

Present: Chairperson Jensen; Vice-Chair Ostrowski; Members: Abboud, Borowski, Westerlund and Stempien

Absent: Freedman, Prew and Wayne

Also Present: Village Manager, Wilson
Planning consultant, Borden
Council Liaison, Oen

Chairperson Jensen called the meeting to order at 7:30 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road.

APPROVE AGENDA

Motion by Westerlund, second by Stempien, to approve the agenda as presented.

Motion passed (6 – 0).

PUBLIC COMMENTS

None

APPROVE MINUTES OF A REGULAR PLANNING BOARD MEETING HELD ON JUNE 23, 2010

Motion by Ostrowski, second by Abboud, that the minutes of a regular Planning Board meeting held on June 23, 2010 be approved as submitted.

Motion passed (6 – 0).

ADDRESS MICHIGAN MEDICAL MARIJUANA ACT OF 2008 REGARDING POTENTIAL GROWTH, SALE AND DISTRIBUTION OF MEDICINAL MARIJUANA IN BEVERLY HILLS

Manager Wilson referred to his memo dated 8/6/2010 to the Planning Board relative to drafting an ordinance to address the issue of medicinal marijuana based businesses. On July 20, the Village Council passed a six-month moratorium on any facilities that would grow or sell medicinal marijuana in the Village. The moratorium will be in effect through January of 2011.

Wilson has provided Board members with a copy of the State statute and various ordinances recently adopted by communities to address the issue. Some municipalities are prohibiting the growth, sale and distribution of medicinal marijuana and others are regulating it to various degrees. Administration is looking for guidance from the Planning Board so that planning consultant Brian Borden can begin drafting ordinance language. Borden said that input from Village Attorney Ryan will be important because he may be called upon to defend the ordinance at some point.

Jensen outlined a time frame whereby the Planning Board would discuss sample ordinance language at its September meeting and suggest any modifications; a draft ordinance could be reviewed in October with a public hearing in the following month prior to referral to the Village Council.

Westerlund asked if there was an inclination from Council in terms of what restrictions they would like to place on medical marijuana. He proposed that a memo be forwarded to Council following the next meeting to advise them of the direction the Board is considering. Borowski suggested that the Board consider regulation of activities rather than a prohibition.

Council member Oen did not think it was clear when people voted on this issue that a dispensary could be located anywhere with a doctor's approval. Council wants to make sure that the sale and distribution of medical marijuana does not abound in the Village.

PUBLIC HEARING ON DETROIT COUNTRY DAY SCHOOL REQUEST FOR SITE PLAN REVIEW AND SPECIAL LAND USE APPROVAL TO CONSTRUCT A BASEBALL FIELD ON THE 22305 W. 13 MILE ROAD CAMPUS

Chairperson Jensen stated that representatives from Detroit Country Day School will present their proposal for the construction of a baseball field on the school campus prior to the public hearing. Landscape architect and site consultant Eron Kleckner came forward to address the points outlined in the site plan review letter submitted by Brian Borden from LSL Planning, Inc. and report from Tom Meszler, Village Public Services Director.

Kleckner reviewed that he and headmaster Glen Shilling were present at the June 25, 2010 Planning Board meeting to present the baseball field proposal. At that time, the Planning Board set a public hearing date of July 28, 2010; that meeting was cancelled due to the lack of a quorum. Kleckner said that he contacted Chris Wilson about the possibility of postponing the public hearing for the reason that Detroit Country Day School was not ready with some of the required engineering and surveying data. Wilson suggested continuing with the public hearing in order to receive comments on the project from interested residents.

Kleckner informed the Board that it was the intent of Detroit Country Day School to submit all of the completed drawings at one time. The current drawings do not address comments and suggestions made by Brian Borden, Tom Meszler, or the Planning Board at its June meeting.

Kleckner reviewed items listed in the July 15, 2010 site plan review letter prepared by LSL Planning, Inc. Detroit Country Day School will provide the required information including details for backstop, benches, bleachers, fencing, scoreboard and trash receptacles. A landscape plan will be submitted along with any signage locations.

Kleckner asked for a determination on a scoreboard height of 18 feet in lieu of the ordinance requirement for a maximum height of 15 feet for accessory structures in a residential district. He also requested a determination on whether the proposed 20-foot tall backstop and 8-foot fencing around the perimeter of the field will require a variance from the Zoning Board of Appeals. Jensen responded that DCDS will have to go before the Village Zoning Board to request a variance from the Fence Ordinance.

With regard to access and circulation, Kleckner referred to a map and pointed out the path connecting the field to the existing driveway south of the Middle School. Portions of the path are within the floodplain, and the project includes a bridge crossing over the Rouge River. This portion of the project will require a permit from the Michigan Department of Natural Resources

and Environment (MDNRE). The School does not anticipate any problems with putting the path through the flood plain area.

Landscaping and screening concerns were noted in the review letter. The plan does not meet the ordinance requirement for one tree every 30 feet. Kleckner pointed out the heavily wooded area offsite to the south of the ball field. He believed that there is sufficient screening even though it is on the neighbor's property. Kleckner referred to diagrams and addressed inquiries about the existing grade and elevation of the project and the existing buffer.

Kleckner stated that there will be no lighting on the field as part of the project, which will be shown on the drawings. He addressed the floodplain and wetland issues, noting that the DNRE approval process has started. Kleckner said that it may take three months to receive approval for the bridge construction. They are aware that the School must receive a floodplain use permit from the Village Council.

Kleckner addressed comments included in a letter dated July 15, 2010 from Tom Meszler, Village Director of Public Services. Items raised by Meszler and required information will be provided on the plans to be submitted. Kleckner asked if the Village would provide approval of the site plan and special use plan pending receipt of the MDNRE permits, noting the lengthy process involved in approving the bridge.

Kleckner addressed questions from Board members related to the house that will be demolished, City of Southfield permitting, intended use of the baseball field, staging and construction access of the project, synthetic or grass field, irrigation source, and flood plain impact on site.

Jensen opened the public hearing at 8:08 p.m.

Richard Zanotti, consulting civil engineer, was present representing area residents. He outlined his credentials and experience before proceeding with a review of the documents that relate to the construction of a baseball field at Detroit Country Day School. He stated that a portion of the proposed project is located within the regulated floodplain and floodway of the Rouge River as designated in the Village of Beverly Hills Flood Insurance Study. The project will also involve some filling of the floodplain area, an outfield cyclone fence, and the construction of a bridge for access by maintenance equipment and pedestrians.

Zanotti stated that he reviewed the floodplain information and general engineering on the site plan submitted by Detroit Country Day School dated May 27, 2010. He commented on his review, which was detailed in a letter to the Planning Board dated August 25, 2010. Having spent 35 years as a registered professional engineer and expert in the preparation of floodplain and floodway analyses and having completed the analysis submitted in his letter, Zanotti submitted the following professional opinions about the proposed plans:

- That this submittal does not meet any minimum standard for floodplain studies. The superimposition of a graphic on an uncertified topographic map does not meet any minimum standard for these types of studies.

- That significantly greater detail of field verified conditions should be performed and submitted in order to properly determine the extent to which any alteration of the flood plain or floodway is affected.
- That the 100-year base flood elevation will be affected in an adverse way once the correct floodplain information is used for this project. The filling of the floodplain, the placement of the outfield fence, the lack of compensatory excavation, and the proposed bridge construction as proposed in this application will cause an increase in the 100-year base flood elevation for adjacent riparian property owners.
- That once the correct floodplain information is used for this project, the plan, as designed, will also adversely affect the floodway of the Rouge River by increasing velocities, collecting debris and thereby endangering the adjacent property to this development.

Barbara Mandell of 22601 Highbank Drive displayed a Google earth map showing the area in question, her property, and a superimposed drawing of the proposed baseball field. She stated that the wooded area is not very deep and her family can see through the trees during the winter. Mandell referred to the tree survey noting that over 300 trees will be destroyed. Her home and the proposed home plate will be only 130 feet apart. The ten foot border of trees that will remain next to the river are described as being in poor condition, which means that they will likely die without the 300 existing trees to protect them from the elements.

Mandell commented on the money invested in her home and the homes of her neighbors. She suggested that another location could be found for the ball field that will not destroy the quality of their lives and the value of their homes. Mandell mentioned the danger from flooding for those who live by or near the river. She has had the river flowing within 15 feet of her home. The consultant Dick Zanotti has explained why the plan submitted is flawed.

Mandell expressed the opinion that it would be illegal to approve the School's plan for the reason that Beverly Hills Ordinance 22.08.290 Site Plan Review criteria cannot be met. She called attention to paragraph 5 of Ordinance Section 22.08.300: Each proposed use or activity shall "protect the public health, safety, and welfare as well as the social and economic well-being of those who will use the land use or activity, residents, businesses and landowners immediately adjacent and the Village as a whole." Additional special land use ordinance standards were read. Mandell stated that Country Day's plan is absolutely adverse to the economic well being of the adjacent landowners. She asked that the Planning Board reject these plans.

Meg Gordy of 30102 Lincolnshire East displayed pictures of wildlife in her backyard and on the other side of the river. She said that these creatures are likely to be displaced with this construction project.

Camille Fath of 30144 Lincolnshire East Drive read a statement opposing the proposed baseball field. Her house has a beautiful view of the Rouge River Valley; the downside of this location is that her basement foundation has been undermined by the increase in water levels in the last few years. In June of this year, the river overflowed its banks to a level exceeding the 500-year flood

line indicated on the proposed plan for the Detroit Country Day School baseball field. Fath maintained that allowing DCDS to destroy this natural habitat is unconscionable. Engineering reports confirm that cutting down hundreds of trees, leveling a ravine, and building up retaining walls to make a baseball field in a natural flood plain is irrational. Building this proposed baseball field will increase the volume of water in an already saturated flood zone. It will increase the flow rate of the river causing more erosion and doing more damage to her house and others down stream.

Fath asked that the Planning Board consider that its first obligation is to the taxpayers of the Village. How could a community that has joined the Rouge River Conservancy and vowed to protect its natural beauty agree to a proposal that would have a devastating affect on the ecology of the land. Fath said that bulldozing this site would make the adjoining properties impossible to sell. This would diminish homeowners' property values and have an impact on property values in the whole Village. She urged the Planning Board to stop this project and future DCDS expansion into the Rouge River valley.

Stan Pasieka of 30003 Lahser Road pointed out his property on a map indicating that his house is located south and east of the proposed Detroit Country Day School baseball field. He stated that the plan to construct a ball field is proposed in an area that has been identified as a floodplain, flood way, wetland and wildlife habitat. Pasieka anticipated a radical change in the flood plain including a change of the river course and increased erosion if over 300 mature trees are clear cut from the existing area. Pasieka cited a standard in the Village Zoning ordinance 22.08.290 Site Plan Review: "the existing natural landscape shall be preserved in its natural state as much as possible by minimizing tree and soil removal and by topographic modifications that result in maximum harmony with adjacent properties." Pasieka thought that the choice to locate the baseball field in this location will dramatically decrease property values and disrupt the residential neighborhood, particularly the six property owners abutting this site.

Elaine Horigian Smith of 30007 Lahser Road stated that she owns property next to Detroit Country Day School's proposed ball field project. Her home is located near Hilltop Court, a private dead-end road. Horigian related the family history of her home located on a hill overlooking the Rouge River Valley. She outlined her concerns regarding the DCDS project including terrain changes, erosion, wetlands, flooding, and maintaining the natural wildlife habitat. Horigian was concerned about the negative impact of the project on her property values and privacy. She had questions about the use of the ball field, hours of operation, noise level, and related accessory uses. She described incidences of trespassing and vandalism on her property.

Barbara Becker of 21620 Meadow Lane in Sturbridge Subdivision stated that she works for Detroit Country Day School and her son graduated from DCDS. A lot of her neighbors have had positive parent situations over the years with Detroit Country Day School. Becker expressed the view that it would benefit the neighborhood to have a baseball field close by. She was sorry to hear about residents' difficulties with the river including erosion and flooding, but noted that she has neighbors who do not have a problem with the location of the baseball field.

John Fath on 30144 Lincolnshire expressed the view that the current proposal to relocate the Detroit Country Day School baseball field is part of an overall plan by the School for expansion and updates to their facilities and is a direct consequence of prior School projects. Fath said that he and his wife are faced with significant structural repairs to their home. In a market where home values have fallen drastically, anything that adversely affects their ability to market a home piles onto the current burdens and tough financial times. A good neighbor would not build in such a fashion as to impact the value of his neighbor's house. This project involves tree removal that will alter views irreparably. It impacts the quality of life in our homes and the ability to sell our homes. The change in the flow of the river impacts those on the western side of the river where erosion is already a problem.

Fath stated that it is interesting that Detroit Country Day School sued the Village during recent projects to avoid complying with a village ordinance that required sidewalks to be added. They claimed that the difficulty of building a sidewalk on a slope and the need to remove trees was why it was too onerous to comply with the ordinance. Yet, when it suits their perceived needs rather than pedestrian safety, the School can build on a slope and remove over 300 trees.

Fath strongly suggested that the Planning Board not support projects that would take homes out of the Village tax base, fail to include compliance with village ordinances designed to help property values and add to the public safety, abuse the tax free status of a private school, and reduce property values.

Gary Becker of 21620 Meadow Lane stated that he liked the idea that kids at Detroit Country Day School can have the use of a baseball field. Improving a school is a good thing. Becker said that he would not want the property to change if his house abutted a natural site. He added that people who purchased their lot knew that the School owned the land and would make use of it at some point. Becker suggested that, if property was adversely affected in terms of engineering, residents' concerns relative to erosion or flooding should be addressed.

Due to the late hour, Jensen imposed a two-minute time limit on speakers.

Doyle Downey of 30865 Lincolnshire West stated that the Village Master Plan has great regard for the Rouge River. This project would result in a detrimental change in the flow of the river. The project involves special use approval; the Planning Board needs to protect all of the residents' needs. Downey noted that Detroit Country Day School finds great ease in making a change in the elevation near the river, but found great difficulty in complying with the ordinance in other areas when developing their site.

Maggy VanKamp of 22905 Bristol Court in Bingham Farms said that she lives on 400 feet of the eastern edge of the Rouge River. She believed that the communities need to take care of the Rouge River. Removal of 300 trees in a wildlife area will result in impervious surface; water will run into the Rouge River increasing the amount of flow. The construction of a wall will make the water run faster and erode property downstream.

Mike Sabourin of 22866 Highbank Drive stated that there are 140 homes in his subdivision. He was concerned about the impact of the proposed development on property values. He encouraged the Planning Board to deny this proposal.

Susan Guenther of 32639 Valley Ridge Drive stated that she and her husband are active conservation stewards with the MSU program and active members of Friends of the Rouge. They have worked on a number of projects in Beverly Hills at the Douglas Evans nature preserve. Guenther suggested an alternative use for the site. She proposed that Detroit Country Day School take advantage of a wonderful educational opportunity for children to provide outdoor classroom space. Her husband asked why a school would want to rip out an ecosystem rather than use it as a learning tool.

Ken McRow of 30021 Fox Run commented that the law stated that someone who is going to impact a flood plain must explore all other options. He thought that it would be illegal for the Village to approve the request for Detroit Country Day School to impact the floodplain.

Joellen Gilchrist of Riverside Drive stated that she has been a volunteer for Friends of the Rouge for years. The quality of the Rouge River water has been a sensitive topic; it is the responsibility of the Village under federal law to improve the quality of the Rouge River. She did not think that Beverly Hills should consider a request that involves removing 300 trees in a flood plain area.

Ellen Pasioka of 30003 Lahser Road had planned to read a letter from David and Susan Ruby of 30120 Lincolnshire East. In deference to the time situation, she indicated that the letter has been distributed to Board members.

Chris Meso of 30119 Lincolnshire read the letter submitted by David and Susan Ruby of 30120 Lincolnshire. Their home is immediately adjacent to the proposed ball field. The river flows across their back yard, and the property is home to many types of wildlife. Ruby observes annual flooding as the river rises rapidly in the spring. The Rubys believe that, if the Village approved the proposed ball field, it would be condoning the destruction of the natural habitat. As a licensed professional engineer, Ruby found the proposed plans lacking in the engineering elements necessary to evaluate the impact of the ball field on the flood plain, the meandering floodway, adjacent property, and the access bridge. Neighbors have been working to arrest erosion with plantings and riprap. If the ball field is approved and trees are removed, the river will prevail. Ruby implored members of the Planning Board not to approve this proposal that will devalue property of area residents and the entire village.

Stewart Mandell of 22601 Highbank Drive did not think that the School could proceed with the proposed project lawfully based on Village ordinances. He maintained that the construction of a ball field at that site would destroy property value at a time when the Village cannot afford it. The school is proposing to change and intensify the property's use. The proposal would change and eliminate residents' buffer and view. Mandell said that he would rather work with DCDS to find an alternative site that does not damage the tax base of the community than argue about whether this should be approved in this location.

Jan Cannavo of 30823 Lincolnshire West stated that she would hate to see trees removed and a baseball field constructed on this property, especially if there were other options. She recalled that Detroit Country Day School objected to taking down trees to build sidewalk on their perimeter; now they want to remove trees and build in a flood plain. Cannavo said that DCDS needs to be a good neighbor and respect the Village.

Brandon Love of Fox Run made the point that resident taxpayers represent the majority of funding for the Village. He asked that the Planning Board consider what value building this baseball field adds to Beverly Hills.

Scott Shogan of 30267 Fox Run stated that he is a civil engineer. A detailed survey and proper hydraulic study are fundamental to the feasibility of the proposed use of the site and should not be overlooked. He said that the use of the site goes beyond the fact that it is private property. The proposal would result in a material change to a sensitive property and ecology and should receive full consideration of the environmental impact.

Additional letters in opposition to the Detroit Country Day School proposal were submitted to the Planning Board by Pam Murdock of 30414 Georgetown and by Pauline Hope O'Shaughnessy of 30166 E. Lincolnshire.

No one else wished to be heard; therefore, the public hearing was closed at 9:52 p.m. Jensen stated that the Planning Board will not take action or vote on the DCDS proposal tonight. Additional information from the applicant will be provided for review at an upcoming meeting.

UPDATE FROM LSL REGARDING THE SOUTHFIELD ROAD CORRIDOR AND THE HUNTLEY SUBDIVISION ZONING MAP

Planning consultant Brian Borden said that he and Brad Strader met with urban planner Bob Gibbs a few weeks ago to discuss the idea of presenting a visual preference survey at the next Planning Board meeting. Images will be presented to the Board to assist in formulating the next step.

At its June meeting, the Planning Board recommended that the Huntley Subdivision zoning map be redrawn to agree with the 1960 zoning map in order to correct a 1991 mapping error. Administration was awaiting the approval of the minutes of that meeting before placing the item on a Council meeting agenda.

Bob Bliven of 31633 Nixon stated that the Planning Board had a meeting about Huntley Subdivision in 1960. It was decided that a developer would not build an R-1 zoned house next to an R-2 house. The Board arrived at the R-1A zoning as a reason to separate the R-1 from R-2 zoning.

Westerlund observed property in downtown Northville with dimensions similar to the Southfield Road corridor. Jensen stated that Bob Gibbs prepared the master plan for the Northville downtown area; he suggested that Westerlund obtain a copy of that document.

PLANNING BOARD MEMBER COMMENTS

Abboud thanked Planning Board members for their patience with respect to hearing comments from residents during tonight’s lengthy public hearing.

Borowski remarked that the November election may have an affect on the Planning Board’s continued membership.

Westerlund related that he heard a comment from a citizen at the last Council meeting about a potential increase of homeowners renting rooms to boarders. He asked if the Village ordinance addresses the use of single family residences for boarding houses.

Ostrowski said that there were many good arguments made at the public hearing tonight in terms of the sensitivity of the area in question. He proposed that it would be important going forward that the Village consider a tree preservation ordinance. Borowski suggested that this proposed ordinance be placed on the agenda for a joint meeting with Council in February of next year.

With regard to the medical marijuana issue, Ostrowski remarked that the Planning Board meeting schedule should allow time to draft, review, and recommend an ordinance to Council by the end of the year.

Board members presented their thoughts on how to proceed with an ordinance addressing the growth, sale and distribution of medical marijuana. Wilson commented that Attorney Ryan thought that an ordinance that prohibits any activity that is not in compliance with current Federal law may not stand up to legal scrutiny. Wilson suggested that the Board look at the direction taken by the Huntington Woods ordinance, which prohibits activity in specific zoning classifications. Questions from Board members on permissible ordinance provisions were addressed by Borden. Board members were interested in finding a way to regulate the use. Wilson will consult with planning consultant Borden and prepare a couple versions of regulations that would help the Village regulate medical marijuana for review at the next Planning Board meeting.

Jensen referred to the public hearing and the fact that the Detroit Country Day School proposal was incomplete. Information was not available for the developer and applicant to address the relevant issues raised. There are a number of steps that the proposal must go through including special use, site plan, MDNRE approval, and flood plain permit from Council.

ADMINISTRATION COMMENTS

None

PUBLIC COMMENTS

Matt Roman of 32021 Weston was present with Kevin Dimitry of 30255 Woodhaven, trustee of Beverly Hills United Methodist Church. Roman stated a group of interested residents are planning a Community Garden to be located on the front lawn of Beverly Hills United Methodist Church at the northeast corner of 13 Mile and Evergreen Roads. They were present to inform the Planning Board of their proposal to establish a 100’ x 144’ garden and inquire about any issues that should be addressed and approved by this body.

Board members indicated that there could be an issue with erecting a fence around a garden located in the front yard of the structure. It was suggested that Matt Roman submit a drawing and proposal to Village administration for review by the Planning Board. There may be a need for special land use approval because it is a change to the use of the church property.

Motion by Ostrowski, second by Borowski, to adjourn the meeting at 10:17 p.m.

Motion passed (6 – 0).

David Jensen, Chair
Planning Board

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary