

PLANNING COMMISSION

MINUTES OF A MEETING HELD OCTOBER 26, 2023

Agenda

PUBLIC HEARING – CONDITIONAL REZONING – 8469 STADIUM DRIVE

Khem Virk was requesting to conditionally rezone 8469 Stadium Drive, from its current split zoning of R-2, Residence, and C, Local Business District to C, Local Business District, to facilitate the redevelopment of the property into a 7,500 square foot, multi-tenant commercial building.

WORK SESSION: Private Drive/Street Ordinance Update

A meeting of the Oshtemo Charter Township Planning Commission was held Thursday, October 26, 2023, commencing at approximately 6:00 p.m. at the Oshtemo Township Hall, 7275 West Main Street.

ALL MEMBERS

WERE PRESENT:

Phil Doorlag, Chair
Deb Everett
Zak Ford, Township Board Liaison
Scot Jefferies
Micki Maxwell, Vice Chair
Scott Makohn
Alistair Smith

Also present: Jim Porter, Township Attorney, Leeanna Harris, Zoning Administrator, Colten Hutson, Zoning Administrator, Suzanne Schulz, representative of Progressive AE, and several members of the public.

Call to Order and Pledge of Allegiance

Chairperson Doorlag called the meeting to order at 6:00 p.m. and invited those present to join in the Pledge of Allegiance.

Approval of Agenda

Hearing no requests for changes to the agenda, the Chair asked for a motion.

Mr. Ford **made a motion** to approve the Agenda as presented. Ms. Everett **seconded the motion**. The **motion was approved** unanimously.

Public Comment on Non-Agenda Items

Mr. Curt Aardema, AVB, 4200 W. Centre Avenue, said he had marked up a draft of the MU District document with comments for consideration in an effort to be efficient, distributed copies to Commissioners, and said he would provide copies to the Township office as well.

The Chair thanked him and said Commissioners would review the documents for future discussion.

Approval of Minutes: September 14, 2023

Chairperson Doorlag asked if there were additions, deletions, or corrections to the Minutes of the Meeting of September 14, 2023.

Hearing none, he asked for a motion.

Mr. Ford **made a motion** to approve the Minutes of the Meeting of September 14, 2023 as presented. Mr. Smith **seconded the motion**. The **motion was approved** unanimously.

Chairperson Doorlag moved to the next agenda item and asked Ms. Harris for her presentation.

PUBLIC HEARING – CONDITIONAL REZONING – 8469 STADIUM DRIVE

Ms. Harris said Khem Virk was requesting to conditionally rezone 8469 Stadium Drive, Parcel No. 3905-33-402-341, from its current split zoning of R-2, Residence, and C, Local Business District to C, Local Business District, to facilitate the redevelopment of the property into a 7,500 square foot, multi-tenant commercial building.

Ms. Harris indicated that presently, the 1.58-acre property at 8469 Stadium Drive is dual-zoned C: Local Business District on the northern section and RR: Rural Residential on the southern section. The applicant wished to rezone the entire property to C: Local Business District in order to redevelop the property.

The EZ Mart liquor and convenience store has been operating at 8469 Stadium Drive for at least 22 years. The applicant, Khem Virk, was proposing to demolish the existing 2,240 square foot retail space to build a new 7,500 square foot, 3-unit building, one of which would include the EZ Mart store. The remaining two units would be developed as “white box,” with future uses to be determined. A site plan for the proposed 7,500 multi-tenant building is one of the conditions of rezoning outlined by the applicant.

Article 66 — Conditional Rezoning Considerations

Ms. Harris summarized the conditions the applicant was proposing for rezoning of the property at 8469 Stadium Drive:

1. The conditional rezoning will be tied to the site plan approved by the Township Planning Commission.
2. Permitted uses will be limited to the following indicated in the C - Local Business District:
 - a. Any business primarily for the retail sale of merchandise or services in which any manufacturing, assembling, or fabricating is merely incidental to and an unsubstantial part of said business.
 - b. Banks, credit unions, savings and loan offices and similar financial institutions.
 - c. Offices.
 - d. Laundromats and dry-cleaning establishments, excluding those establishments providing cleaning services for other laundromat and dry-cleaning establishments.
 - e. Medical clinics.
 - f. Pet shops.

- g. Houses of worship.
 - h. Commercial Center
 - i. Accessory buildings and uses customarily incidental to the foregoing.
3. Permitted uses with conditions and special uses will remain as allowed by the C – Local Business District.

She noted Article 66 of the Township Zoning Ordinance outlines the process for a conditional rezoning to be considered, which is consistent with Section 405 of the Michigan Zoning Enabling Act (MCL 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request. The Zoning Enabling Act, which allows Townships to zone property, does not provide any required standards that a Planning Commission must consider when reviewing a rezoning request. However, there are some generally recognized factors that should be deliberated before a rezoning decision is made. Ms. Harris outlined these considerations along with staff's analysis, incorporating the applicants' proposed conditions:

1. Master Plan Designation

The Township's adopted 2017 Future land Use Map designates 8469 Stadium Drive and the properties to the north, northeast, and east as Neighborhood Commercial. The Desired Future Development Pattern for "Neighborhood Commercial" as outlined in the Master Plan are:

- Be located on an arterial or a major collector street.
- Be located in the rural portion of the Township to serve rural residents.
- Designed to be compatible with adjacent land uses in building scale and site development.
- Utilize access management techniques like shared curb cuts to reduce impact on road system.

"Neighborhood Commercial" is described as low intensity commercial and retail establishments. Specifically, the Future Land Use category of Neighborhood Commercial is intended to support the Rural Preservation Strategy of the Plan. Per this strategy, locally oriented service establishments would be appropriate. She noted there is no existing zoning district within the Township Ordinance that accomplishes the goals of the Neighborhood Commercial designation. As is, the C, Local Business zoning classification allows for uses that would be well outside the desired character for the area. This is why only roughly half of the site is currently zoned straight commercial so as to limit the scale of development at this site.

A conditional rezoning for the entirety of the property is appropriate to ensure is approved is tailored to the desired goals and outcomes for the area. In their conditions the applicant has tailored the permitted uses to be more in line with the vision of the Master Plan's Neighborhood Commercial designation. In addition, by tying the rezoning to a site plan for a 7,500 square foot, three-unit building, the reviewing body is guaranteed a specific development and design for the site. In reviewing the proposed site plan, staff deemed the proposed development and building scale compatible with adjacent land uses. The proposed rezoning conditions honor the intent and are consistent with the Master Plan's Neighborhood Commercial designation.

2. Consistency of the Zoning Classification in the General Area

8469 Stadium Drive is in the middle of a wide assortment of zoning classifications. The subject site is currently split-zoned, with the northern portion being zoned C, Local Business, and the southern portion being zoned R-2, Residence. To the north and northwest, there are properties that are zoned RR: Rural Residential. To the southeast, there are properties zoned R- 2: Residence District. To the northeast, there are properties that are zoned I-1: Industrial and I-R: Industrial.

Rezoning the back half of the property to commercial would be consistent with the zoning classifications in the area. The proposed use is consistent with the C, Local Business zoning classification.

3. Consistency and Compatibility with General Land Use Patterns in the Area

Per the Township Master Plan, the Future Land Use category of Neighborhood Commercial is intended to support the Rural Preservation Strategy of the Plan. Per this strategy, Neighborhood Commercial areas are in strategic locations within the western portion of the Township. The Master Plan designates these areas as low intensity commercial and retail establishments that would accommodate a planned mixture of farm service business and other locally oriented service establishments. The intent is to provide services, like a small convenience store, that will support and be compatible with nearby residential development. The establishment of a neighborhood commercial enterprise at this location would be consistent with the 2017 Future Land Use designation for this area.

The applicant was proposing to construct a three-unit, 7,500 square foot retail establishment. One of the three units within the building will be 4,000 square feet and the other two 1,750 square feet. The existing EZ mart store on this site is an estimated 2,240 square feet. A winery establishment to the north of the subject site is an estimated 5,520 square feet. The scale of the proposed building, and specifically the size of the proposed units within the building, ensure lower scale commercial operations consistent with land use patterns in the area.

4. Utilities and Infrastructure

Utilities and infrastructure are considered in a request for rezoning to ensure that public facilities can service any possible development that would occur on the site. Public water is available along Stadium Drive; however, based on the location, sanitary sewers are not available. Therefore, after being reviewed and approved by the Public Works Department, a septic tank was proposed on site.

5. Reasonable Use under Current Zoning Classification

The property is currently zoned C: Local Business District on the northern portion of the property with the southern portion zoned RR: Rural Residential. The present EZ Mart is operating in the area that is zoned C: Local Business District, which is a permitted use by right within the C district. Reasonable use under the current zoning ordinance is still achievable, even with split zoning. However, some development restrictions are present due to the split zoning, which is the reason for the conditional rezoning request.

6. Effects on Surrounding Property

The applicant indicated the entire subject site would be conditionally rezoned and redeveloped into a multi-tenant commercial establishment. It is intended that EZ Mart, the existing use onsite, will occupy the 4,000 square foot unit; the other two 1,750 square foot units are for future tenants. Any redevelopment of the property would have effects on the surrounding property in the area. Ultimately, the impacts on the surrounding properties may be more significant with the proposed 7,500 square-foot multi-tenant building than what is currently experienced by the 2,240 square foot convenience store on the property or by the winery located to the north. However, the 2017 Oshtemo Township Master Plan determined that such an impact would be minimal due to the area in question being planned for neighborhood commercial, subject to the proposed use complying with the neighborhood commercial intended uses. Staff felt the proposed site plan allows for three uses that would be considered appropriate following the intent of the neighborhood commercial designation.

Ms. Harris then walked through the staff analysis of **Section 64: Site Plan Review: General Zoning Compliance:**

Zoning: 8469 Stadium Drive is currently dual-zoned RR: Rural Residential on the south and C: Local Business District on the north. If the rezoning were approved, the entire site would be C: Local Business District. The proposed percentage of land on-site covered by impervious surfaces is 42% and the remaining 58% is reserved for open space. All general zoning requirements have been met.

Parcel Dimensions: The site under consideration is about 1.8 acres with frontage on 3 streets (Yucca Drive to the east is not yet installed). On Stadium Drive, there is approximately 307 feet of frontage and along South 5th, approximately 223 feet of frontage. The parcel exceeds the minimum property area (50,000 square feet) and minimum frontage (200 feet) requirements within the C: Local Business District.

Setbacks: Generally, properties within the C: Local Commercial District must have a minimum front yard setback of 70 feet however, there are some exceptions. In this case, the ordinance requires a 120-foot front yard setback from the centerline of Stadium Drive. The proposed building is located approximately 121.7 feet from Stadium Drive, 70 feet from South 5th Street, and 71.4 feet from the uninstalled Yucca Drive. Per the ordinance, the minimum setback distance between any building and any rear or interior side property line shall be 20 Ft or the height of the building, whichever is greater. The proposed building is just under 24 Ft tall. The proposed rear yard setback is over 100 feet. All setback requirements have been met.

Access and Circulation

Access: The property currently has an access point off Stadium Drive. To improve safety, the applicant has moved the access point to South 5th Street. Circulation aisles within the proposed site plan are approximately 24 feet wide and have safe turning radii, with a 30-foot entrance width from South 5th Street. Fire engines and other vehicles have ample space and circulation if emergency response is needed. Oshtemo's Fire Marshal reviewed the proposed layout and had no concerns in terms of access and circulation. Ms. Harris noted all driveways will need to be

reviewed and approved by the Road Commission of Kalamazoo County and that an approved driveway permit will need to be submitted prior to building permit issuance.

Additionally, she said the applicant provided a letter of intent in accordance with Article 52.140 requesting a deviation from the requirements in Article 52.60 that states loading and unloading areas shall be to the rear of the building. The applicant requested to locate the loading and unloading areas to the east side of the building with the following three provided reasons:

1. The existing site is not only a corner lot, but has three frontages.
2. The main entrance is now off S. 5th street; the loading area is to the rear of this main entrance.
3. The site layout and traffic circulation work well with much of the parking on the north and south sides of the building. The loading zone on the back (south) of the building would hinder pedestrian foot traffic to the building.

Ms. Harris indicated the requested deviation appropriate given the site's layout and location between three streets.

Parking: The proposed structure on this site will serve three general commercial uses. Section 52.100 of the zoning ordinance for uses of this nature requires one parking space for every 150 square feet (SF) of net floor area. A 7,500 SF building with 5,250 SF usable floor area (UFA) is proposed, with the result that 35 parking spaces are required. The proposed site plan provides a total of 35 parking spaces, three of which are ADA. All parking requirements have been met. She noted restaurants will not be permitted at this location.

Shared Use Path: The Township's Non-Motorized Transportation Plan identifies a 6-foot wide Shared Use Path along the frontage of this property on Stadium Drive. The applicant has shown this path on their plan, along with a ramp and detectable warning plates, and will coordinate its design and installation with the Township's Public Works Department.

Internal Sidewalk Network: Per Section 57.90 of the Ordinance, an internal sidewalk network is required. The proposed site plan has a sidewalk on the northern and western side of the building abutting parking and includes a sidewalk connection from the building to Stadium Drive.

Building Design

Building Information: The proposed 7,500 SF one story building will be 24 feet tall. The proposed dumpster enclosure will be placed in the rear right corner of the site and made of cedar planks. The applicant has provided elevations. She noted the elevations do not include materials or color. Updated elevation drawings including these details will be required.

Fencing: No fencing was proposed.

Lighting: A lighting and photometric plan was provided that meets all lighting ordinance requirements.

Signs: The applicant was proposing one monument sign near the northwest of the property and

indicated all signage shall be reviewed separately by Township Staff through the Township's sign permit application process after site plan approval. The location of the monument sign is satisfactory.

Landscaping

A landscaping plan was submitted that meets all landscape ordinance requirements.

Engineering

Prein & Newhof and the Oshtemo Public Works Department reviewed the project site plan and noted all on-site engineering concerns have been addressed.

Fire Department

The Township Fire Marshal was satisfied with the overall design of the site. One fire hydrant is required to be placed on-site and has been provided in the site plan.

RECOMMENDATION:

Ms. Harris said Planning Department staff recommended the Planning Commission recommend approval of the proposed Conditional Rezoning for EZ Mart at 8469 Stadium Drive from the split-zoned C: Local Business District and RR: Rural Residential to C: Local Business District with the conditions outlined by the applicant to the Township Board for the following reasons:

1. The Oshtemo Township 2017 Master Plan's Future Land Use Plan designates the subject property as Neighborhood Commercial. The restricted list of uses and site plan for a 7,500 square foot, three-unit commercial building are consistent with the intent of the Neighborhood Commercial Designation.
2. The proposed uses and scale of the proposed building are consistent with the land use pattern in the area.
3. The subject property is adjacent to other C: Local Business District properties to the east and industrial uses to the north. The proposed conditional rezoning is consistent with the zoning classifications in the general area.
4. The conditional rezoning of the subject site to C: Local Business District would provide a reasonable use of the property.

If the conditional rezoning is approved, the following conditions shall be tied to the correlating site plan:

1. Planning Commission to grant a deviation from the requirements in Article 52.60 that states that loading and unloading areas shall be to the rear of the building. Permitting loading/unloading areas to be on the east side of the building.
2. An approved driveway permit from the Road Commission of Kalamazoo County shall be submitted to the Township prior to building permit issuance.
3. The existing access point on Stadium Drive shall be closed.
4. Sidewalk connections shall be coordinated with the Oshtemo Township Public Works department and installed prior to occupancy.
5. Updated elevation drawings, including façade materials and colors, shall be provided to the

- Township prior to building permit issuance.
6. All signage shall be reviewed separately by staff through the Township's sign permit application process after site plan approval.
 7. An approved SESC permit shall be provided to Oshtemo Township prior to building permit issuance.
 8. A 20' public utility easement is proposed and will need to be recorded and submitted to the City of Kalamazoo and Oshtemo Township.
 9. The installation of all utilities shall be coordinated with the appropriate corresponding agency.

Chairperson Doorlag thanked Ms. Harris for her presentation and asked if the easement for water was only along Stadium Drive.

She suggested he ask the applicant.

Mr. Jefferies asked how this request differs from a similar one the Commission denied recently.

Ms. Harris said this request is different in size and scale, being closer to the size of other buildings in the area as well as less intensity of use.

The Chair expanded that the previous request was for a 12,000 sq ft building for one tenant; this request is for a total of 7,500 square feet for three businesses.

Mr. Jefferies said it was desirable to retain the rural character.

Chairperson Doorlag said as this property is on two street frontages, the buffer is not as critical here. The look and feel of the parcel is different than the one that is on Stadium Drive only, and it is best practice to move the drive to 5th St.

Mr. Jefferies asked if the penetrator St. on Yucca is being abandoned.

Ms. Harris said it is still currently plotted.

Attorney Porter noted the property owner is planning to reverse that in the future.

As there were no further questions, the Chair asked if the applicant wished to speak.

Mr. Tyler Cravens, Mid-State Engineering of Delton MI, said the overall goal is to provide a better building with more goods and services for residents. He noted a 20 foot water easement is needed as two public fire hydrants will need to be installed.

Mr. Jefferies asked if there is any thought the entire building could be a larger convenience store.

Mr. Cravens said neither another convenience store nor an expansion is planned. He also confirmed the back door would be used by employees only. Customers will park in the rear and follow a sidewalk to the front door.

Mr. Jefferies asked if there might be a drive-thru in the future.

Mr. Cravens said a coffee shop or restaurant is prohibited, so there will be no drive-thru added.

Ms. Everett asked what the process would be if the applicant wishes to change an approved plan.

Attorney Porter said in such a case the applicant would have to come back to the Commission with a request to change the conditional rezoning and the site plan.

He also confirmed for Mr. Jefferies that the conditional zoning would follow the property regardless of who owns it.

Hearing no further questions, the Chair moved to a Public Hearing.

Mr. Larry Cruz spoke, indicating he lives across the Street from 5th Street. He expressed concern about septic issues, an increase in traffic noise, that people currently drink while sitting in the parking lot waiting for the store to open, that there are already many traffic accidents in that area, whether open store hours will be limited, a concern that his property taxes may be increased as a result of the new building, and a suggestion that a back-up system be provided to power the store out of concern about power outages causing spoiled food merchandise.

Ms. Denise Runge said she lives across from EZ Mart and often hears screechy tires; there are many accidents, and she is most worried about the noise from a building three times the size of the current business. She also picks up trash every day left by store customers and expects that to increase. She was also concerned about her property's value.

Hearing no further comments, Chairperson Doorlag closed the Public Hearing and moved to Board Deliberations.

Mr. Jefferies said he sees the benefits to safety and traffic concerns if the 5th Street access change is made; success of the access/use for parking lot loading and unloading will depend on the owner managing it with drivers.

Mr. Ford agreed that traffic safety should improve with the change to 5th St. access.

Chairperson Doorlag thought it might be valid to limit hours of operation, but Attorney Porter said there is no limitation on open hours in the Township's ordinance and noted that conditions requested by the applicant by law cannot be changed by the Commission.

Mr. Smith wondered if loading/unloading should be addressed in the site plan.

The Chair indicated it is up to the business owner as to how they operate their business and noted if loading/unloading is done in the rear it will interfere with customers trying to access the building.

Mr. Ford said he was sympathetic to residents' traffic concerns, but felt what is being proposed will provide improved traffic management and benefits to the Township and supported the recommendation for approval.

Chairperson Doorlag asked for a motion.

Mr. Ford **made a motion** to approve the conditional rezoning request to rezone 8469 Stadium Drive, Parcel No. 3905-33-402-341, from its current split zoning of R-2, Residence, and C, Local Business District to C, Local Business District to facilitate the redevelopment of the property into a 7,500 square foot, multi-tenant commercial building based on the following reasons:

1. The Oshtemo Township 2017 Master Plan's Future Land Use Plan designates the subject property as Neighborhood Commercial. The restricted list of uses and site plan for a 7,500 square foot, three-unit commercial building are consistent with the intent of the Neighborhood Commercial Designation.
2. The proposed uses and scale of the proposed building are consistent with the land use pattern in the area.
3. The subject property is adjacent to other C: Local Business District properties to the east and industrial uses to the north. The proposed conditional rezoning is consistent with the zoning classifications in the general area.
4. The conditional rezoning of the subject site to C: Local Business District would provide a reasonable use of the property.

Mr. Smith **supported the motion.** The **motion was approved** unanimously.

Mr. Doorlag **made a motion** to approve the correlating site plan as requested to include the deviation for loading and unloading as listed below in the nine staff recommendations for approval:

1. Planning Commission to grant a deviation from the requirements in Article 52.60 that states that loading and unloading areas shall be to the rear of the building. Permitting loading/unloading areas to be on the east side of the building.
2. An approved driveway permit from the Road Commission of Kalamazoo County shall be submitted to the Township prior to building permit issuance.
3. The existing access point on Stadium Drive shall be closed.
4. Sidewalk connections shall be coordinated with the Oshtemo Township Public Works department and installed prior to occupancy.
5. Updated elevation drawings, including façade materials and colors, shall be provided to the Township prior to building permit issuance.
6. All signage shall be reviewed separately by staff through the Township's sign permit application process after site plan approval.
7. An approved SESC permit shall be provided to Oshtemo Township prior to building permit issuance.
8. A 20' public utility easement is proposed and will need to be recorded and submitted to the City of Kalamazoo and Oshtemo Township.
9. The installation of all utilities shall be coordinated with the appropriate corresponding agency.

Mr. Smith **supported the motion.** The **motion was approved** unanimously.

WORK SESSION: Private Street Ordinance

Chairperson Doorlag moved the meeting to a work session at approximately 7:00 p.m.

Suzanne Schulz, a representative from Progressive AE provided a presentation on the purpose, intent, and outcomes of a Private Street Ordinance for Oshtemo. She described how it would be developed and organized, sought their input, and as the group was very enthusiastic about the approach, process and desired outcome, she indicated when she returns in

December, she will bring a draft Ordinance for their consideration. If approved at that meeting, it will be recommended to the Township Board for approval at a January 2024 meeting.

OTHER UPDATES AND BUSINESS

Mr. Jefferies reported he attended the Citizen Planner program provided by MSU Extension and found it very helpful.

ADJOURNMENT

With there being no further business to consider, Chairperson Doorlag adjourned the meeting at approximately 7:56 p.m.

Minutes prepared:
October 27, 2023

Minutes approved:
November 16, 2023