the previous speaker. These businesses are trying to establish a lively retail and restaurant zone on Coolidge. She heard from Berkley residents that they were sad Vitrine was closing. Berkley residents like to support their local retail and restaurants. She is questioning how the new business can add to and support the downtown.

Julie La Framboise, employee at Perch and resident of Berkley, opposes the special land use request because a thriving downtown area will raise community property values. She would like to see retail or restaurant in this space.

Molly Patterson, owner of Perch, opposed the request. This area of Coolidge has a great sense of community and this use will not add to that. Perch has people come in from all over the metro area and other areas of the country and they ask where to go in the community for retail and restaurant. An office use takes away from that.

Luke James, owner of Toadvine Books, agrees with the previous speakers. This area is starting to reach a critical mass of foot traffic with their mix of businesses and this will set that effort back.

Desiree Dutcher, Berkley resident and business owner, is opposed to the request. There are plenty of other office spaces available along Coolidge. She would recommend businesses look for spaces that already fit their needs. The four stores (if Vitrine was included) act as four corners anchoring this area of Coolidge. Changing one to office will disrupt that mix.

No one else wished to speak and Chair Kempner read the emailed comments into the record.

Katie and Nick Forte, owners of June and December, oppose the request. They do not feel an office use fits with the master plan and will not bring foot traffic to this area of downtown. Turning Vitrine into office will undermine the efforts of the community in this area.

No additional comments were received and no one else wished to speak. Chair Kempner closed the public hearing at 7:16PM.

Commissioner Hamameh asked the applicant to respond to the public comments.

Mr. Haberman said he understood the importance of retail. But this is going to be a company moving into a vacant building not replacing a beloved local business. He complimented the surrounding businesses and said they wanted to be a good neighbor and help to continue the growth of the City.

Chair Kempner clarified this is not a change of zoning but a special land use request.

Commissioner Bartus confirmed with staff that unless the exact same business was proposed, this would come back before the Commission for a special land use request.

Commissioner Hamameh said she also preferred retail and restaurant but there is a tenant ready to move in now. She is struggling to say no based on the standards.

Chair Kempner agreed. She also feels conflicted.

Commissioner Bartus suggested the Commission go through the special land use standards.

Chair Kempner read the first standard: The proposed use will promote the land in a socially and economically desirable manner.

Commissioner Bartus felt this was satisfied as the building would otherwise be vacant.

Commissioner Woods agreed however he understood the perspective from the public comments. He was less sure if it was socially desirable.

Chair Kempner said she was also struggling with that. Retail uses are more economically desirable than office in terms of foot traffic.

Commissioner Arnsman noted office uses can also bring with them employees who may frequent area businesses.

Commissioner Dahlin was curious if there would be employees at the proposed office space and if they have customers visit.

Mr. Haberman said office hours will vary. Clients will be coming to the office. Generally, someone will be there, primarily him, Monday through Friday.

Commissioner Dahlin was also struggling with this. It would be nice to have a retail or restaurant but she would also not like to see a vacant building.

Community Development Director Kapelanski confirmed adequate parking is provided.

Chair Kempner read the next standard: The proposed is necessary for the public convenience at that location. The Commission though this standard was a little awkward in this case but that it was generally met.

Chair Kempner read the next standard: The proposed use is compatible with adjacent land uses. The Commission agreed this standard was met.

Chair Kempner read the next standard: The proposed use is designed so that the public health, safety and welfare shall be protected. The Commission agreed this standard was met.

Chair Kempner read the next standard: The proposed use will not cause injury to any other property in the neighborhood.

Commissioner Hamameh understood the want for a walkable community with purely restaurant and retail space but this is an allowed use with a special land use.

Commissioner Bartus said there was no injury because the use is allowed.

Motion by Commissioner Hamameh to recommend approval of the special land use request for PSU-01-24 because:

- a) It is consistent with special land use approval for other first floor offices in the Downtown District that have been granted by City Council after a positive recommendation by the Planning Commission;
- b) It will promote the use of the land in a socially and economically desirable manner;
- c) The office will provide a storefront location for clients of the business to access making it a public convenience at that location;
- d) The proposed use is located in an area with other office and retail uses and is compatible with adjacent land uses;
- e) The use will not cause any detrimental health and safety effects to other businesses; and
- f) The proposed use will not cause any detrimental effects to other properties in the neighborhood.

Motion supported by Commissioner Bartus.

Roll call vote for motion to recommend approval of the special land use request for PSU-01-24 2758 Coolidge Hwy.

AYES: 5

NAYS: 1 (Kempner)

ABSENT: Stapp

MOTION CARRIED

2. **PUBLIC HEARING PSU-02-24:1818 Mortenson Blvd.:** The applicant, Christina DelPizzo, is requesting special land use approval for a child care center for 7-12 children at 1818 Mortenson Blvd. in the Single-Family Residential R-1D District, on the east side of Mortenson Blvd., north of Princeton Rd.

Community Development Director Kapelanski went over the specifics of the request for a child care center for 7-12 children in a single-family residential district, which requires a special land use permit per the City Attorney. The City Attorney noted that family day care homes for 1-6 children are a principal permitted use in all single-family residential districts per state law. Even though Berkley's ordinance does not specially call out group day care homes for 7-12 children as a special land use or principal permitted use, it does call out child care centers in the single-family residential districts as a special land use. Therefore, this item would need to go through the special land use process. There are no exterior site changes. The standards in Section 138-653 should be considered for approval. Staff recommends approval as outlined in the provided memo.

The applicant, Christina DelPizzo, provided some background on her business. She is a former teacher who had trouble finding good daycare. One of original employees had a housing issue so they began expanding by opening satellite locations with other qualified teachers, who live in the home and are the licensed childcare provider through the State of Michigan. They have no complaints from any of the municipalities with other locations. She said there was not clear direction from City staff and she was originally told home day cares don't need any approvals. Staff then let her know that things may have not been done incorrectly in the past and she needed this special land use approval.

Commissioner Bartus confirmed there are other teachers in the home as well, mostly on a part time basis. Child care would operate from 7AM-5PM Monday-Friday.

Ms. DelPizzo said they have staggered pickup times in the past per the request of other municipalities. There are usually about eight families with each location.

Commissioner Hamameh asked if the applicant has observed the traffic in the area. She is concerned that this is so close to Eleven Mile and Princeton can also be a busier side street.

Ms. DelPizzo said there are usually one to two cars there at one time. They've never received any complaints about the traffic. She also noted that this is a boulevarded street which provides for easier drop off and pick up in terms of the direction of traffic.

Commissioner Bartus confirmed there is no site plan review associated with this request.

Community Development Director Kapelanski said she did consider the boulevard as providing easier drop off and pick up because of the singular direction of traffic. A corner lot also allows for more access. Berkley has schools integrated throughout the neighborhoods that impact the surrounding homes for brief periods of the day during pick-up and drop-off times. This would not function much differently than that.

Chair Kempner opened the public hearing at 7:59PM.

Colleen Estapp, 1721 Princeton, opposed the request because of traffic concerns. There is already heavy traffic in the area and parking on the property is non-existent. Mortenson is not a safe place for pick ups and drop offs. Pick-ups cannot be easily scattered. Kids outside snacking and eating will add to the City's rat problem.

Robert Faust, 1885 Mortenson, opposed the request. He submitted a signed petition opposing the request. He does not understand how staff could recommend approval. The property owner has been doing work without permits. It was reported to the City. Parking will be an issue at this location. Other locations are on or near major roads.

Emily Smith, 1852 Mortenson, opposed the request. She understands the need for day care but one location for 7-12 kids does not significantly impact that. She has safety concerns with kids getting in and out of the car on Mortenson, which is a very busy street at times with a congestion issue at times. She is concerned that the maintenance of the property may equal that of other properties in the neighborhood. She is concerned about noise and congestion. Surrounding families have the same vested interest in the community and a business just doesn't have the same priorities.

Brad Davison, 1835 Mortenson, opposed the request. He agreed with the previous speaker. Mortenson is not an ideal place to be dropping off kids. The lot size and noise are concerning based on the number of children that will be there. He talked with the applicant's husband who misrepresented the fact that this would be a rental for a family. In talking to the fence contractor, he found out this would be a daycare instead.

Emma Valasko, 2076 Cambridge, was wondering if this matter is the reason that signs for a variance hearing were posted at the former Drought building and the gas station on Eleven Mile.

Chair Kempner responded those items were at the Zoning Board of Appeal's last meeting and those items do not come before the Planning Commission.

Erin Colby, 1785 Mortenson, opposed the request. She noted she moved to Berkley to be part of the community not to live near a business.

Jennifer Baranski, 1833 Mortenson, opposed the request. This daycare will add to existing parking and traffic problems in the neighborhood.

Chair Kempner read the emailed public comments into the record.

Liz Roesti had concerns with the proposal. She mentioned traffic and the character of the area and doesn't like the idea of a business operating in a residential area.

Emily Smith's email included the comments she made publicly at the meeting.

Erin Colby's email included the comments she made publicly at the meeting.

Jennifer Baranski's email included the comments she made publicly at the meeting.

Luke Orlins opposed the request and submitted a petition with fifteen signatures opposing the project citing concerns similar to concerns cited by others who spoke at the meeting.

Maria Lacombe opposed the request stating this is a calm and quiet neighborhood.

Chair Kempner closed the public hearing at 8:23PM.

Community Development Director Kapelanski confirmed group day care homes had to be either a principal permitted use or a special land use but they must be allowed in single-family residential districts. They need to have a screen fence and otherwise, the state standards, dictate the requirements.

Commissioner Woods stated LARA (State of Michigan's Bureau of Licensing and Regulatory Affairs) is only concerned with their standards and doesn't look at the impacts to a neighborhood.

Commissioner Hamameh asked about the ages of the children that would be at the daycare.

Ms. DelPizzo responded the children are three months to four years of age.

Chair Kempner asked where the employees would park.

Ms. DelPizzo said there would be one in the garage and one in the driveway. There is a large need for childcare in the area and communities need to make space for the youngest and oldest members of the community.

Commissioner Bartus said maintenance of the property would be addressed like any other home in the community that is not maintained and should not be connected to the special land use request. Parking is allowed on Mortenson and the safety concern of that street should not be linked to the request since the primary use of the property is a single-family house and those concerns would go with any home.

Chair Kempner said she didn't know if she agreed with that. There is much more drop-off and pick-up with a child care than there would be with a single-family home.

Commissioner Bartus didn't think it was all that different than living near an elementary school. Noise would also be handled through nuisance complaints through code enforcement. The size of the house would be regulated by LARA. Traffic should not be a concern because of the number of trips that would be generated is fairly low. A lot of the public concerns are valid but it seems like they don't necessarily fall under the special land use provisions.

Commissioner Woods suggested the Commission discuss the request point by point with regard to the special land use standards.

Chair Kempner read the first standard: The proposed use will promote the use of land in a socially and economically desirable manner.

Commissioner Woods said he struggled with that first standard.

Chair Kempner agreed. The impacts of twelve children in a neighborhood could be significant.

Commissioner Hamameh agreed with staff's review that the use provides a child care option while maintaining the single-family characteristics of the property.

Commissioner Bartus agreed.

Commissioner Dahlin agreed with Chair Kempner and had concerns about the noise and the traffic. The neighbors didn't expect to live next to a daycare.

Commissioner Woods wondered if this really still acted like a single-family home.

Commissioner Hamameh said it is a single-family home with a lot of kids expect for the pick-ups and drop-offs. She confirmed with staff that all of the factors should be met for approval but not all of them have to be included for a denial.

Commissioner Bartus asked if this location was unique in the single-family district. To what extent is the context of the surroundings impacting the special land use request?. If this would be approved somewhere else, it would need to be approved here.

Community Development Director Kapelanski confirmed they should be looking at this request based on the context of this property, not group daycare homes in a single-family neighborhood.

Chair Kempner stated corner properties pose a problem because they generally do not have a large driveway. This is also near Berkley High School and Rogers, which adds traffic to the area.

Commissioner Hamameh thought a boulevard is a good place for something like this, as articulated by staff.

Chair Kempner read the second standard: The proposed use is necessary for the public convenience at that location.

The Commission agreed this was met.

Commissioner Arnsman said looking at the state standards, this use is not treated like any other business but is given special treatment in single-family residential districts.

Chair Kempner read the third standard: The proposed use is compatible with adjacent land uses.

Commissioner Woods was unsure if this was true in this case.

Commissioner Hamameh thought it was compatible even though it may have traffic issues.

Chair Kempner read the fourth standard: The proposed use is designed so that public health, safety and welfare shall be protected.

Commissioner Bartus thought this would be met.

Commissioner Woods mentioned that kids eating in the backyard might contribute to a rodent problem.

Commissioner Arnsman asked how that was any different than him or his children eating in the backyard.

Commissioner Dahlin wondered if traffic along the road could block public safety vehicles.

Chair Kempner read the fifth standard: The proposed use will not cause injury to other properties in the neighborhood.

Commissioner Bartus thought this would be met.

Community Development Director Kapelanski noted the Commission could attach conditions to any motions of approval if there were specific things the Commission wanted to address.

The Commission thought that imposing conditions based on arbitrary ideas didn't make sense right now.

Motion by Commissioner Bartus to recommend approval of the special land use request for PSU-02-24 because it meets the standards in Section 138-653.

Motion supported by Commissioner Hamameh.

Roll call vote for motion to recommend approval of the special land use request for PSU-02-24 1818 Mortenson

AYES: 3

NAYS: 3 (Dahlin, Kempner, Woods)

ABSENT: Stapp

MOTION FAILED

Motion by Commissioner Woods to recommend denial of the special land use request for PSU-02-24 because it does not meet the standards of Section 138-653.

Motion supported by Commissioner Dahlin.

Roll call vote for motion to recommend denial of the special land use request for PSU-02-24 1818 Mortenson

AYES: 3

NAYS: 3 (Bartus, Hamameh, Arnsman)

ABSENT: Stapp

MOTION FAILED

Motion by Commissioner Bartus and supported by Commissioner Arnsman to postpone consideration of the special land use request for PSU-02-24.

Roll call vote for motion to postpone consideration of the special land use request for PSU-02-24 1818 Mortenson

AYES: 6

NAYS: 0

ABSENT: Stapp

MOTION CARRIED

- 3. PSP-09-23: 27333 – 27387 Woodward Ave.:** The applicant, The Jewish Community Center of Metropolitan Detroit, is requesting site plan approval for a community center at 27333-27387 Woodward Ave. in the Woodward District, on the west side of Woodward Ave., between Columbia and Cambridge Rds.

Community Development Director Kapelanski gave a high-level overview of the project. The applicant is proposing a community center in the former Wedding Shoppe space on Woodward next to Einstein Bagels. All staff and consultant reviews are recommending approval.

Planning Consultant Megan Masson-Minock detailed the project. The uses are allowed in the Woodward District. The parking area (existing) is zoned Parking. The proposal includes several flex spaces, a carryout restaurant and a rooftop space. The applicant is requesting a 10% parking wavier. Ms. Masson-Minock detailed the use and breakdown of the space as provided in the applicant's materials and parking study. Uses would not be conducted simultaneously. Those policies should be formalized in a shared parking agreement. Parking requirements were calculated based on the requirements for a community center, the closest compatible use in the Zoning Ordinance. Ms. Masson-Minock went over the applicant's shared parking study and the request for a 10% waiver of the required parking. There were also several outstanding minor landscape and lighting items that would need to be included on a revised plan for staff review.

Commissioner Woods asked how many spaces are part of the 10% reduction.

Planning Consultant Masson-Minock stated the applicant is asking for a waiver of 4 spaces. She detailed how she arrived at the parking requirement breakdown.

Commissioner Hamameh said the unique use of the property is hard to pin down in terms of fitting into the required parking categories of the Zoning Ordinance.

Planning Consultant Masson-Minock said there is no room to add more parking and the Commission needs to determine if they give a 10% waiver, is the parking going to be adequate.

The applicant, Brian Siegal, went over their proposal. He detailed the uses. There are commercial elements but they are all part of the whole. He went over the shared parking study showing the actual parking needs of Einstein and the anticipated needs of the Jewish Community Center.

Commissioner Hamameh asked about the relationship between the Jewish Community Center and Einstein's. How would the shared parking work if Einstein's leaves?

Mr. Siegal stated all of the activity at the Jewish Community Center is programmed and they are in control of the operation. They do not want to have a parking issue either.

Chair Kempner asked if the landlord of both spaces is willing to sign off on the shared parking agreement.

Mr. Siegal said he didn't want to speak for the landlord but felt confident something could be worked out. He confirmed they do not have any shared parking arrangements with the Blarney Stone (the adjacent parking lot) but expected to approach them in the future.

Chair Kempner asked about the everyday event schedule. It seems like there wouldn't be enough parking to accommodate that.

Mr. Siegal said they would engineer the schedule so that classes would not overlap and overburden the parking. For larger events, they would coordinate off-site parking.

Chair Kempner noted the standards by which the Commission could grant a 10% parking waiver.

Commissioner Hamameh said parking is her concern. Based on the representations made by the applicant, she would be comfortable with the waiver provided conditions were attached. She is concerned that it would be hard to enforce a representative schedule.

Community Development Director Kapelanski said that staff could investigate to make sure the applicant is generally adhering to their representative schedule if parking became an issue and the Commission attached that requirement as a condition.

Planning Consultant Masson-Minock said a condition could be attached that if parking is occurring outside the parking lot due to uses at the site, the management of the building would need to meet with the Community Development Department in order to adjust programming. The landlord would probably also need to be involved. The waiver could also be based on the finding that there are nine spaces available along Woodward and they are waiving four.

Commissioner Bartus asked about the other outstanding planning issues.

John DeBruyne, architect for the project, confirmed he would take care of the outstanding landscaping clarifications on a future submittal for staff review. The rooftop lighting in question will be removed. The projections are shown on the architectural floor plan.

Commissioner Bartus wondered if noise could be an issue for the adjacent neighbors with the use of the rooftop and if screening is provided.

Mr. DeBruyne confirmed the fence would screen the rooftop heating and cooling units.

Commissioner Hamameh said she didn't think noise would be an issue because the rooftop activities were facing Woodward and not the alley and the neighborhood.

Motion by Commissioner Hamameh and supported by Commissioner Woods to approve the site plan for PSP-09-23 subject to:

- a) The 10% parking reduction is granted based on current and anticipated levels of patrons and parking based on applicant's management of its uses within the development consistent with its representations made at the Planning Commission such that its customers are not spilling beyond the property's parking spaces into the neighborhood;
- b) A legal, recordable agreement addressing shared parking among the uses of the building in a form approved by staff and the city attorney; and
- c) Compliance with the conditions in the staff and consultant review letters.

And finding that:

- d) The architecture and materials as presented meet the standards for site plan approval.

Roll call vote for motion to approve PSP-09-23 27333-27387 Woodward Ave.

AYES: 6

NAYS: 0

ABSENT: Stapp

MOTION CARRIED

LIAISON REPORT

Commissioner Bartus gave a summary of the February Chamber of Commerce meeting.

Chair Kempner said the DDA Meeting mostly discussed the budget.

Commissioner Arnsman gave a summary of the February Environmental Committee meeting.

Councilmember Patterson said a first reading was passed at City Council to allow for an additional 45 day extension of marijuana business licenses.

COMMISSIONER COMMENTS

None

STAFF COMMENTS

Community Development Director Kapelanski directed the Planning Commission to the memo detailing the activities of the Zoning Ordinance Steering Committee and asked them to send any comments to her.

ADJOURNMENT

Motion to adjourn by Commissioner Hamameh, supported by Commissioner Woods.

Voice vote for adjournment

AYES: 6

NAYS: 0

ABSENT: Stapp

With no further business, the meeting was adjourned at 10:46PM.