

**MINUTES
CITY OF FARMINGTON HILLS
PLANNING COMMISSION PUBLIC HEARING/REGULAR MEETING
COUNCIL CHAMBERS
AUGUST 17, 2017, 7:30 P.M.**

Secretary Stimson called the Planning Commission meeting to order at 7:30 p.m. on August 17, 2017.

Commissioners Present: Brickner, Countegan, Fleischhacker, Mantey, McRae, Orr, Stimson

Commissioners Absent: Rae-O'Donnell, Schwartz

Others Present: City Planner Stec, City Attorney Dovre, Planning Consultants Arroyo and Tangari

APPROVAL OF AGENDA

MOTION by Orr, support by Countegan, to approve the agenda as published.

MOTION carried unanimously.

PUBLIC HEARING

A. MASTER PLAN AMENDMENT

PROPOSAL:

Amendment to the Master Plan for Future Land Use to include the Farmington/Farmington Hills Corridor Improvement Authority (CIA) Grand River Corridor Vision Plan as a sub-plan to the Master Plan for Future Land Use.

ACTION REQUESTED:

Adoption of Plan

City Planner Stec explained that the Commission was being asked to consider the adoption in the Master Plan the Grand River Corridor Improvement Authority Grand River Corridor Vision Plan for the redevelopment of the Grand River Area. The Vision Plan had been reviewed by Oakland County and accepted by City Council in 2013. This would likely be the last major action that the Planning Commission would take regarding the Vision Plan, along with a resolution to acknowledge and adopt the TIF plan to implement the Vision Plan.

Also, as part of tonight's action, the Planning Commission was being asked to acknowledge that with the adoption of the Vision Plan and TIF plan, it was comfortable with the existing Master Plan. The Master Plan would likely be completely reviewed in 5 years.

Secretary Stimson opened the public hearing. Seeing that no one came forward to speak, Secretary Stimson closed the public hearing.

In response to a question from Commissioner Brickner regarding his support and actual signature on the CIA Plan from when he was Farmington Hills mayor, Attorney Dovre said there was no conflict with Commissioner Brickner taking part in tonight's discussion and action.

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City Planner Stec said letters of support had been received from the City of Novi, Oakland County Coordinating Zoning Committee, Road Commission of Oakland Community, and from SMART (Suburban Mobility Authority for Regional Transportation).

Commissioner Brickner gave some further background to this item, saying that this work had started more than 5 years ago and was a collaboration between the Cities of Farmington and Farmington Hills, with the goal being to improve the whole Grand River Corridor.

Commissioner Brickner read the following resolution into the meeting record:

At a regular meeting of the Planning Commission of the City of Farmington Hills, County of Oakland, State of Michigan, held on the 17th day of August, 2017, at 7:30 p.m., with those present and absent being,

PRESENT: Brickner, Countegan, Fleischhacker, Mantey, McRae, Orr, Stimson

ABSENT: Rae-O'Donnell, Schwartz

The following resolution was offered by Commissioner Brickner and supported by Commissioner Orr:

WHEREAS, The City of Farmington Hills in 2011 established its Grand River Corridor Improvement Authority (CIA) and also entered into an Agreement to jointly and cooperatively work with the City of Farmington's CIA on plans to improve the Grand River Corridor area that the two cities share; and

WHEREAS, From 2011 through 2014, representatives of the two CIAs and their respective staffs and consultants worked to prepare a Vision Plan which was approved by the Farmington Hills City Council on September 9, 2013 and reviewed by the Planning Commission on October 17, 2013. Subsequently, the City Council formally adopted Development and Tax Increment Financing (TIF) Plans for the City; and

WHEREAS, In 2015, the City of Farmington Hills and the County of Oakland entered into a Tax Sharing Agreement whereby the County agreed that certain of its *ad valorem* taxes would be captured by the Farmington Hills CIA for its use in accordance with the Development and Tax Increment Financing (TIF) Plans, that specifically incorporated the 2013 Vision Plan as part of the Development Plan; and

WHEREAS, The Tax Sharing Agreement with the County specifically requires, at Paragraph 3(d), that the "City of Farmington Hills will adopt/amend its Community Master Plan to accurately incorporate the TIF Plan in conjunction with the next scheduled Community Master Plan review;" and

WHEREAS, This requirement is also consistent with the requirement in the Corridor Improvement Authority Act (Act 280 of 2005, at MCL 145.2875) that, in connection with its Development Plan, a municipality is expected to "modify its master plan to provide for walkable, non-motorized interconnections, including sidewalks and streetscapes throughout the development area"; and

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WHEREAS, the Farmington Hills Planning Commission met on August 17, 2017 to review the contents of the Farmington Hills 2015 CIA Development and TIF Plans, as well as the 2013 Vision Plan; and

WHEREAS, the City has followed the process in the Planning Enabling Act, Act 33 of 2008, with respect to amendment as set forth in MCL 125.3835 for adoption of a subplan; and

WHEREAS, the City has also, as required in MCL 125.3825(2), conducted the review of its Master Plan to determine whether to commence additional amendments to the Master Plan or to adopt a new Master Plan, and has determined not to conduct further amendments or to begin the process for adopting a new Master Plan at this time.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the City of Farmington Hills Planning Commission resolves as follows:

1. The City of Farmington Hills 2015 Grand River Corridor Development and TIF Plans, as prepared and approved by the City's Corridor Improvement Authority and City Council, and the 2013 Grand River Corridor Vision Plan are hereby made part of the City's Master Plan for Future Land Use; and

2. Pursuant to MCL 125.3845(2), the Planning Commission has reviewed its 2009 Master Plan for Future Land Use and has determined not to make any further additions, revisions, or amendments thereto, or to begin the process of adopting a new Master Plan at this time.

AYES: *Brickner, Countegan, Fleischhacker, Mantey, McRae, Orr, Stimson*

NAYS: *None*

ABSENT: *Rae-O'Donnell, Schwartz*

ABSTENTIONS: *none*

Secretary Stimson closed the public portion of the meeting, and adjourned the meeting for 5 minutes in order to reconvene in the City Hall Community Room.

REGULAR MEETING

Discussion of:

- A. Wireless communication amendments to Zoning, Telecommunications, Street, and Building Regulations Ordinances; Chapters 7, 26, 29.5 and 34.

City Planner Stec gave the background for this discussion item, explaining that Staff had received direction from City Council regarding getting some regulations in place regarding the placement of Distributed Antenna System (DAS) devices on poles throughout the City. After discussion, the proposed amendments would be set for public hearing, even though this was not technically necessary. After the public hearing, the amendments would be forwarded to City Council.

City Planner Stec continued that the trend was for DAS from 3rd party carriers to be placed on poles, including utility poles in the rights-of-way. The purpose of the proposed amendments was to limit

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placement of these systems to existing utility poles. If new poles were installed, an existing pole would need to be removed.

City Attorney Dove explained that there had been two regulatory developments over the last few years:

- At the state level the legislature amended the Zoning Enabling Act to say that certain wireless communication equipment no longer needed a site plan or a special land use approval from municipalities.
- At the federal level, Congress passed and the FCC further developed a provision called an *Essential Facilities Request*, which said that if something is an eligible facilities request it had to be approved.

Commissioner Brickner said that AT&T basically wrote these new regulations.

City Attorney Dove said those legislative developments dealt with attachments to existing poles. The purpose of the proposed amendments was to take advantage of what authority the City still had over what was in the right-of-way.

The Metropolitan Extension Telecommunication Rights of Way Oversight Act (Metro Act) enacted previously dealt with cable companies having access to the right-of way. The Metro Act excluded from its coverage antenna and support structures. That exclusion was part of the basis of tonight's discussion.

Commissioner Brickner said the Metro Act had addressed fiber optics, and took away the City's authority to charge a company to use City rights-of-way.

City Attorney Dove further explained that the proposed amendments also included some cleanup changes. For instance, only one hearing would be required for a new cell tower, either at the Planning Commission or City Council level. They were trying to streamline the process and codify in the ordinances the requirements of State and Federal laws, in the hope that if an applicant complied with the ordinance, they also complied with State and Federal requirements.

Commissioner Orr asked if these changes would affect antennae on private property, such as the antenna at Drake Road and the freeway, where private owners purchased the property from the State.

City Attorney Dove said he was not familiar with that particular site.

Commissioner Orr said that the owners of the site went to City Council because they wanted a 150-foot tower when only 100 feet were allowed, not to particularly press for a public hearing before Council. When was the requirement changed to only one public hearing?

City Attorney Dove said that there was a "Shot Clock" presumption in the State legislation that if the City didn't act within a certain amount of time on a request, it was considered approved. Streamlining to only one public hearing helped avoid that.

Regarding private property, City Planner Stec said that one change the proposed amendments would bring was a relaxation of the prohibition that DAS could not be placed on nonconforming buildings. The antenna were getting smaller and smaller, and that prohibition seemed unnecessary, especially when the goal was to discourage new poles.

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Commissioner McRae asked for clarification regarding the examples of DAS shown on the sheet in their packets. Planning Consultant Arroyo said those examples were for purposes of showing different possibilities of what different installations could look like. Commissioner McRae said that the proposed amendments didn't have language about the appearance of the antennae; there should be a way to include that.

City Planner Stec said there were projection provisions regulating how far an antenna could project out from a pole. However, there was no way to say as a City or Planning Commission what DAS were going to look like in a year, for example.

Commissioner McRae asked if the City could stipulate no wood poles, no external visible wiring, etc.

City Attorney Dove said he had seen drawings of proposed installations, and none had shown objectionable size or placement.

Planning Consultant Arroyo further explained that the large example on the sheet was actually from San Francisco, when extra antennae were put in to serve the Super Bowl. He wanted to show what was possible, but he didn't think any would actually look like that in Farmington Hills.

City Attorney Dove said there was a section of the new proposed telecommunications article that addressed design standards.

Commissioner Brickner said these distributed antenna systems would replace the sheds and shacks used currently.

Commissioner Countegan said he was more concerned with the structural supports than he was with aesthetics. City Planner Arroyo said that the provision in the ordinance stated that no antenna or other wireless equipment shall project more than 1 foot from the side of the utility pole or wireless support structure on which it is to be attached.

Discussion of proposed changes in the City Code

City Attorney Dove directed the Commission to the amendment to the Building Regulations, Chapter 7, where there was a fairly extensive list of construction documents required for permits to construct, alter, repair, move all or part of an existing or proposed support structure. Many of those provisions were intended to require an applicant to demonstrate that they were exempt from zoning approvals under State statute. If the proposed work was for a new wireless support structure or to place or install wireless communication equipment on an existing structure, a structural analysis and certification by a registered professional engineer showing compliance with the Code would be required.

Commissioner Brickner asked if any of the proposed language changed where poles could go. Right now they couldn't be placed in the middle of a neighborhood. He did not see where the amendment limited the installations to be on main roads only.

City Planner Stec said that had been a concern from City Council also.

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City Attorney Dove said there was no allowance for traditional cell towers to go anywhere different than the current ordinance allowed.

Commissioner Brickner commented that one result of the Metro Act was to give providers the ability to put large metal poles right next to wood ones along main roads.

A company collocating on a utility pole could increase the height of that pole 10% or 10 feet.

In response to comments from Commission Brickner, Planning Consultant Arroyo said the boxes in the pictures provided represented a combination of the wireless hardware plus the antenna. It was a smaller version of an array. DAS were small enough that they were not noticed by the casual viewer.

Commissioner Brickner was concerned that nothing would change regarding which zoning districts could be utilized.

In response to a comment from Commissioner Countegan, Planning Consultant Arroyo said the proposed amendments could potentially discourage the construction of new poles, by allowing collocations throughout the City. City Attorney Dove added that collocation was the industry's preference to satisfy their customer demands, by using smaller transmitting stations that communicated with their main towers.

Commissioner McRae asked if DAS would be allowed on light poles, as shown in the provided illustration. City Attorney Dove said they could be allowed there; the City could charge for light pole use.

City Attorney Dove reviewed the proposed language in Chapter 29.5 "Telecommunications," new article IV, "Wireless Facilities in Right-of-Way," which regulated when a license from the City needed to be obtained.

Commissioner Brickner asked if companies could collocate on a competitor's pole. City Attorney Dove said collocation meant to simply install wireless equipment on an existing structure or pole without regard to ownership of the pole or of the collocated equipment.

Discussion followed regarding practical applications of collocations in the City, including on DTE poles.

Commissioner McRae noted that proposed Section 29.5-75.(k) said: *In residential districts, collocations shall only be on wireless support structures or utility poles located in line with a side lot line to avoid placement in front of a house.* Didn't this assume placement in residential districts?

City Attorney Dove said there was not a major thoroughfare limitation in the current draft.

Commissioner Brickner was not in favor of putting antennae in residential neighborhoods.

Commissioner Countegan asked if poles in dedicated easements – but not in rights-of-way – would be affected. Planning Consultant Arroyo said the poles and the land had to be under the jurisdiction of a city, state or federal government. Easements did not meet that requirement. The Zoning Ordinance would apply in that situation.

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Commissioner Fleischhacker said in his subdivision, the telephone poles were in the right-of-way in front of homes. So according to the proposed regulations, those poles could not be used.

City Planner Stec said the type of road where collocations were permitted should be defined.

City Planner Stec continued that under Section 29.5-76, there was space left for the Planning Commission to include limitations of location, etc.

Commissioner Fleischhacker commented that DAS had nothing to do with cellular telephones. DAS collocations were for texting, streaming video, etc. What the wireless companies needed was data. They were seeking to transmit high-speed data wirelessly.

Commissioner McRae asked if the collocations were limited to main roads, and a square mile was entirely subdivision, would the antenna be able to penetrate to the subdivision center? Commissioner Fleischhacker thought they would not penetrate, leaving homeowners in the center without the coverage those close to the main roads would have. Commissioner McRae wondered what the resistance was to having DAS in neighborhoods when people would complain if they didn't have the service. DAS were not very visible. He supported having them in the neighborhoods, because that was where they were needed. City Attorney Dovre said that was the argument the industry was making.

City Planner Stec advised that the Commission needed to decide what road classifications should allow collocations.

Commissioner Countegan said he supported having collocations on all roads. Commissioner McRae agreed, saying that otherwise the City was putting up arbitrary roadblocks to the kind of service people demanded.

After further discussion, it was the consensus of the Commission to not restrict the attachment of Distributed Antenna Systems to existing poles in public rights-of-way based on thoroughfare classification.

Commissioner Countegan suggested making sure there were design standards for the antennae. City Planner Stec said he thought people would be angrier that they couldn't get their data transmission, as opposed to having to see them.

Planning Consultant Arroyo directed the Commission's attention to proposed section 29.5-75(b): *They shall be treated to match the supporting structure or pole by painting or other coating to be visually compatible with the support structure upon which it is to be attached.* Also, the DAS couldn't extend more than 4 feet above the existing height and they couldn't project more than 1 foot from any side of the utility structure they were attached to. People were not going to notice these. Only 3 antennae could be collocated on a utility pole.

City Attorney Dovre said his intention was to invite industry representatives to the public hearing, in order to get their input.

Commissioner Fleischhacker addressed how technology had changed from the 90's to the present. Today people needed high speed streaming for their phones, TV's, and other smart devices.

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Secretary Stimson said Section 29.5-72 *Eligible facilities request* (b) said a wireless support structure could protrude 6 feet, but the conversation this evening had said 1 foot.

Planning Consultant Arroyo said that section related to adding wireless equipment to a wireless support structure, such as a tower. Planning Consultant Tangari added the section didn't actually pertain to wireless facilities in the right-of-way.

Secretary Stimson asked what action the Commission wished to take. Commissioner Countegan indicated he was ready to offer a motion.

MOTION by Countegan, support by Mantey, that proposed City Code Text Amendment 1, 2017, revising Chapter 7 “Buildings and Building Regulations” Article II, “State Construction Codes” to add a new Section 7-32 “Wireless Communications Support Structures, Equipment, and Facilities”; Chapter 26 “Streets, Sidewalks and other Public Places”, Article II “Streets” Section 26-26 “Definitions”; and Chapter 29.5 “Telecommunications” to add new Article IV “Wireless Facilities in Right of Way”; petitioned by the Planning Commission be set for Public Hearing on September 21, 2017.

Motion carried unanimously.

Discussion followed regarding apparent inconsistencies in certain definitions in the Code and the Zoning Ordinance, including the definitions of wireless tower, cellular tower, wireless support structure, etc.

City Attorney Dovre said he would look at those definitions, and change them if appropriate.

Discussion of proposed changes in the Zoning Ordinance

Planning Consultant Arroyo reviewed the proposed changes in the Zoning Ordinance, including 34-2.2 Definitions, 34-4.24 Cellular Or Wireless Tower And Cellular Antennae, and 34-6.6 Wireless Facility Procedures.

Changes included:

- Allowing collocation on a nonconforming building
- Reducing the height that determined the setback for a collocation from 2 times the height of the supporting structure to a setback equal to the height of the supporting structure.
- Delete the provision for collocations that the base of the antenna shall have a minimum setback of 300 feet to the lot line of residential districts.

Those changes all encouraged collocations on existing structures/buildings rather than constructing new towers.

In response to a question from Commissioner Mantey, City Planner Stec said collocating on church steeples was covered under 34-4.2.F. where it was required that the equipment must be fully concealed within a pre-existing structure.

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Referring to proposed language in 34-4.24.2.E.i, Commissioner Orr asked if a nonconforming use could include a residential use in a commercial district, such as the Simmons house, for instance. Planning Consultant Arroyo said that was correct.

Discussion followed as to whether residential uses should be excluded, even if they were nonconforming. The consensus of the Commission was to allow antenna on nonconforming residential uses. It was noted there were very few of these in the City.

Planning Consultant Arroyo referred the Commission to 34-4.24.4 “Certificate of need, bond, and performance guarantee for cellular or wireless tower.” He said that the proposed changes made it clear that Planning Commission site plan approval was going to be required in addition to a certificate of need for a new tower, for example.

The remainder of the proposed zoning ordinance changes clarified and organized regulations in terms of process, including what was subject to administrative or planning commission site plan review and approval.

Commissioner Fleischhacker thought the use of the terms *cellular tower facility* and *wireless tower facility* was confusing.

After discussion, Planning Consultant Arroyo suggested eliminating the word *cellular* and simply using *wireless* throughout.

As noted above, it was the consensus of the Commission to not restrict the attachment of Distributed Antenna Systems to existing poles in public rights-of-way based on thoroughfare classification.

Commissioner McRae indicated he was ready to offer a motion.

MOTION by McRae, support by Orr, that proposed Zoning Text Amendment 1, 2017, revising the following articles of Chapter 34 “Zoning”: Article 2 “Definitions”, Section 34-2.2 “Definitions”; Article 3 “Zoning Districts”, Section 34-3.26, “General Exceptions” to add new subsection 34-3.26.16; Article 4 “Use Standards”, Section 34-4.24 “Cellular Tower and Cellular Antennae”; and Article 6 “Development Procedures”, to add new Section 34-6.6 “Wireless Facility Procedures”; petitioned by Planning Commission be set for Public 9 Hearing on September 21, 2017.

Motion carried unanimously.

B. Sign Ordinance revisions

Planning Consultant Tangari reviewed proposed changes to the sign ordinance, explaining that these were clean-up items involving simple deletions, clarifications and additions.

Planning Consultant Tangari said that one item would be added that wasn’t in tonight’s draft. After 34-5.5.3.A.xi.a. the following would be added: *In no case shall the freeway signs include a portion on the front yard.*

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Commissioner Fleischhacker indicated he was ready to offer a motion.

MOTION by Fleischhacker, support by Mantey, that Zoning Text Amendment 2, 2017, revising Chapter 34, "Zoning": article 5.0, "Site Standards," Section 34-5.5, "Signs" to clarify regulations relating to prohibited signs, certain free-standing signs, and temporary signs, be set for Public Hearing on September 21, 2017.

Motion carried unanimously.

C. Single Family Design Standards

Planning Consultant Arroyo said there were provisions that addressed Single Family Design Standards in the City Code. City Council had requested this be moved to the Zoning Ordinance, and the requirement for a one family residential review board eliminated. He explained how the provisions would apply certain standards to a manufactured home being installed in a neighborhood, and how the provisions also prohibited a dwelling from being substantially *dissimilar to other one-family dwellings and shall not cause substantial depreciation to the property values . . .*

Commissioner McRae was concerned with the provision regarding dissimilarity. Many neighborhoods in the City contained a variety of housing. Who would make a determination that a house was dissimilar?

Planning Consultant Arroyo said this came from a previous housing recession where subdivisions were approved for 2500-3000 square foot homes, for instance, and someone wanted to construct a 1,000 square foot home there.

Commissioner McRae said he didn't have a problem with requiring a comparable size with other houses in the neighborhood, but was uncomfortable addressing building materials, style, etc. There were many places in the City where this provision was entirely antithetical to neighborhood precedent and culture.

Commissioner Countegan said in the past the building official would address dissimilarity of a proposed building plan. Planning Consultant Arroyo said this was still the case. Under current code, appeals of a building official's decision could be made to the review board. However, the board had never been staffed or otherwise activated.

After further discussion, the consensus of the Commission was that the requirement for similar size should remain, but nothing else.

In response to questions from Commissioner Countegan, Planning Consultant Arroyo said the wording in the code had been changed slightly in some instances as they moved it over to the Zoning Ordinance. Additionally, some policy changes had been added, including proposed Section 34-4.59.8, which dealt with minimum storage areas in a new home.

Commissioner Countegan asked what was driving the policy changes. Planning Consultant Arroyo said they had added some language based on common practice in other communities.

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Commissioner Countegan said it would be helpful if a version of the proposed zoning ordinance language be provided that showed which language had been changed and/or added.

Commissioner Orr asked why duplexes would not be included in this type of review. Planning Consultant Arroyo said they would study the possibility of including duplexes.

It was the consensus of the Commission to direct staff to return with policy changes highlighted. No action would be taken this evening.

APPROVAL OF MINUTES **July 20, 2017**

MOTION by McRae, support by Fleischhacker to approve the July 20, 2017 minutes as published.

Motion carried unanimously.

PUBLIC COMMENT

None.

COMMISSIONER'S COMMENTS

Commissioner Mantey said he would be at the Dodgers (vs. Tigers) game tomorrow, when they would be trying to win their 52nd game out of last 60 games.

Commissioner McRae noted that there were window perimeter lights at the Marhaba Restaurant and Hookah Lounge establishment on Orchard Lake Road, in violation of ordinance.

Secretary Stimson asked whether cities were starting to require electrical vehicle charging stations. Should that be included in site plan review as part of the City's promotion of a green city?

Planning Consultant Tangari said all the major auto companies were offering electric vehicles; it would be appropriate to look at this. Currently the ordinance did require standards if charging stations were installed, but did not require the charging stations themselves. Perhaps at least the conduit should be mandated.

Various road projects were discussed.

ADJOURNMENT

Seeing that there was no further comment, Secretary Stimson adjourned the meeting at 9:33 p.m.

Respectfully Submitted,
Steven Stimson
Planning Commission Secretary

/cem