

Present: Chairperson Jensen; Vice-chair Ostrowski; Members: Abboud, Borowski, Freedman, Peddie, Ruprich, Stempien, Westerlund

Absent: None

Also Present: Village Manager, Chris Wilson  
Planning Consultant, Brian Borden  
Council Liaison, Jon 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/AMEND AGENDA**

The agenda was accepted as published.

**PUBLIC COMMENTS**

None

**CONSIDER APPROVAL OF MINUTES OF A PLANNING BOARD MEETING HELD JULY 27, 2011**

A correction was made on page three, second paragraph, line 6, to change ‘38” long’ to read ‘38’ long”.

Motion by Peddie, second by Ostrowski, that the minutes of a regular Planning Board meeting held on July 27, 2011 be approved as amended.

Motion passed unanimously.

**REVIEW SIGNAGE PROPOSAL SUBMITTED BY HARMON SIGN ON BEHALF OF MARKET FRESH, 31201 SOUTHFIELD ROAD**

Planning consultant Brian Borden from LSL Planning stated that a new sign package was submitted by Market Fresh as part of its building renovation. He referred to the LSL review letter dated August 17, 2011, noting that there were a couple of open items.

The existing 42 sq. ft. Starbucks wall sign has been reinstalled. Market Fresh is proposing a new wall sign for its building at 57 sq. ft., an increase in size over the existing 36 sq. ft. sign. Borden stated that the wall sign is compliant in terms of its placement and size. Information has not been provided with respect to wall projection and color limitations. The sign appears to be internally illuminated.

It is proposed to reface the existing ground sign along Southfield Road with a new 55 sq. ft. electronic LED sign and to reface the existing ground sign on Thirteen Mile Road with a new 23 sq. ft. electronic LED sign. This would bring the two ground signs in compliance with the allowed amount of total ground size area for property that fronts two roads.

The total sign square footage in the proposal would increase above the maximum allowed square feet. Borden indicated that the narrative description suggests that both of the refaced ground signs would be electronic changeable message signs, which are not permitted in the zoning ordinance.

There are currently changeable message signs at several other businesses along Southfield Road including the existing Market Fresh sign. The ordinance was changed in 2004 to prohibit these types of signs. The question is whether the Southfield Road ground sign would be “grandfathered” and allowed to remain a changeable message sign. It was clarified that only a portion of the current Market Fresh sign is used as a changeable message sign.

Borowski compared the proposed electronic LED sign to a television screen. He cited that the ordinance limits signs to only three colors.

Abboud made the comment that LED signs will be a standard use in the future. He would approve this type of sign if it was done in good taste.

Jensen believed that a refaced sign integrating a changeable message portion at the same percentage as the existing Southfield Road ground sign would be grandfathered and allowed as long as the submittal met other sign ordinance standards.

Freedman related that the proposed sign is not what she would like to see on the Southfield Road corridor. Only the same percentage of movable messaging space could be incorporated on the new sign face; that is not what is proposed. Jensen agreed that it would not be in the Board’s purview to expand a nonconforming use. It was also noted that the 13 Mile Road ground sign does not currently have changeable letters.

Stempien stated that the submittal for the Market Fresh sign package included a Starbucks sign. He noted that Starbucks and Market Fresh use the same address. Stempien questioned the number of signs that can be erected on a building that houses various businesses at the same address. He thought that there should be clarity as to whether this proposal is viewed as one or two businesses.

Borden responded that the total sign area requirement is calculated per business under the Village ordinance. Both Market Fresh and Starbucks are businesses. There was some discussion on this point.

Market Fresh owner John Karmo affirmed that Market Fresh and Starbucks are two separate businesses separated by a wall and alarm systems. Starbucks does business when Market Fresh is closed. They have a suite address on their mail.

Freedman referred to the Medical Village complex and suggested that the Planning Board needed clarification on multiple tenant use at a single building site. She thought that the Village should be consistent with the application of the ordinance in terms of how much signage tenants are allowed.

Board members discussed issues with the signs including illumination, changeable letters, color limitations, size of the base, and encroachment of the Southfield Road ground sign into the right-of-way. The applicant is taking down a nonconforming sign and installing a new nonconforming sign.

Borden stated that the Sign Ordinance permits replacement re-facing of nonconforming signs. In his review letter, he encouraged Market Fresh to bring the sign into compliance, noting that the existing ground sign along Southfield Road encroaches into the right-of-way.

Board members questioned the intent of the ground sign in terms of moveable characters, photographs and messages as well as the frequency of those changes.

Jeff Johnson from Harmon Sign responded that many communities have specific criteria for the operation of LED changeable message signs written into their ordinances. It could be mandated that the sign be turned off at a specific hour. Owner John Karmo thought that the proposed sign was a clean, upscale look that projects an instantly understandable image. It would promote the business.

Ruprich questioned whether the Village Zoning Ordinance contained a definition of a changeable message sign that was up-to-date in terms of current technology. Borden read the definition from the ordinance.

Jensen asserted that it is beyond the authority of this body to expand these signs without an ordinance that permits what is submitted. The Planning Board could only allow the applicant to refresh the existing panels unless the ordinance is changed or the petitioner can convince the Zoning Board of Appeals that a hardship exists. The Planning Board could table the proposal to allow the applicant to return with a proposal to refresh the panels with a non-movable illuminated sign.

John Karmo said that he would consult with Jeff Johnson on the ground sign proposal and possibly present a different idea to the Board at its next meeting. He asked if the application could be divided to proceed with approval of the wall sign tonight so that some identification could be provided on the remodeled building.

Borden reiterated that the proposed 57 sq. ft. wall sign is not the same size as the existing wall sign. The total sign proposal to reface the two existing ground signs and install a larger wall sign would exceed the maximum allowed square footage. Karmo responded that he would be willing to reduce the size of the Southfield Road sign.

In answer to an inquiry, Karmo said that the wall sign consists of white letters with black trim. The letters are 5½” thick. A drawing depicting the artwork and font of the Market Fresh wall sign is included in the original site plan submittal. Copies of this page were distributed to the Board for their review.

Motion by Abboud, second by Ostrowski, that the Planning Board approve the wall sign for Starbucks and the wall sign for Market Fresh as submitted conditioned upon administration confirming that those signs meet all requirements of the Village Sign Ordinance. The applicant has been made aware that these two signs will count against their total allowable square footage for signs on the project.

A few members of the Board voiced their support of the business but indicated that they would vote against the motion because they were either unclear about applying the Starbucks signage to the building or they wanted to consider the entire sign package before proceeding with a vote.

Roll Call Vote:

Jensen	- yes
Ostrowski	- yes
Peddie	- yes
Ruprich	- yes
Stempien	- no
Westerlund	- no
Abboud	- yes
Borowski	- no
Freedman	- no

Motion passed (5 – 4).

**REVIEW AND CONSIDER APPROVAL OF REVISED LANDSCAPING PLAN SUBMITTED BY SAROKI & ASSOCIATES ON BEHALF OF MARKET FRESH**

Planning consultant Brian Borden stated that proposal before the Board is an amendment to the approved landscape plan for the Market Fresh renovation project on 31201 Southfield Road as it relates to landscaping and screening. Members are in receipt of the approved landscape plan, a sketch of a revised landscape plan, and a detail sheet of a masonry screen wall.

It is proposed to change the 3 ft. tall hedgerow along Southfield Road to a minimum 2.5 ft. screen wall, which the ordinance allows under parking lot screening. Borden added that there are a couple of minor discrepancies in the plan that should be addressed relative to tree species.

Landscape designer Mark Garmo stated that the masonry wall is being proposed because the hedge would not do well with snow. A wall screened with perennials on both sides will be a cleaner look and a better long term plan for the parking lot screening. The material is called Brussels block, a Unilock product. A picture of the proposed product was distributed among Board members.

Garmo addressed questions from Board members on the dimensions, design, and construction of the wall. They are proposing a minimum 2.5' screening wall with piers that are higher than the wall. Inquiries on the tree species were answered by the applicant. Garmo explained that he shows the same trees in groupings of four in the parking lot islands.

Westerlund mentioned that he was not opposed to a screening wall but thought that the Board should be presented with a complete and accurate submittal. The sketch is not an architectural drawing that shows the placement of the wall or identification of trees.

Garmo commented that the submission does not indicate the exact location of the screening wall due to an uncertainty in terms of the impact on utilities. He was looking for guidance as to where it would make sense to erect the wall to make sure that utility lines are accessible.

Ostrowski remarked that there are no utilities depicted on the plans. Manager Wilson affirmed that there are no public utility easements in the area where the wall would be placed. The only utility concerns would be leads for water, sewer and electric to the building. Wilson did not think a letter of indemnification to the Village was necessary because the wall would only impact existing utility leads.

Board members were amenable to the concept of a screening wall. It was the sense of the Board that the applicant comply with the ordinance and submit dimension drawings that show the proposed new design. There was a concern that the applicant maintain a level wall. It was noted that irrigation was included in the site plan.

Karmo was concerned that tabling the revised landscape plan would hold up the project. Jensen indicated that the Board does not have an issue with the plant material.

It was the sense of the Planning Board to postpone approval of the revised landscape drawing for Market Fresh until the next meeting in order to review and consider a full submittal provided by the applicant with all the information requested. The Board agreed that the applicant could proceed with landscaping. Elements to be included in the revised plan are as follows:

- 1) Location of the screen wall relative to the parking lot area and sidewalk
- 2) Clarification on the height of the wall and the piers
- 3) Location of the wall relative to entryways and parking
- 4) Elevation and width of the wall; an actual cross section of the wall
- 5) Sample of the brick material
- 6) Planting material in front and behind the wall

**PUBLIC HEARING TO RECEIVE COMMENTS ON PROPOSED ORDINANCE AMENDING SECTION 22.01.060 OF THE MUNICIPAL CODE ENTITLED CONFLICTING REGULATIONS**

The Planning Board will hold a public hearing to receive comments on proposed ordinance amendment Section 22.01.060 of the Municipal Code entitled “Conflicting Regulations”. The ordinance amendment reads as follows: “Any use that would constitute a violation of Federal, State, or local law or regulation shall be prohibited.”

Chairman Jensen opened the public hearing at 9:14 p.m. No one wished to be heard; therefore, the public hearing was closed at 9:15 p.m.

Motion by Borowski, second by Stempien, that the Planning Board recommend Council approval of proposed Ordinance Amending Section 22.01.060 of the Municipal Code entitled “Conflicting Regulations”.

Motion passed (9 – 0).

### **DISCUSS POTENTIAL SIGN ORDINANCE AMENDMENT**

Borden mentioned the high incidence of sign issues that have been coming before the Planning Board. It was originally thought that sign ordinance revisions would be taken up during drafting of a Southfield Road overlay district. It has been the sense of the Board that sign issues should be addressed sooner.

Borden wanted to hear the concerns and thoughts of Board members relative to what sign ordinance issues need improvement. A couple of issues addressed in past meetings have been sign size and ground sign height. Another issue that has come up is commercial window signage. There were comments from the Board on the signage in the windows of the new Taco Bell building on Southfield Road.

Jensen proposed that sign ordinance amendments be discussed at next month’s meeting. The following topics were identified in terms of sign ordinance issues: size limits, height of ground signs, window signage, ordinance discretion, electronic LED signage regulations, business vs. building signs, the ability of a sign to change colors, and the nonconforming aspect of signs.

Members were encouraged to read the Village Sign Ordinance prior to the next meeting and be prepared to talk about updates and changes that are needed. Borden was asked to provide examples of appropriate limitations for sign area and height.

### **PLANNING BOARD MEMBERS COMMENTS**

Freedman reviewed that there was discussion at last month’s meeting on pending action by the State Legislature to clarify issues with the Michigan Medical Marijuana Act. She informed the Board that an opinion came down from a three-judge panel of the Michigan Court of Appeals yesterday ruling unanimously that the law allowed the medical use of marijuana in limited circumstances, but not the sale of the drug.

The court ordered the closure of a Mt. Pleasant dispensary that was selling marijuana to people certified to buy it for medical purposes, ruling that the facility operators have no authority under the law to operate a “dispensary that actively engages in and carries out patient-to-patient sales” of marijuana. The ruling can be used as precedent to close similar facilities across the state. Michigan Attorney General Bill Schuette hailed the ruling as a victory for local communities trying to keep out pot shops. He said that facilities that continue to operate “do so at their peril,” risking criminal charges, nuisance complaints and more legal troubles.

Freedman stated that the Village is still waiting for the Michigan Legislature to provide further direction on a distribution system. Manager Wilson distributed copies of the 17-page Michigan Court of Appeals opinion.

Borowski suggested that the Planning Board should continue to work on the Southfield Road Corridor and revisions to the sign ordinance in the next few months. He proposed an agenda item for the next meeting to set Planning Board meeting dates for November and December that do not conflict with holidays.

Stempien referenced the Starbucks store in the Market Fresh building and asked to receive clarification on the definition of a business.

Peddie proposed that the Planning Board discuss parking ordinance revisions following its review of the sign ordinance.

Abboud asked if there was a way to allow a seasonal or specialty business to occupy vacant buildings on Southfield Road.

### **ADMINISTRATION COMMENTS**

Wilson reported on a meeting last week with the Road Commission for Oakland County that he attended with Brian Borden and Tom Meszler. The Road Commission is back in the planning stage for a Southfield Road redevelopment plan. They will be pursuing federal funding for a project that would redevelop Southfield Road into a boulevard from M-39 (Nine Mile) north to 13 Mile Road. Lathrup Village has objected because the original concept would have eliminated on-street parking in their commercial district. The Road Commission is going through an arduous environmental assessment process, which will give the Village some time to interject its ideas.

Wilson suggested on behalf of Beverly Hills that ending that boulevard project at 13 Mile Road would not make sense because the traffic continues to serve commercial property from 13 Mile to Beverly Road. The Road Commission agreed and will consider extending the boulevard at least to Beverly Road.

Wilson thought that Beverly Hills would have a good chance of interjecting what it wants to do now that the Village is invited to the table. The Road Commission is bringing all the communities in so they can have a say in the design of this project. Everyone's buy-in is needed to receive federal funding. Wilson indicated that the Road Commission group is going to meet on a monthly basis for the next 12 months. He plans on attending with Brian Borden and Patrick Westerlund, who will participate on behalf of the Planning Board.

### **PLANNING CONSULTANT COMMENTS**

Brian Borden commented on the Road Commission meeting. He remarked that the RCOC seemed open to a lot of elements that the Planning Board has talked about relative to traffic calming, improved access management, and pedestrian safety improvements.

### **PUBLIC COMMENTS**

None

Motion by Freedman, second by Abboud, to adjourn the meeting at 9:43 p.m.

Motion passed (9 – 0).

**David Jensen, Chair**  
**Planning Board**

**Ellen E. Marshall**  
**Village Clerk**

**Susan Bernard**  
**Recording Secretary**