

**KENT PLANNING COMMISSION
BUSINESS MEETING
February 20, 2018**

MEMBERS PRESENT:

**Amanda Edwards
Jeff Clapper
John Gargan
Peter Paino
Michel Bruder**

STAFF PRESENT:

**Jennifer Barone, Development Engineer
Bridget Susel, Community Development Director
Eric Fink, Asst. Law Director
Sheila Uzl, Transcriptionist**

I. Call To Order

The meeting was called to order at 7:00 p.m.

II. Roll Call:

Ms. Edwards, Mr. Gargan, Mr. Clapper, Mr. Paino, and Mr. Bruder were present.

III. Reading of the Preamble

The Planning Commission operates in accordance with the provisions of the Kent City Charter, the Kent Zoning Code and Subdivision Regulations, all of which establish the powers and duties of the Commission. Members of the Planning Commission are appointed by Kent City Council and serve without compensation. Certain cases such as Conditional Zoning Certificates, Special Zoning Permits, Overlay District Projects and Zoning Amendment require Public Hearings before the Planning Commission. During the Public Hearing, any person wishing to address their concerns to the Commission will be provided the opportunity. Once the Public Hearing is closed, it shall be the discretion of the Chair whether to allow any additional public comment. Cases such as Site Plan Reviews and Subdivision Projects do not require a Public Hearing. However, the Chair will allow public comment on each case as it is taken on the agenda. In each instance where the Commission receives public comments or conducts a Public Hearing, those persons wishing to address their concerns to the Commission will be required to do so under oath or positive affirmation. The oath or affirmation shall be administered to all who wish to speak at the beginning of the Planning Commission Meeting. Once a decision has been made by the Planning Commission on a case, the Case is closed for the commission, as there is no provision to reopen a case. With the exception of cases falling under the Subdivision Code, any decision of the Planning Commission may be appealed to the City's Board of Zoning Appeals in accordance with the Chapter 1109 of the Zoning Code. Anyone interested in appealing a decision of the Planning Commission is advised to seek private legal counsel.

IV. Administration of Oath

Mr. Fink instructed those members of the audience wishing to be heard on any of the cases presented at this meeting to rise and raise their right hand. Mr. Fink administered the Oath, "Do you solemnly swear or affirm that the testimony that you are about to give this evening is the truth, the whole truth, and nothing but the truth, so help you God? Please say "I do." The participants responded, "I do."

V. Correspondence

Email from Randy Ruttenberg and response dated February 8, 2018.
Memo from Jennifer Barone dated February 8, 2018.

VI. Old Business

Ms. Edwards stated that staff has recommended taking the agenda out of order so she asked for a motion to move New Business forward.

Motion: *Mr. Clapper moved to bring the new business on the agenda forward and hear it before the old business on the agenda.*

Mr. Gargan seconded the motion.

The motion passed 5-0.

VII. New Business

**PC18-002 Hasawi's
211 Franklin Avenue / 114 East Erie Street**

The applicants are seeking Site Plan Review and Approval in order to construct a mixed-use structure for commercial and residential uses. The property is zoned C-D: Commercial Downtown District.

Ms. Edwards asked the applicants to present the case.

Paul Romanic, 315 Gougler Avenue, Kent, Ohio, stated he was with DS Architecture. He said the first floor will be used as a bakery/coffee shop and around 3:00–4:00 p.m., it will transition into a wine or beer bar. There will be a restaurant on the second floor that will serve lunch and dinner and will also use the bakery items. The upper four floors, 3 – 6, will have three, two-bedroom units and one studio residential unit. He said there will be operable windows on the first floor. He said the site itself is roughly 50 feet north and south. There have been suggestions to add banners to the side of the site, but in developing they were looking at taking cues from northern block of Franklin Street, where they took it as an approach to a zero-lot lines to build right to the property line. We

were respecting the street edges on Franklin, Erie, and the alley to the east. On the south we were under the impression there would be a building immediately against this one. When we originally came to the Architecture Review Board, we made the suggestion of a potential location for a mural, as something like “Welcome to Downtown Kent.” There was a discussion of possibly adding interchangeable banners to the side of it. Through the process, we went back and reviewed and made some minor adjustments to that façade, removing the request for a mural from that because of the scale of it and introduce some simple brick banding. As we understood it, it would be concealed with future construction. By building on the lot line, we are not permitted to have an opening on the base of the building.

PUBLIC COMMENTS

Allan Orashan, 531 South Depeyster Street, Kent, Ohio, stated the building is out of context. It is too tall and it will overpower the buildings in the area. He was not sure if anything could be done about that. He said some of the things that the Architectural Review Board addressed were the colors on the building. The architects did a reasonable job in trying to address some of the suggestions. He thought it was a nice building, but just misplaced. He wished the owners and architect would reconsider but he doubted that would happen. He said the six-story building next to two story buildings is unfortunate. He said people he has talked to are also concerned.

PLANNING COMMISSION DISCUSSION

Ms. Barone stated it is a permitted use in the Commercial Downtown District. They plan on using off-street parking for the business portion of the project and for the residential portion using the parking deck. All utilities are available. Stormwater management is not required since there is not an increase in impervious area. The applicant will come back for the signage. There will be low impact lighting over the door and recessed lighting in the soffits. There will be a dumpster in Alley 10, which is on the east side of the proposed building. The Architectural Review Board reviewed the project and issued a Certificate of Appropriateness on January 16, 2018. No variances are required. An agreement was reached on the park fee, so it can be voted on tonight. If the Planning Commission decides to approve this application, staff would like several conditions added to the motion: the park fee amount has to be approved by the Park Board; the part that goes out into Erie Street is in the City’s right-of-way, so the applicant will have to obtain a license to occupy the right-of-way; and the applicant has to submit for Technical Plan Review.

Mr. Fink referred to the memo and said the City Staff reviewed carefully the property lines. He said the design and the landscaping allowed access to the doors. He said the plan does comply with the code.

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Mr. Gargan stated that not much can be done. He thought the building was too tall and not in the right place. He asked if there would be any protection from the heavy machinery on Franklin Avenue.

Mr. Romanic replied they will provide as much as possible. They will discuss this with City Staff. There will probably have to be some sort of restoration in the re-setting of some of the brick and some of the brick that is removed from the island can be used. He said they are interested in the same quality.

Ms. Susel stated the City of Kent does require a bond to protect the public right-of-way and everything will be inspected and verified afterwards and any restoration work will be addressed and anything untoward will have to be addressed. The bond would be used to cover the cost of restoration.

Manouchehr Salehi, 6188 Marteney, Kent, Ohio, stated they would guarantee full restoration.

Mr. Paino stated he liked the way this project is put together. He liked the idea of having a bigger pedestrian area. He asked if the white band on the third floor is representative of the property line.

Mr. Romanic replied yes.

Mr. Paino stated that some of the windows are projecting over the property line.

Ms. Susel replied that is allowed by code.

Mr. Paino asked if there was a certain height they had to be.

Ms. Susel replied they could project 24 inches.

Mr. Paino asked if the height limitations have been met.

Ms. Susel replied yes. The limitation is 60 feet.

Mr. Paino said it is a nice-looking building. He wanted it to look like the rendering when the project is done. He has seen other projects with different colors or different sizes. He asked how the City of Kent, the Planning Commission or the Architecture Review Board can assure what a project looks like and what the City of Kent is going to get in the end. He said this six-story building is going to be somewhat out of place. It meets the zoning requirements. He said when he looked at the south side of the building, he asked himself how the Architectural Review Board could approve it. He asked if now is the time to bring up the issue with the elevation? The copy of the email that the commissioners received help clarify that. He asked the architect to address the blank wall.

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Mr. Romanic stated he met with Fairmount who had the preliminary drawings of the building (adjacent to this building's south property line) in late October or early November. He said they were investigating at the time the possibility of developing a shared court between the buildings and creating a condition where there would be an exit from their building into Fairmount's building. This is allowed by code and would be considered a safe condition. By doing this, they would have shared an elevator or stairs. They could have improved efficiency overall, but the plans they saws depicted a building at the property line. He said at that point there, they are going to have an abutting building, what were they going to do? He said a mural was originally suggested because they knew it was something that was temporary in nature. The problem for constructability is if we had a lot of ins and outs on that side, it would create some difficult constructability conditions for the adjacent property. He said they were quite surprised with the email that everyone concerned received. He said they have been trying to be very cooperative.

Mr. Bruder asked how tall the next-door building is.

Mr. Romanic replied six stories.

Ms. Susel stated there has been some preliminary discussion for a six-story building with micro-units, but no plans have been submitted.

Mr. Paino asked if that is at the BW-3 site.

Ms. Susel replied yes. She said the terms of the lease is that is they maintain that area as a parking area from the building to the area.

Mr. Salehi stated when the property was purchased, Fairmount wanted to meet and wanted to have the property with free rent. At that point, he wanted to sell, but offered to coordinate things. He said he was going to renovate the existing buildings until he saw the inside. He said he met with Fairmount again. He said he offered to buy a strip of land, but worked out plans without needing the extra land.

Mr. Clapper asked how the height is established.

Mr. Fink replied the way the ordinance is written, it is from the average grade. There is about a six foot slope from the Franklin end to the southeast corner. He said they took the average location and that is keeping within the ordinance. He understood the concerns because of what could be built.

Mr. Bruder stated the scale is appropriate. He said the Kent Hotel is six stories and has a blank wall. He said it had two stories around it and it is a nice icon. He said there are multiple buildings around town that are at this scale and they are not considered out of scale. The silk mill and the silos are much larger. He asked if the Planning Commission could see the redesigned brick court.

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Mr. Romanic showed the elevations. He said they did not want the building to be towering like the Silk Mill. He said the sight line is comparable since it is 11 feet lower from the hotel and Bricco. He said height-wise from the skyline, it is very consistent.

Mr. Bruder was concerned with the streetscape, particularly with the pedestrian experience. He felt it could be improved. He asked if there was parking on Erie Street and if so, it would be close to the stop sign.

Mr. Romanic replied yes. It is angled parking but is not shown on the plans.

Mr. Bruder stated pedestrians should only have to cross two lanes. He felt that there should be a better plan for the intersection where the north side matched the south side. He asked what the appropriate step would be to review that.

Ms. Barone replied they could talk to the City Engineer.

Mr. Paino asked who would pay for that and who would be responsible for maintaining it.

Ms. Susel replied the owner is responsible for normal wear and tear and the owner pays for it per the agreement. The applicant will obtain a license to occupy the right-of-way from Kent City Council to allow the patio to be constructed and used. They will be responsible for that area.

Mr. Salehi stated they would be responsible for the area in the right-of-way since they were using it.

Mr. Romanic stated safety was needed in the area of the pedestrian crosswalk, but they cannot go any closer to the property line.

Mr. Bruder asked about the parking in Alley 10.

Ms. Susel replied that parking is actually on a private parcel not in the Alley.

Mr. Bruder asked who fixes the alley after construction.

Ms. Susel replied the developer would be responsible to fix the alley. She said there are utilities under there as well as power connections too.

Mr. Bruder asked if there would be 4-foot sidewalk in the alley and if it would be raised.

Ms. Barone replied that would be resolved during the Technical Plan Review.

Mr. Romanic stated they have an elevation change to address too.

Ms. Barone stated this would be addressed in the Technical Plan Review.

Mr. Romanic said they are concerned also about rolling the dumpster from concrete to asphalt.

A discussion was held on curb cuts and crosswalks.

Ms. Edwards stated her concerns have been addressed. She did encourage bike storage.

There were no other comments or questions, so Ms. Edwards asked for a motion.

MOTION: *Mr. Clapper moved in case number PC18-002, Hasawi's, property located at 211 Franklin Avenue / 114 East Erie Street, that the Planning Commission approve the Site Plan to construct a mixed-use facility for commercial and residential.*

Subject to the following conditions:

- 1. Submit for Technical Review.*
- 2. Obtain a license to occupy the right-of-way from Kent City Council to allow the patio to be constructed.*
- 3. Finalize the park fee amount and obtain the Park Board approval of the park fee amount and return to the Planning Commission.*

The motion was seconded by Mr. Bruder.

The motion passed 5 – 0.

<i>Ms. Edwards</i>	<i>Aye</i>	<i>Mr. Clapper</i>	<i>Aye</i>
<i>Mr. Paino</i>	<i>Aye</i>	<i>Mr. Gargan</i>	<i>Aye</i>
<i>Mr. Bruder</i>	<i>Aye</i>		

MOTION: *Mr. Bruder moved in case number PC18-002, Hasawi's, property located at 211 Franklin Avenue / 114 East Erie Street, that the Planning Commission approve Park Fee in the amount of \$10,920.00 for a mixed-use facility for commercial and residential.*

The motion was seconded by Mr. Paino.

The motion passed 5 – 0.

VIII. Old Business

PC17-016 City of Kent
Proposed Medical Marijuana

Zoning Code Text Amendments

The applicant is seeking review and comment for proposed code language to amend the Kent Codified Ordinances to include the categories for medical marijuana in Chapters 1103, 1137, 1141, 1143, 1153, 1151, 1155, and 1171.

She asked Staff to present the request.

Ms. Barone stated that the Planning Commission had a copy of the final version. She said staff is asking that the Planning Commission take action at this meeting. All the comments have been incorporated into this final version.

Mr. Fink stated that just in the last three days, the State has issued findings from David Yost's (State Auditor) office that might be putting some further delays in doing this however he believed the City should be prepared to continue to move forward as if the legislation is going to be enacted until the State says otherwise. If the State is delayed, the City of Kent is delayed. He went further on to explain that the Cultivators filed suit today because they have an issue with the scoring because one of the applicant's scoring had a prior felony conviction and some of the scoring was not done in accordance with the standards they were given and some of the scores had ties to some of the companies that submitted applications.

Ms. Edwards asked the commissioners if they had any questions or comments with what staff has presented.

Mr. Gargan: None.

Mr. Bruder: None.

Mr. Paino: None.

Ms. Edwards: 1155 should include Level 1 Cultivator.

Ms. Barone said that will be taken care of.

Mr. Clapper stated that strike public property should have been done.

Ms. Barone replied that the City of Kent is going by what the State says so they will strike out public property.

Ms. Edwards asked about 1153 and 1171.

Ms. Barone replied the correction was forgotten and the City of Kent will go by whatever the State goes by.

There were no other questions, so Ms. Edwards asked for a motion.

MOTION: *Mr. Bruder moved in case PC17-016, City of Kent, that the Planning Commission recommends to City Council to amend the following chapters of the Kent Codified Ordinances to address medical marijuana based on the staff report:*

- 1. 1103*
- 2. 1137*
- 3. 1141*
- 4. 1143*
- 5. 1153*
- 6. 1151*
- 7. 1155*
- 8. 1171*

The motion was seconded by Mr. Paino.

The motion passed 5 – 0.

IX. Minutes – January 16,2018

MOTION: *Mr. Paino moved to approve the January 16, 2018 minutes, as submitted.*

The motion was seconded by Mr. Clapper.

The motion passed 4 – 0. 1 Abstention

X. Other Business

Appointment of a Planning Commissioner to the CRA Housing Council.

Ms. Susel stated the CRA Housing Council is a State Based review of projects that get an exemption on real property. The Planning Commission has a representative to that Board and it has been John Gargan and his term is expiring, so the City is seeking the reappointment of John Gargan or another member. They only meet once a year. It is not labor intensive. They look back at the projections that have received tax exemptions. The City has three series and they look primarily to see if the tax exemption should remain in place or if there is a question on the exemption, appeals are heard.

MOTION: *Mr. Paino moved to appoint John Gargan to the CRA Housing Council.*

The motion was seconded by Mr. Bruder.

The motion passed 5 – 0.

Ms. Edwards asked for a motion to adjourn.

Ms. Barone said that before the meeting adjourned, Staff would like to discuss a meeting procedural change. She said sometimes applicants are confused on what they have to come up and say. Staff is thinking about going over what the project is before the developer presents. She said in Hudson, a Staff member presents the project and the Developer speaks, then the Commissioners have the opportunity to ask questions of Staff and the Developer. Some of the questions are answered before the audience comes up to speak.

Ms. Susel explained this procedure. Having Staff present the staff report first might answer some of the Commissioners' questions first. The applicants would still present the specifics of the plan. This process might help applicants understand the process. Public comment section of the meeting was also discussed. This would be the procedure for each case. If it is not working, they can go back to the way it was because it is just procedural.

The Commissioners discussed this procedure, but did not disagree with this proposal.

Mr. Fink gave an update on court cases and pending projects.

1. **1005 East Main** – The permits are ready. There is an appeal on file regarding the citizens' right to intervene. It is not on the overall project. There is going to be an oral argument but no notice has been received.
2. **East Main Street Lofts** - The City filed an appeal. The record has not been transmitted to the Court of Appeals yet nor has the briefing schedule been set. They have not applied for any permits so until they do, the City will not request a stay. The City asked the magistrate to reconsider, but time ran out to file an appeal.
3. **Capstone** – The magistrate ruled against the City. The City filed objections to the magistrate's decision to have it reviewed and reconsidered. The court date is March 13th and at that time, the City will be presenting its' objection. The site plan was approved but the City is against monetary damages.
4. **Fairmount Status** - There is talk of micro-units but nothing has been seen by the City. All is informal.
5. There are no plans for a municipal lot on College and Franklin. There is no overnight parking in that area. In answer to a question from one of the Commissioners, he said the City is allowed to let this area be developed.

There were no other questions, so Ms. Edwards asked for a motion to adjourn.

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X1. Adjournment

Motion: *Mr. Bruder moved to adjourn.*
 The motion was seconded by Mr. Paino

Vote: *The motion carried 5 – 0.*

Meeting adjourned at 8:43 p.m.