

**MINUTES  
CITY OF FARMINGTON HILLS  
PLANNING COMMISSION PUBLIC HEARING/REGULAR MEETING  
CITY COUNCIL CHAMBER  
31555 11 MILE ROAD, FARMINGTON HILLS MI  
FEBRUARY 20, 2014 – 7:30 p.m.**

The Planning Commission meeting was called to order by Chair McRae at 7:30 p.m. on February 20, 2014

Commissioners Present: Blizman, Fleischhacker, Mantey, McRae, Rae-O'Donnell, Schwartz, and Stimson

Commissioners Absent: Orr and Topper

Others Present: Director of Planning and Community Development Gardiner, Staff Planner Stec; City Attorney Schultz and Planning Consultant Arroyo

**APPROVAL OF AGENDA**

**MOTION by Blizman, support by Stimson, to approve the agenda as published.**

**MOTION carried unanimously.**

**PUBLIC HEARING**

**A. ZONING TEXT AMENDMENT 1, 2014**

CHAPTER OF CODE: 34, Zoning Chapter  
REQUEST: Amend Zoning Chapter 34, Sections 34-2.2 Definitions, 34-4.20.4 Special Land Uses not otherwise permitted, 34-7.14.6.E Temporary Uses, and Section 34-4.56 Seasonal Outdoor Sales, for the purposes of clarifying and revising the Zoning regulations applicable to Seasonal Outdoor Sales  
ACTION REQUESTED: Recommendation to City Council  
SECTIONS: 34-2.2, 34-4.20.4, 34-7.14.6.E and adding 34-4.56

**B. CITY CODE AMENDMENT 1, 2014**

CHAPTER OF CODE: 22, Sales, Article III  
REQUEST: Amend City Code, Section 22, Article III, 22-76 Definitions, 22-91 Required license, 22-92 Application, 22-93 Conditions for issuance, 22-94 Timely setup and cleanup, and 22-95 Exemptions, for the purposes of clarifying and revising the City's licensing regulations.  
ACTION REQUESTED: Recommendation to City Council  
SECTIONS: 22-76, 91, 92, 93, 94, & 95

Discussion regarding both (A) and (B) occurred concurrently.

Planning Consultant Arroyo explained the background to the proposed amendments to the City Code and the Zoning Ordinance. He explained that temporary sales were currently addressed in both places. The purpose of the proposed amendments was to clean up and amend the relevant articles regarding temporary sales. Currently some of those businesses seeking temporary uses came before the Planning Commission; the majority came before the Zoning Board of Appeals. The goal was to make the language more straightforward as well as to bring the Code and Zoning Ordinance into compliance with current legal requirements and to also allow some of the more straightforward requests to be approved administratively.

Mr. Arroyo pointed out that Sec. 22. Sales. Article III (Agenda Item B) would now be titled *Seasonal Outdoor Sales, not Christmas Tree and Halloween Pumpkin Sales*, as previously written. He reviewed other changes, explaining that the intent was to balance all seasonal uses consistently, not favoring one over the other, as required by Michigan law.

Commissioner Mantey asked if these changes were a result of the changes to Michigan law regulating the sale of fireworks. Mr. Arroyo said that this was correct. All outdoor sales had to be treated equally. In response to a further question from Mr. Mantey, Mr. Arroyo explained that the

language in “Definitions” included “national holiday and Halloween” because of the provision in Michigan law regarding the legal use of fireworks around national holidays. Halloween was added because this was not a national holiday but was a holiday that was often accompanied by outdoor sales.

Consultant Arroyo continued that the proposed amendment of the City Code identified the basic information requirements for applications. Again, one result of this was that some applications could then be approved administratively.

Commissioner Blizman asked if, under the proposed amendments, fireworks could be sold on Christmas tree lots. Mr. Arroyo said that potentially this could happen.

Discussion followed. It was actually not required by law for the Planning Commission to review changes in the Code. However, because the proposed amendment to the Code went hand in hand with the proposed amendment to the Zoning Ordinance, staff thought it best that the Planning Commission look at both.

Commissioner Stimson asked about the limitation proposed in 34-4.56(1): “Seasonal outdoor sales may take place not more than 2 times per calendar year on a lot or parcel.” Did flower sales constitute one of these 2 times? Mr. Arroyo said flower sales did constitute one of the 2 times permitted.

In response to a question by Commissioner Schwartz regarding the definition of “local” and “nonprofit” in Section 22-95, Attorney Schultz pointed out that out that this language was left unchanged in the Code.

In response to a further question by Mr. Schwartz regarding 34-4.20.4.B.vi regarding how often a business would need to seek approval for a special land use (yearly? approval over multiple years?), Consultant Arroyo clarified that this Ordinance was for special land uses not otherwise permitted, and the language was unchanged from that currently in the Ordinance. The current practice regarding this would be unchanged.

Mr. Arroyo reviewed changes in Sec. 22-93, again clarifying that the process for approval was proposed to be changed to allow for more administrative reviews, beginning with a process initiating in the City Clerk’s office. This was consistent with other procedures and license granting already being handled by that office.

Mr. Arroyo moved on to the proposed changes in the Zoning Ordinance (Agenda Item A), noting that the proposed changes would limit seasonal outdoor sales to not more than 2 times a year, as already discussed, with attendant limitations on how long the sales could exist, depending on whether they were on vacant (also defined as underutilized) property (30 days) or on occupied property (7 days). However, flower sales would be permitted longer time periods, up to 4 months, and accessory flower sales would also be permitted (i.e., accessory to a grocery store, home improvement store, etc.).

Mr. Arroyo reviewed other provisions regarding setup, tent size, signage, and the location of any storage container on site. He pointed out other proposed changes in the ordinance that clarified what would come under Zoning Ordinance regulation and approval. Special land uses continued to be regulated by the Zoning Ordinance, but seasonal outdoor sales would now be regulated by the City Code, except when Zoning issues came into play (number of days permitted, etc.). Other changed language clarified that 34-4.20.4.C pertained to temporary construction uses.

In response to a question by Mr. Mantey, Attorney Schultz said that calling out Halloween in Section 22.76 – Definitions – did not permit fireworks to be used at Halloween. When fireworks could be used was a matter of Michigan law, and Halloween was not one of the approved times, not being a national holiday. However, Michigan law required that the sale of fireworks had to be treated consistently with all other seasonal sales in the City.

Mr. Mantey initiated a discussion regarding the limitation that seasonal outdoor sales be limited to two times a year on a lot or parcel. Was this too restrictive? Mr. Mantey was not convinced that the 2 times a year limitation was appropriate. Also, there were certain properties in the City that historically had seasonal sales more than 2 times a year; these properties would be negatively affected by this ordinance. Chair McRae and Commissioner Fleischhacker pointed out that the owners of these properties could seek relief from the Zoning Board of Appeals.

Mr. McRae commented that a property owner could conceivably have flower sales 8 months (2

different 4 month sales periods) out of the year. Why wouldn't the City permit one use at 4 months and 2 additional uses at 30 days, for a total of 3 uses per year? Commissioner Blizman wondered why relief had to be sought from the Zoning Board of Appeals for things like this. For instance, conceivably someone would have to go to the ZBA for relief in order to have Christmas tree sales. Why not allow 3 uses per year?

In response to a question from Commissioner Rae-O'Donnell, Consultant Arroyo said that in his opinion the limitation to 2 events a year was a public welfare issue. Attorney Schultz added that since all sales now had to be regulated exactly the same way, the City needed to address concerns of sales being permitted that were not seen in the past: i.e., fireworks, carpet, furniture, art sales, etc. Mr. Schultz continued that he thought the proposed Code and Ordinance changes presented a reasonable approach to the changes in Michigan law.

Chair McRae clarified that no seasonal sales would come to the Planning Commission for discretionary approval. A request for a 3<sup>rd</sup> seasonal sale event during a calendar year would be heard by the Zoning Board of Appeals.

In response to a question from Mr. Mantey, Attorney Schultz said that anyone seeking relief from the Ordinance would have to demonstrate practical difficulty for the Zoning Board of Appeals. Mr. Mantey responded that practical difficulty was a high standard and often difficult to meet.

Planning Director Gardiner pointed out that the proposed changes were limitations on property, not on business owners. If a business owner wanted to have more than 2 seasonal sales events per year, they could do so, utilizing different locations. One benefit of limiting a property to 2 events a year was to keep that property – especially vacant properties – from becoming a de facto permanent sales event.

Mr. Schwartz noted that business people who sold items on vacant property paid very little, if any taxes to the City. He compared this to businesses who invested in brick and mortar stores, and paid significant taxes to the City.

In answer to a question by Mr. Blizman, Attorney Schultz thought the definition in Section 22.76 might be tweaked to Michigan more clearly what was being defined by agricultural products, other goods, etc. In answer to a further question by Mr. Blizman, Mr. Schultz reiterated that all businesses operating seasonal outdoor sales had to be treated the same.

Mr. Schwartz asked if traffic flow was addressed in the proposed changes regarding special land uses in the Zoning Ordinance. Consultant Arroyo said that traffic issues were addressed for seasonal outdoor sales in 22-93(4) and for special land uses in site plan approval.

Mr. Mantey was concerned the City was overreaching by limiting sales events to 2 a year and limiting the duration of the events.

Discussion continued regarding the impact of Michigan law on the City's ability to regulate seasonal sales.

Mr. Blizman remained concerned regarding the limitation to 2 sales events per year. He would consider supporting an event such as flower sales for 4 months per year, plus 2 additional events per year.

Chair McRae opened the public hearing. As no one came forward to speak, the public hearing was closed.

Chair McRae instructed the Planning Commission that they had before them proposed Agenda Item A., Zoning Text Amendment 1, 2014: amendments to the Zoning Ordinance 34-2.2, 34-4.20.4, 34-7.14.6.E and adding 34-4.56. The Commission could pass these amendments "as is," deny "as is," or send the proposed amendments back to staff for further work and study.

Mr. Stimson thought that better language could be achieved. One unintended consequence of the current proposed amendment could be to generate more work for the Zoning Board of Appeals, rather than less.

Mr. Mantey thought that if the City were going to limit the number of sales events per year, this limitation needed to be based on something such as blight, effect on neighbors, etc., and not just a blanket claim about health and welfare. He would like to see some justification for limiting seasonal sales events to 2 times per year. He felt they were focusing on a problem that didn't

exist. He spoke to the advantage of having flower, pumpkin and Christmas tree sales as in the past.

Ms. Rae-O'Donnell said she supported the limitation to 2 times per year. She thought the proposed amendments did a good job of treating all sales events equally.

Chair McRae said that he supported 1 flower sales type event at 4 months, and permitting 2 other seasonal sales events for 30 days each.

After further discussion, and noting staff's thorough research and preparation regarding this issue, the following motion was offered:

**Motion by Blizman, support by Rae-O'Donnell, to recommend to the City Council that Zoning Text Amendment No. 1, 2014, Sections 34-2.2 Definitions, 34-4.20.4 Special Land Uses not otherwise permitted, 34-7.14.6.E Temporary Uses, and Section 34-4.56 Seasonal Outdoor Sales, for the purposes of clarifying and revising the Zoning regulations applicable to Seasonal Outdoor Sales be approved.**

**Motion carried 5-2 (McRae, Mantey opposed).**

Chair McRae opened the public hearing regarding Agenda Item B: City Code Amendment 1, 2014. As no one came forward to speak, the public hearing was closed.

**Motion by Schwartz, support by Fleischhacker, to recommend to the City Council that City Code Amendment No. 1, 2014, Section 22, Article III, 22-76 Definitions, 22-91 Required license, 22-92 Application, 22-93 Conditions for issuance, 22-94 Timely setup and cleanup, and 22-95 Exemptions, for the purposes of clarifying and revising the City's licensing regulations be approved.**

**Motion carried 5-2 (McRae, Mantey opposed).**

It was noted that the City Council would have a record of this meeting, including the concerns of the Commissioners regarding these changes.

## **REGULAR MEETING**

### **A. Presentation of Historic District Commission Annual Report for 2013**

Steve Olson, Chair of the City of Farmington Hills Historic District Commission, presented the 2013 Annual Report.

Utilizing a power point presentation, and referring to the Historic District Commission Annual Report in the Commissioners' packets, Mr. Olson began by reviewing the membership and role of the Historic District Commission (HDC). HDC was authorized by City Ordinance and guided by Secretary of Interior standards. Close to 80 properties were designated as Historic properties in Farmington Hills. The HDC reviewed requested changes for Certificates of Approval and nominated properties for inclusion. The HDC also promoted preservation of Historic Properties.

Mr. Olson noted Certificates of Appropriateness granted in 2013, and mentioned the need to identify other historic homes in the City, including homes as young as 50 years old, which would include notable homes built in the 1950's and 60's.

Mr. Olson mentioned that they participated with the Beautification Committee Awards, and the 2013 Ruth Moehlman Historic Preservation Award was granted to HD #502, The Marcus Burrowes House, for their exemplary efforts in the preservation of this important and unique home.

A major part of the HDC budget was committed to the maintenance and installation of about 30 historic markers throughout the City. Mr. Olson showed photos of markers that had been improved and/or repaired in 2013.

One important accomplishment of 2013 was the finalization of energy efficiency guidelines for historic homes: *Guidelines for Improving Energy Efficiency in Historic Structures*. Another significant effort included approving the expenditure of funds to have Orange Risdon's 1825 map of the surveyed part of the Territory of Michigan professionally scanned and copies made

available for purchase. Public Education projects including utilization of *Farmington Press* and the local cable network were moving forward.

Last, Mr. Olson noted that maintenance issues existed at West Farmington Cemetery. A report containing recommendations for long-term solutions was targeted for 2014.

Mr. Olson thanked the Commission for their continued support.

Commissioner Schwartz mentioned a home that he thought had potential for inclusion in the Historic District. Planner Stec said he would locate the address of this property.

Commissioner Blizman suggested that all HDC markers be pedestrian or cyclist height to promote readability.

Chair McRae noted an error on page 8: In the first paragraph, 2012 should be 2013 (occurs twice).

Chair McRae thanked Mr. Olson for the report.

**Motion by Fleischhacker, support by Blizman, to accept the Farmington Hills Historic District Commission Annual Report for 2013.**

**Motion carried unanimously.**

**B. Presentation of Planning Commission Annual Report for 2013**

Staff Planner Stec referred to the Planning Commission 2013 Annual Report in the Commissioners' packets. Discussion followed a brief review.

Commissioner Mantey asked if a graph or pie chart could be included showing trends over the past few years. For instance, perhaps a chart could show number of site plans reviewed from year to year.

Two spelling errors were noted for staff to correct.

Chair McRae noted that he would be presenting this report to City Council on Monday.

By consensus, the Planning Commission accepted the Planning Commission Annual Report for 2013.

**APPROVAL OF MINUTES JANUARY 16 & 23, 2014**

**Motion by Rae-O'Donnell, support by Blizman, to approve the January 16 and January 23, 2014 minutes as written.**

**Motion carried unanimously.**

**PUBLIC COMMENTS**

There were no public comments.

**COMMISSIONER'S COMMENTS**

Dates for April meetings were discussed.

**ADJOURNMENT**

There being no further comments, Chair McRae adjourned the meeting at 9:02 pm.

Respectfully submitted,

Beth Rae-O'Donnell  
Planning Commission Secretary

CMcGuire/