

**OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

MINUTES OF A VIRTUAL MEETING HELD SEPTEMBER 24, 2020

Agenda

PUBLIC HEARING: PANARA DRIVE-THRU
MANNA DEVELOPMENT, ON BEHALF OF MEYER C. WEINER CO., IS REQUESTING SPECIAL USE AND SITE PLAN APPROVAL TO REDUCE THE BUILDING SIDE OF AND INSTALL A 681 SQUARE FOOT DRIVE-THU WINDOW, LANE, AND STORAGE TO AN EXISTING PANERA BREAD LOCATED AT 5119 WEST MAIN STREET, KALMAZOO, MI 49009.

PUBLIC HEARING: CHILD AND ADULT FOSTER CARE FACILITIES
CONSIDERATION OF AMENDMENTS TO THE TOWNSHIP ZONING ORDINANCE, FOR RECOMMENDATION TO THE TOWNSHIP BOARD, TO ALLOW CHILD AND ADULT FOSTER CARE FACILITIES WITHIN OSHTEMO TOWNSHIP.

A virtual meeting of the Oshtemo Charter Township Planning Commission was held Thursday, September 24, 2020, commencing at approximately 6:02 p.m.

PRESENT: Bruce VanderWeele, Chair
 Dusty Farmer
 Micki Maxwell, Vice Chair
 Chetan Vyas
 Mary Smith
ABSENT: Anna Versalle

Also present were Iris Lubbert, Planning Director and James Porter, Township Attorney.

Call to Order and Pledge of Allegiance

Chairperson VanderWeele called the meeting to order at approximately 6:02 p.m. He invited those in attendance to join in reciting the Pledge of Allegiance.

Approval of Agenda

Hearing no suggestions for change, Chairperson VanderWeele let the agenda stand as presented.

Approval of the Minutes of the Meeting of August 27, 2020

The Chair asked if there were any additions, deletions, or corrections to the Minutes of the Meeting of August 27, 2020. Hearing none, he asked for a motion.

Ms. Farmer made a motion to approve the Minutes of the Meeting of August 27, 2020 as presented. Ms. Maxwell seconded the motion. The motion was approved unanimously by roll call vote.

Chairperson VanderWeele moved to the next agenda item and asked Ms. Lubbert for her presentation.

**PUBLIC HEARING: PANARA DRIVE-THRU
MANNA DEVELOPMENT, ON BEHALF OF MEYER C. WEINER CO., IS
REQUESTING SPECIAL USE AND SITE PLAN APPROVAL TO REDUCE THE
BUILDING SIDE OF AND INSTALL A 681 SQUARE FOOT DRIVE-THRU WINDOW,
LANE, AND STORAGE TO AN EXISTING PANERA BREAD LOCATED AT 5119
WEST MAIN STREET, KALMAZOO, MI 49009.**

Ms. Lubbert said that Manna Development, with the support of the property owner, is requesting Special Use and Site Plan approval to make modifications to a Panera Bread, located at 5119 W Main Street, in order to add a drive-thru to the site. She indicated that 5119 W Main Street is located on the south side of W Main Street, west of the Drake Road intersection, and that this Panera Bread is part of a larger commercial development which includes, but is not limited to, the three-tenant commercial building on the same lot and the Kohl's store directly to the south.

Ms. Lubbert explained that as 5119 W Main Street is located within the C, Local Business District, where drive-through services for businesses are identified as Special Uses, review and approval of this request by the Planning Commission is required.

Ms. Lubbert provided a quick overview of how the proposed changes would affect the existing Panera building. She explained that a large area on the back of the building will be removed to make room for the proposed 680 sqft of additions – a drive thru window, lane, and storage. Overall she noted, even with the additions, the proposal would decrease the square footage of the building by about 1,200 sqft.

Ms. Lubbert then proceeded to provide an analysis of the proposed site plan. She noted that when reviewing a site's layout, the criteria in Section 64 of the Zoning Ordinance, which addresses site design, needs to be met. She stated that overall the zoning requirements for this site have been met: the commercial lot in question meets the Code's area and frontage requirements, the existing and proposed uses are allowed within this district, and the proposed building alterations meet the required setbacks. Looking at access, Ms. Lubbert noted that the general access throughout the site will remain two way, with the proposed drive thru feature being one-way. She added to help with safety and traffic flow, the east most parking space along the north side of the building will be striped off.

Overall the proposal will remove four parking spaces, leaving 63 parking spaces in total that service this lot. Ms Lubbart clarified that these 63 spaces support both the Panera Bread and the three-tenant commercial building to the west. She noted that generally a site with two commercial buildings of this size would require around 175 parking spaces onsite. However, as this site is part of a larger commercial development, per Section 52.70 of the Township code, adjacent developments under the same ownership are permitted to share parking facilities. She explained that just south of the project site is the Kohl's store, as well as a handful of other retail businesses, which are part of the commercial development. In aggregate this collection of business, including those located on the subject property, have in excess of 724 spaces available for use. She stated that per the Zoning Ordinance, only around 700 are required, leaving a surplus of nearly 25 spaces. Given the parking area immediately to the south of the project site is typically underused, Ms. Lubbart stated that Township staff is confident that with this change sufficient parking would still be available for this site as well as for the other surrounding businesses. However, she added that if the current owner of the lot in question ever intends to sell either property, a cross access and parking easement agreement should be signed and recorded with the County Register of Deeds.

Ms. Lubbart noted that an internal sidewalk connection from the Panera Building to the existing sidewalk along W Main is part of this proposal. She added that this detail is still currently under coordination between the applicant and the Township's Public Works Department. Final details for the internal sidewalk connection will be needed prior to issuance of a building permit.

Ms. Lubbart said that existing stormwater control for the site won't be affected by the proposal and due to the scale of the changes the landscaping ordinance is not triggered. Both Prein & Newhof, the Township's civil engineering agent, and the township Fire Department have reviewed the project site plan and their onsite concerns have been addressed. However, she noted that new wall lighting is being proposed to illuminate the drive-thru and that a photometric plan will need to be reviewed and approved prior to building permit issuance.

Ms. Lubbart shared images of the proposed elevations of the Panera building noting that the proposed alterations will match the existing materials and patterns of the building.

Ms. Lubbart added that as the proposal is for a new Special Use, Section 65.30 of the Township Code needs to be considered. She noted that the staff report delves into the details for this portion of the review and that in summary Township Staff foresees that the proposed drive-thru will have no negative impacts on adjacent properties. She added that the proposed drive-thru is very much in accordance with the intended character of the area and that several drive-in service windows or drive-through services are already established in the area. She stated that the requirements and considerations outlined in Section 65.30 have been met.

With the requirements of the code met, Ms. Lubbert recommended that the Planning Commission approve the proposed Special Use and Site Plan for the demolition of a portion of the existing Panera Bread building at 5119 W Main Street for the construction of a drive-thru window, lane, and storage, with the following three conditions:

1. Prior to building permit issuance, the proposed internal sidewalk connection shall be reviewed and approved by the Township's Public Works Department.
2. Prior to building permit issuance, a site lighting plan for the newly proposed wall mounted lights, including a photometric plan, shall be reviewed and approved by the Township's Planning Department.
3. If the current owner ever sells either property on this site, a cross access and parking easement agreement shall be signed and recorded with the County Register of Deeds.

Chairperson VanderWeele asked whether Commissioners had questions for Ms. Lubbert.

Ms. Farmer asked for clarification on whether the proposal would decrease the overall footprint of the building. Ms. Lubbert confirmed the building size would decrease.

Ms. Smith inquired about the one accessible parking space on the south side of the building that this proposal would remove. Ms. Lubbert noted that this space services the tenant within the south portion of the building that is being proposed to be demolished. With this tenant space no longer there and the new square footage of the building, the site would still be in compliance with the removal of this one accessible parking space.

Ms. Smith asked about the location of the three existing accessible parking spaces on the north side of the building. She was concerned that they were not closer to Panera's entrance.

Jeffery Parker, representing Panera Bread and Mana Development, offered to help address Ms. Smith's concern. He noted that the three existing accessible parking spaces were located on the north side of the building because of the grades onsite. The grades on the north side meet ADA requirements.

Hearing no other questions from the Commissioners, Chairperson VanderWeele asked if the applicant would like to make a statement, had any comments, or would like to provide additional information.

Jeffery Parker noted that Mana Development has properties all over the United States and that drive-thrus have become a necessity for them, especially in the age of the Coronavirus. He added that he is very happy that they started the process of adding drive-thrus to their locations about five years ago. He stated that it is important that a drive-thru be added at this location so it can remain viable. He thanked Ms. Lubbert for her presentation.

Shannon Orr, a representative of the property owner, noted she is fully in support of this request. She noted that they had been working on terminating the lease with Sprint, located in the south side of the building, for over a year in order to help make the drive-thru a possibility.

Chairperson VanderWeele moved to the public hearing. After determining there were no members of the public present, the Chair moved to Board deliberations.

Ms. Farmer noted that she thought it was interesting that Manna Development has been gradually adding drive-thrus to their establishments for the past five years. She noted that she had thought this was the first site plan the Commission was seeing from a business altering their site in order to adjust to the effects of the Coronavirus.

Both Chairperson VanderWeele and Ms. Maxwell noted that they were in favor of the proposed drive-thru.

Hearing no further discussion, Chairperson VanderWeele asked for a motion.

Mr. Vyas made a motion to approve the proposed Special Use and Site Plan for the demolition of a portion of the existing Panera Bread building at 5119 W Main Street for the construction of a drive-thru window, lane, and storage, with the following three conditions:

1. Prior to building permit issuance, the proposed internal sidewalk connection shall be reviewed and approved by the Township's Public Works Department.
2. Prior to building permit issuance, a site lighting plan for the newly proposed wall mounted lights, including a photometric plan, shall be reviewed and approved by the Township's Planning Department.
3. If the current owner ever sells either property on this site, a cross access and parking easement agreement shall be signed and recorded with the County Register of Deeds.

Ms. Farmer seconded the motion. The motion was approved unanimously by roll call vote.

Chairperson VanderWeele moved to the next agenda item and asked Ms. Lubbart for her presentation.

PUBLIC HEARING: CHILD AND ADULT FOSTER CARE FACILITIES
CONSIDERATION OF AMENDMENTS TO THE TOWNSHIP ZONING ORDINANCE,
FOR RECOMMENDATION TO THE TOWNSHIP BOARD, TO ALLOW CHILD AND
ADULT FOSTER CARE FACILITIES WITHIN OSHTEMO TOWNSHIP.

Ms. Lubbart started her presentation by noting that Township staff was recently approached about the possibility to establish a group home to house eight to ten refugee children under the age of 18 within Oshtemo. She noted that when staff

examined the Township's Zoning Ordinance, it was found that no such use is identified as allowable in any zoning district within Oshtemo. A general tenant of local zoning is that no reasonable use of land can be outright prohibited in any community and must be allowed somewhere. In the interest of adhering to accepted legal convention, good planning practice, and the preservation of Township residents' property rights, she said staff worked with legal counsel to draft language for an amendment to the Zoning Ordinance to address this gap in the code. Ms. Lubbart stated that State law MCL 722.111, which outlines the requirements for Foster Care organizations in Michigan, was used as a guide to draft the code amendment. The proposed amendment was presented to the Planning Commission at their regular August 27th meeting, where after discussion, the Planning Commission unanimously motioned to forward the proposed language to a Public Hearing.

Ms. Lubbart explained that the proposal would amend the Ordinance in four ways. The first change would be the addition of definitions to define the various types of child and adult foster care facilities. She noted that the proposed definitions fell into two categories: small or large facilities. The second change is adding the two small uses, Adult Foster Care Facilities and Foster Family Homes, as permitted uses in all Oshtemo's residential districts. These two uses allow for the care of up to four foster children or adults. She noted that these two uses are already permitted by State law in residential zones.

Ms. Lubbart noted that the third change is adding the remaining types of defined facilities, to be categorized as Larger Child and Adult foster Care Facilities, as Special Uses within the R-3, R-4, and 9th Street & West Main Overlay zones. She added that the intent of these three districts is to allow for higher density residential development, making them appropriate districts for the Larger Child and Adult foster Care Facilities. She noted that by placing the Larger Child and Adult Foster Care Facilities under the Special Use category it allows additional criteria to be considered and permits the Planning Commission to review such cases on a case-by-case basis.

The last proposed amendment is adding additional requirements for the Larger Child and Adult Foster Care Facilities that would be considered in their review. Ms. Lubbart reiterated that the proposed criteria mirrored language from the State law MCL 722.111. Highlights she touched on included requiring Larger Child and Adult Foster Care Facilities to be a certain distance from a number of similar or incompatible uses, having any outdoor play or social areas fenced off for safety purposes, and ensuring that these uses blend into the surrounding residential character of the area.

Overall, Ms. Lubbart stated that the goal of these proposed amendments alleviates confusion for staff and developers when reviewing these types of establishments as well as providing some control to the Township while also ensuring that the code legally meets State housing requirements. She recommended that the Planning Commission approve the proposed amendments and forward them to the Township Board for consideration and adoption.

Chairperson VanderWeele asked whether Commissioners had questions for Ms. Lubbert.

It was clarified that these establishments would provide 24-hour care to their residents, unlike a day care facility.

Ms. Maxwell asked about the terminology choice of 'Larger Child and Adult Foster Care Facilities' noting that it was confusing. After discussion it was agreed to change the wording of this category to 'Larger Facilities for Child and Adult Foster Care'.

Ms. Farmer asked why these uses would be permitted in the Agricultural Districts. Ms. Lubbert explained that the two proposed foster care facilities are ones already allowed by the State in any district that allows residential uses. She gave the example of a family with a house in the Agricultural District taking in a couple foster children. Mr. Porter added that he asked Ms. Lubbert to include these uses so that the Township Code clearly aligns with State code.

Chairperson VanderWeele moved to public hearing. After determining there were no members of the public present, the Chair moved to Board Deliberations.

With no further questions or discussions, Chairperson VanderWeele asked for a motion.

Ms. Smith made a motion to move the proposed code amendment to the Township Board for consideration and adoption with the stipulation that the term 'Larger Child and Adult Foster Care Facilities' be changed to 'Larger Facilities for Child and Adult Foster Care'. Ms. Farmer seconded the motion. The motion was approved unanimously by roll call vote.

PUBLIC COMMENT

Chairperson VanderWeele determined there were no members of the public present and moved to the next agenda item.

OTHER UPDATES AND BUSINESS

Ms. Lubbert shared that a new Planning Commission member was appointed by the Township Board earlier that week. Her first official meeting will be in early October.

She also reported Governor Whitmer has extended the requirement for governmental meetings to be held virtually through October 2020.

Ms. Farmer asked if the Commission has met the new Zoning Administrator. Ms. Lubbert stated that she did not think so. She shared that Colten Hutson is the new Zoning Administrator and he will be helping with cases soon.

ADJOURNMENT

With there being no further business to consider, Chairperson VanderWeele adjourned the meeting at approximately 6:44 p.m.

Minutes prepared:
October 1, 2020

Minutes approved:
November 12, 2020