

**MINUTES**  
**October 19, 2016**  
**Plan Commission**  
**City of Batavia**

PLEASE NOTE: These minutes are not a word-for-word transcription of the statements made at the meeting, nor intended to be a comprehensive review of all discussions. They are intended to make an official record of the actions taken by the Committee/City Council, and to include some description of discussion points as understood by the minute-taker. They may not reference some of the individual attendee's comments, nor the complete comments if referenced.

**1. Meeting Called to Order**

Chair LaLonde called the meeting to order at 7:00pm.

**2. Roll Call:**

**Members Present:** Chair LaLonde; Vice-Chair Schneider; Commissioners Gosselin, Harms, Joseph, and Peterson

**Members Absent:**

**Also Present:** Scott Buening, Community Development Director; Joel Strassman, Planning and Zoning Officer; Drew Rackow, Planner; Jeff Albertson, Building Commissioner; and Jennifer Austin-Smith, Recording Secretary

**3. Items to be Removed, Added or Changed**

There were no items to be removed, added or changed.

**4. Approval of Minutes: September 21, 2016, Plan Commission**

**Motion:** To approve the minutes from September 21, 2016, Plan Commission minutes

**Maker:** Schneider

**Second:** Peterson

**Voice Vote:** 6 Ayes, 0 Nays, 0 Absent  
All in favor. Motion carried.

**5. Continuation of a Public Hearing: Multiple Family Building at 1600 West Wilson Street, SJR Inc, Applicant**

- **Comprehensive Plan Land Use Map Amendment from Public Facilities and Institutional to Residential 8 to 15 Dwelling Units Per Acre**
- **Establishment of a Planned Development Overlay District in a R4 Multiple Family Residential, Medium Density District**
- **Design Review for a New Residential Building**

Rackow summarized the first public hearing meeting, held on August 17, 2016, and the resident's concerns stated at that meeting. At that meeting the PC felt that the proposed building was too large for the site. The Plan Commission (PC) asked that a reduced number of units of nine or ten be considered. Rackow stated that there are no new materials to consider and a

negative recommendation by the PC would require a 2/3 vote from City Council to approve the plan as proposed.

**Motion:** To open the Public Hearing  
**Maker:** Joseph  
**Second:** Schneider  
**Voice Vote:** 6 Ayes, 0 Nays, 0 Absent  
All in favor. Motion carried.

Kate McCracken, attorney, explained why there were no changes to the proposed plan. She stated that this is a unique situation because it is a function of a contract with the City. When the City declared this as surplus property her client was the successful bidder. McCracken stated that the contract cannot be renegotiated until we move forward to City Council. McCracken stated that this meeting tonight is to allow us to go forward so that we could have discussions about what the PC has requested, such as the PC preference of nine units. We need to move forward to start the discussion and the dialogue.

Chair LaLonde opened the floor for public comment. He swore in all of those who wanted to address the Commission.

Mark Larson, 6 Spuhler Drive, stated that the negative findings outweigh the positive, except for item e. For the past 16 years he has looked out onto an empty lot. He would much rather look at a like unit or a storage facility instead of looking at an apartment complex too big for the lot and the neighborhood. Those on Spuhler Drive strongly object to the plan as presented.

Ben Oleson, 36 Spuhler Drive, asked if there would be more police protection with more people in the area. This development is too close to stoplights. It would cause traffic back up. He asked where are the children going to play if there are children there. He is concerned about safety of children in the neighborhood now and in the future. There are too many concessions on the easements. If these adjustments to the setbacks are not accepted then they would have to go to the smaller.

Thomas Wilson, 56 Spuhler Drive, shared his concern with losing money on their properties. Wilson specified that the developer stated that he has to have the high density in order to make money. Wilson questioned why do we have to give up our money for the developer to make money. That is not right.

Gale Kastor, 26 Spuhler Drive, looked over the numbers of the setbacks and the average percentage of the footage for the setbacks was 65% of what it should be. One of them is 46% so it is half of what is recommended in the current zoning. They want 24 square feet out of the required 60 ft for private open space, that is 40%. There is requested relief for a play area for children in these apartments. There is no area for the children to play. The City is making too many concessions. The size of this building would not preserve the character of our established residential neighborhood.

Chair LaLonde asked if there was anyone else who wanted to speak. There were none.

**Motion:** To close the Public Hearing  
**Maker:** Schneider  
**Second:** Joseph  
**Voice Vote:** 6 Ayes, 0 Nays, 0 Absent  
All in favor. Motion carried.

**Motion:** To approve a Comprehensive Plan Land Use Map Amendment to amend the Comprehensive Plan Land Use Map designation from PFI, Public Facilities and Institutional to Residential 8 to 15 Dwelling Units per Acre.

**Maker:** Schneider  
**Second:** Harms  
**Roll Call Vote:** **Aye:** Harms, LaLonde, Peterson, Schneider  
**Nay:** Gosselin, Joseph  
4-2 Vote, 0 Absent. Motion carried.

**Motion:** To approve the planned development as presented with conditions recommended by staff

**Maker:** Schneider  
**Second:** Harms  
**Roll Call Vote:** **Aye:**  
**Nay:** Gosselin, Harms, Joseph, LaLonde, Peterson, Schneider  
0-6 Vote, 0 Absent. Motion failed.

**Motion:** To table the design review

**Maker:** Harms  
**Second:** Joseph  
**Roll Call Vote:** **Aye:** Gosselin, Harms, Joseph, LaLonde, Peterson  
**Nay:** Schneider  
5-1 Vote, 0 Absent. Motion carried.

Rackow announced that this would then go to the Committee of the Whole meeting on November 15<sup>th</sup>.

**6. Public Hearing: Crash Champions Auto Body Repair, 2080 Main Street and Vacant Property, 2150 Main Street**

- Amendments to the Comprehensive Plan Land Use Map and Amendments to the Zoning Map, 2080 and 2150 Main Street
- Conditional Use for Heavy Vehicle Services (Body Shop) and Planned Development Overlay 2080 Main Street,  
My Properties LLC – 2080 E. Main St., Batavia, applicant

Strassman reported that My Properties, owner of Crash Champions collision repair, is looking to open an auto body shop in the former Aldi retail building in Windmill Creek shopping center and to add 7,000 square feet to the building. To accomplish this, the City's Comprehensive Plan Land Use Map and Zoning Map must be amended to propose service business land use and zoning. Auto bodywork requires a conditional use in the Service Business zoning District. To

accommodate a number of existing nonconforming conditions on the property and to locate parking behind a fenced-in area behind the front of the building in existing pavement, a planned development is proposed. Design review is needed to approve changes to the building changes and landscaping on the site. In addition to all this, the City owns an approximately 1.35 acre parcel abutting the property the west that is included in the request to amend the Land Use and Zoning maps. No development is proposed on the City-owned property.

The property containing Windmill Creek shopping center was annexed and zoned B3 Arterial Oriented Commercial in 1990. Windmill Creek was placed in the General Commercial zoning district with adoption of the 2010 Zoning Code. The building at 2080 Main was constructed as an Aldi grocery store in 1992. The applicant is here tonight and will go through the proposed site changes and its rationale for the proposed zoning actions.

Regarding the proposed amendment to the Land Use Map, the land use classification of Service Business is used to identify areas of quasi-industrial uses and small scale office and service uses. The Land Use Element of the Comprehensive Plan identifies maintaining the commercial viability of the Randall Road corridor and as an on-going issue, along with balancing land uses to serve the community and ensuring sensitive transitions from nonresidential use to residential use. The proposed Service Business land use classification would allow the zoning needed to bring a willing tenant that can enhance the commercial viability of the subject properties.

The proposed change to Service Business would be contrary to Comprehensive Plan goals and policies directed at preserving retail land, especially in the Randall Road corridor. However, these properties do not have direct frontage or visibility from Randal Road, or direct access to Main Street. Many goals and policies related to protecting nearby residential property would be met since both properties are far from residential uses. Protection of retail land stressed in the Comprehensive Plan is essential to allow for sufficient sites to provide sales tax revenue. While the General Commercial District allows many more uses that have greater potential to generate sales tax, successful retail businesses increasingly rely on high visibility and easy access from adjacent arterial roads. Unfortunately, these properties have neither of those. This circumstance undoubtedly has limited the Aldi site's desirability to retailer interest. An auto body shop does include some retail sales tax producing activity. Staff supports the request for Service Business land use on the subject properties.

With staff's support of the proposed Land Use Map changes, staff supports the proposed Service Business District for both properties. For rezoning of property, the Plan Commission must review and approve the hearing findings and findings for certain conditions and factors. These findings are itemized in the staff report to the Commission, and the Commission may refer to these findings when taking action on the Zoning Map Amendment.

For the Planned Development overlay, the Zoning Code notes that it may be used to implement the Comprehensive Plan and to modify Zoning Code requirements to permit unique development. The former Aldi store was built some 20 years ago and the requested Code relief would allow for the proposed use to occupy a long-vacant building and allow several existing conditions not in compliance with the current regulations to remain. The Planned Development

Overlay seeks modification to Zoning Code requirements as listed in the staff memorandum to the Commission.

Staff supports the proposed planned development overlay with the modifications listed in the memorandum. Commission consideration should recognize that an auto body shop can generate noise and the presence of damaged vehicles awaiting repair can compromise the aesthetics of the site. My Properties has indicated that all work would take place inside the building and that all vehicles would be stored inside the building or within the fenced enclosure. It would be reasonable for the Commission to recommend that all vehicle repair work take place inside the building with all doors closed, all vehicles awaiting repair or completion of repair be stored inside the building or within a solid fence enclosure with gates closed, and that an opening in or damage to the fence or gate be repaired within 48 hours.

Staff notes that access to the City property is provided through a strip of the Aldi property. The City will be seeking recordation of an access easement on the Aldi property for the benefit of the City property. This can be a condition of approval for the planned development.

For the conditional use, a proposed use must fit the zoning district, but due to the nature of the use, it may impact adjacent properties more than a use that does not require this approval. Approval of a conditional use can include reasonable allowances and conditions. Staff feels the Commission should recommend the same vehicle work and storage, and fence specifications suggested for the planned development, and recording of an access easement for the City property. Additionally, the conditional use should include language that violation of any of the terms of the conditional use approval may cause the City to initiate revocation as specified in the Zoning Code. This could lead to My Properties or a subsequent auto body shop operator being forced to vacate the premises for violating the approval conditions.

Windmill Creek does not have a formal owner's association in place to maintain common facilities. Representatives of My Properties have indicated a desire to facilitate the formation of an owner's association. The roads internal to the shopping center that access each site are privately owned. Aldi owns the entirety of the north-south roads from Main Street that are in need of repair that would be undertaken by either an owner's association or the underlying property owner. The City has begun a process to create a special service area (SSA) covering Windmill Creek to address maintenance of the internal roads if the owner's association does not maintain them. As part of the conditional use approval, the City will require My Properties to not object to the creation of this SSA, and to repair the roads on its property within one year of approval of the conditional use if an owner's association is not established. If an owner's association is established, the City would seek maintenance by the association.

With all conditional uses, the Commission must make findings of fact. These findings are itemized in the staff report to the Commission, and the Commission may refer to them when taking action on the conditional use.

For design review, staff notes that the proposed use of quality building materials and added landscaping would have a positive aesthetic impact. Roof-top equipment would be adequately screened. The solid fence enclosure will screen refuse storage and damaged vehicles awaiting

repair. Staff supports approval of design review, with the condition of City Council approval of the Land Use and Zoning Map amendments, and the planned development overlay and conditional use. With all design reviews, the Commission must make findings for approval. Based on the building design and added landscaping, and the need for City Council approvals, the Commission may arrive at the required Findings as itemized in the staff report to the Commission.

Staff recommends the Commission conduct the public hearing and meeting. After the hearing is closed, staff recommends the following:

For amendments to the Comprehensive Plan Land Use Map, staff recommends the Commission recommend City Council approval of the amendments to the Land Use Map for the properties located at 2080 and 2150 Main Street to reclassify both properties to Service Business.

For amendments to the Zoning Map, staff recommends the following:

1. Approve findings regarding notifications, hearing completion, and Comprehensive Plan conformance as outlined in the *Staff Analysis*.
2. Note arrival at findings for review conditions/factors for the proposed Zoning Map amendments as outlined in the *staff analysis*.
3. Recommend approval of amendments to the Zoning Map for the properties located at 2080 and 2150 Main Street to reclassify both properties to the SB Service Business zoning district.

For the Planned Development Overlay Zoning Map, staff recommends the Commission recommend City Council approval of the Planned Development Overlay for an auto body shop to include modifications to the Zoning Code as follows:

1. Modifications to Table 2.604 to allow:
  - a. The existing west building setback of 0 feet where 10 feet is required;
  - b. The existing front landscape setback of 0 feet in the vicinity of the Main Street entrances where 25 feet is required;
  - c. The existing side landscape setbacks of less than 10 feet where 10 feet is required; and
  - d. Omission of the required raised walkway or planting bed between the east wall of the building and the adjacent parking spaces;
2. Modification to Section and Table 4.205.B to allow existing parking spaces and aisles to be less than the required dimensions, and to allow the proposed east parking spaces to have an aisle width of approximately 21 feet where 25 feet is required;
3. Modification to Section 4.211.B.1 to omit parking lot landscape islands and shade trees for every 10 spaces for areas of existing parking;
4. Modification to Section 4.211.B.2 to allow a narrower lot landscape island without a tree at the north end of the parking spaces along the east wall of the building and to omit the landscaped island at the south end;
5. Modification to Section 4.211.B.3 to allow existing concrete parking lot light pole bases of approximately 4 feet in height where a height of 18 inches is the maximum.

In addition to the modifications, the Planned Development Overlay should include the following conditions:

1. All vehicle repair work take place inside the building with all doors closed;
2. All vehicles awaiting repair or completion of repair be stored inside the building or within the proposed solid fence enclosure with gates closed;
3. Opening in or damage to the fence or gate must be repaired within 48 hours;
4. My Properties shall record an easement of access on the now Aldi property to the benefit of the property located at 2150 Main Street;
5. My Properties shall not object to the City's formation of a special service area for the maintenance of Windmill Creek common facilities; and
6. My Properties shall repair the Windmill Creek internal roads on its property within one year of approval of the planned development if an owner's association is not formed.

For the Conditional Use Permit, staff recommends the Commission recommend City Council approval of a Conditional Use Permit for Heavy Vehicle Services (auto body shop) at 2080 Main Street, subject to the same conditions for the planned development overlay plus a seventh condition stating that violation of the terms of the conditional use may cause the City to initiate revocation as specified in the Zoning Code.

For Design Review, staff recommends Staff recommends the Commission approve the Design Review for the building addition and site improvements for Crash Champions, 2080 Main Street, subject to City Council approval of the following:

1. Amendment to the Land Use Map to Service Business for the property;
2. Amendment to the Zoning Map to SB Service Business District for the property;
3. Planned Development Overlay for the property to include the proposed building addition and site improvements; and
4. Conditional Use Permit.

Matt Ebert, owner of Crash Champions, addressed the Commission. He stated that this would be his 6<sup>th</sup> location. He would like a customer friendly facility for collision repair and this location works well. All the surrounding uses are automotive related. His business would generate retail sales tax. He showed the Commission a rendering of the proposed building. There would be no tow truck operations from the building. 20% or less of the work that they do are is un-drivable vehicles. The normal business hours are 8-5 Monday through Friday and 8-12 on Saturdays. Their clientele would include passenger cars and SUVs.

The Commission discussed the condition of having the doors closed. Schneider commented that having the doors closed would not be very beneficial to the employees. The closing of the doors would increase energy and expense and asked for the doors to remain open when possible. If there are any issues regarding noise pollution they could be addressed at that time. There are noise ordinances in place and there would be an opportunity to take action.

Gabriel Garcia, Ideal Design Architects, addressed the Commission. He agreed that having the closed doors would not be beneficial to the employees. He shared photos of the existing building, a proposed rendering, and sign specifications to the Commission. The Landscape Plan and Lighting Plan was discussed and a photometric study was performed. Garcia discussed the

details of the additions and improvements to the buildings. There would be an increase in pervious land and a decrease of impervious land. They would be restriping and fixing the potholes. They hope to talk to the other landowners in that area and form an association to fix the area. Kasson stated that they plan on working on the parking lot after construction. Kasson stated that this use is appropriate for this location and all retail has closed in the area. The site has similar uses and would generate some sales tax. It would stabilize if not increase the property tax for this area.

**Motion:** To close the Public Hearing  
**Maker:** Joseph  
**Second:** Gosselin  
**Voice Vote:** 6 Ayes, 0 Nays, 0 Absent  
All in favor. Motion carried.

LaLonde suggested removing the condition to have the doors closed and if there are complaints from the neighbors there would be an opportunity to take some action. Schneider stated that this kind of shop does not generate the type of noise as the surrounding uses. Peterson asked about Holy Cross Church and School. LaLonde and Gosselin stated that the doors are not facing Holy Cross School and the noise would really be directed to the south. LaLonde concluded if there is a problem we could make the business close the doors.

Schneider stated that he would rather see 72 hours rather than 48 hours for the fence repair. He feels that the 48 hours is not a reasonable request. The Commission concurred.

**Motion:** To recommend City Council approval of the amendments to the Land Use Map for the properties located at 2080 and 2150 Main Street to reclassify both properties to Service Business.  
**Maker:** Joseph  
**Second:** Gosselin  
**Roll Call Vote:** **Aye:** Gosselin, Harms, Joseph, LaLonde, Peterson, Schneider  
**Nay:**  
6-0 Vote, 0 Absent. Motion carried.

**Motion:** To approve the findings regarding notifications, hearing completion, and Comprehensive Plan conformance as outlined in the Staff Analysis of the staff memorandum to the Plan Commission  
**Maker:** Peterson  
**Second:** Joseph  
**Roll Call Vote:** **Aye:** Gosselin, Harms, Joseph, LaLonde, Peterson, Schneider  
**Nay:**  
6-0 Vote, 0 Absent. Motion carried.

**Motion:** To note that the Commission was able to arrive at positive findings for the seven Review Conditions (LaSalle Factors) during the hearing that is required by code  
**Maker:** Harms  
**Second:** Schneider

**Roll Call Vote:**       **Aye:** Gosselin, Harms, Joseph, LaLonde, Peterson, Schneider  
                              **Nay:**  
                              6-0 Vote, 0 Absent. Motion carried.

**Motion:**            To recommend approval of amendments to the Zoning Map for the properties located at 2080 and 2150 Main Street to reclassify both properties to the SB Service Business zoning district

**Maker:**             Peterson

**Second:**            Schneider

**Roll Call Vote:**       **Aye:** Gosselin, Harms, Joseph, LaLonde, Peterson, Schneider  
                              **Nay:**  
                              6-0 Vote, 0 Absent. Motion carried.

**Motion:**            To recommend City Council approval of the Planned Development Overlay for an auto body shop to include modifications to the Zoning Code items 1-5 in the staff memorandum to the Commission and staff's recommended conditions in the memorandum with modification to item 1, removing all doors and windows closed, and item 3, changing 48 hours to 72 hours

**Maker:**             Joseph

**Second:**            Gosselin

**Roll Call Vote:**       **Aye:** Gosselin, Harms, Joseph, LaLonde, Peterson, Schneider  
                              **Nay:**  
                              6-0 Vote, 0 Absent. Motion carried.

**Motion:**            To approve the findings of fact in the affirmative for the conditional use permit

**Maker:**             Peterson

**Second:**            Schneider

**Roll Call Vote:**       **Aye:** Gosselin, Harms, Joseph, LaLonde, Peterson, Schneider  
                              **Nay:**  
                              6-0 Vote, 0 Absent. Motion carried.

**Motion:**            To recommend City Council approval of a conditional use permit for Heavy Vehicle Services (auto body shop) at 2080 Main Street, subject to the same conditions recommended for the planned development overlay as previously modified with the inclusion of item number seven as listed in the memorandum

**Maker:**             Schneider

**Second:**            Gosselin

**Roll Call Vote:**       **Aye:** Gosselin, Harms, Joseph, LaLonde, Peterson, Schneider  
                              **Nay:**  
                              6-0 Vote, 0 Absent. Motion carried.

**Motion:**            To approve the design review for the building addition and site improvements for Crash Champions, 2080 Main Street, subject to City Council approval of the following:

1. Amendment to the Land Use Map to Service Business for the property;
2. Amendment to the Zoning Map to SB Service Business District for the property;

3. Planned Development Overlay for the property to include the proposed building addition and site improvements and Conditional Use Permit.

**Maker:** Joseph

**Second:** Schneider

**Roll Call Vote:** **Aye:** Gosselin, Harms, Joseph, LaLonde, Peterson, Schneider

**Nay:**

6-0 Vote, 0 Absent. Motion carried.

Strassman announced that this would go to the Committee of the Whole on November 1, 2016.

## **7. Other Business**

Strassman reported that City Council gave final approval of the Windmill Manor Apartments on Hawks Drive. The building entrance was revised.

Strassman announced on November 16<sup>th</sup> there would be a public hearing for planned development to modifications to the zoning code for improvements to the City's wastewater treatment facility. The City is proposing a new building and will be making improvements to other parts of the property.

Peterson asked if the retaining wall for the Shell station would require a lot of fill to meet grade. Albertson answered that they would need some fill.

Schneider asked about the Golden Corral. There were no updates.

Rackow stated that the initial land use review has been completed on the Landmeier property. The applicant (K. Hovanian Homes) went to City Council (Committee of the Whole) for initial review and the Council was generally in favor of it. There are details that need to be worked out with the bridge. This may be coming to the PC in the future. The project is single family, smaller lots, and duplexes instead of townhomes.

Rackow announced that staff received an application from Mike Spillane for the old Blaine Street School. The Commission discussed the work that Spillane has done in the City and commended him for the quality of his work.

## **8. Adjournment**

There being no other business to discuss, Chair LaLonde asked for a motion to adjourn the Plan Commission. Gosselin moved to adjourn the meeting, Harms seconded. The meeting was adjourned at 8:37pm.

Minutes respectfully submitted by Jennifer Austin-Smith