

**CITY OF LIVONIA
PUBLIC HEARING**

Minutes of Meeting Held on Wednesday, July 19, 2023

A Public Hearing of the Council of the City of Livonia was held at the Livonia City Hall Auditorium on **July 19, 2023**.

MEMBERS PRESENT: Jim Jolly, President
Laura Toy, Vice President
Kathleen McIntyre
Scott Morgan

MEMBERS ABSENT: Scott Bahr
Rob Donovic
Brandon McCullough

OTHERS PRESENT: Paul Bernier, City Attorney
Mark Taormina, Planning and Economic Development Director
Sara Kasprowicz, Recording Secretary

The Public Hearing was called to order at 7:00 p.m. with Council President Jim Jolly presiding. This item is regarding an **appeal of the denial of the Planning Commission** regarding Petition 2000-12-02-38 submitted by Craig Girard, on behalf of Hunters Grove Condominium Association, requesting to amend Council Resolution #785-01 and the approved site plan to replace existing landscaping with a vinyl privacy fence, located on the east side of Newburgh Road between Five Mile Road and Ladywood Road in the Southwest ¼ of Section 17.

This item will be moved to the Regular Meeting of **August 9, 2023**.

The Public Hearing is now open. There were 23 persons in the audience.

Jolly: Good evening. Okay, so there are two public hearings that are on the agenda. The second of those has been requested at the notice of the Petitioner to be removed from the agenda. That's regarding the properties at 19380 and 19384 Newburgh Road. That's item number two. We will remove that from the agenda at the request of the petitioner. Item number one is the appeal of the denial of the petition regarding petition. 2000-12-02-38 submitted by Craig Gerard on behalf of Hunters Grove Condominium Association, requesting to amend Council Resolution CR 75-01. The approved site plan to replace the existing landscaping with a vital privacy fence located on the east side of Newburgh Road between Five Mile Road and Ladywood, in the southeast, southwest quarter of Section 17. So, that being a Public Hearing, the main goal of a Public Hearing is for the Council, or the members of the Council, we don't need a full board for this, obviously, for us to hear from the public in regards to why they think we should or should not support this particular petition. I'm

going to start off tonight by going to Mr. Taormina, he's our Economic Development Planning Director. He will give us a recitation of what's going on. If there's a petitioner here after that, the petitioner is free to speak to present their perspective. And then anybody else who would like to speak is welcome to as well. I would just ask, for the sake of everybody here, we are listening, so, we don't have to be repetitive in our comments. Okay? Just to be respectful of everybody's time, and so we can attempt to focus on anything new that is being said. With that Mr. Taormina, the floor is yours,

Taormina: I think, and I apologize because the TV is not working or at least the input from my computer is not finding its way to the TV. So, I'll just describe this request. It is to amend and approve the site plan and landscape plan for Hunters Grove Condominiums. I think everyone knows where Hunters Grove, it's on Newburgh Road, just north of Five Mile Road. The development was approved in 2001. It has 36 attached cluster condominiums. It was approved as a planned residential development, mainly because of the parcel's narrow depth which is about 200 feet from Newburgh Road back. And as a result, the distance between the right-of-way on Newburgh Road and the rear of the adjacent condominiums is only 30 feet. Within this area the approved plan and showed a four-foot height planted berm with various trees and shrubs, it still has various trees and shrubs located on it. The plan shows eleven sugar maples evenly spaced along the right-of-way of Newburgh Road. However, those maples were later replaced with Bradford pear trees. The proposal, with many of the existing plants beginning to die and thin out, the condominium association is requesting to remove the original planted material, flatten the top of the berm and then install a six-foot-high vinyl privacy fence. The fence would be installed on top of the flattened berm, which would go from about three or four feet to one and a half feet in height. And then the fence would run the full length of the property, which is nearly 800 feet from the right-of-way, the fence would be set back about five and a half feet from the from the edge of the property line and that's six and a half feet from the sidewalk along Newburgh Road. The fence would stop short of the two driveways that provide ingress and egress to the condominiums. This would allow for proper sight distance for both motorists and pedestrians on the sidewalk. There is new landscaping proposed that would be placed in front of this new fence, right along with the remaining part of the berm between the sidewalk and the berm, again, it's only about five and a half feet. In that area, they would plant a variety of shrubs, ornamental grasses and flowers. Planning Commission held a public hearing on this item. It did deny it and it's the reason for the appeal of why this item is here before you. So, with that, Mr. Chairman, I'll be happy to answer any questions that you may have.

Jolly: So, I'll kick us off in regards to questions. So, two things come to mind initially. One, the fence being on top of the berm. Do we have anything

like that elsewhere in the city? And do we have an expanse of 800 feet being fenced somewhere like this in the city?

Taormina: You know, the 800 feet might be unique. The placement of the fence on top of the berm it's probably not out of the ordinary. There's obviously plenty of vinyl fences that run along our major roadways, where residential, mostly single family, abuts those major roadways. In some areas, there might be shallow berms again, this is about one and a half feet in height. So, it's not going to stand up to high, it'll be somewhat noticeable, but that'll allow that room for those plantings. The 800 feet, I can't think of anything offhand. A single continuous, while again, this will be broken up in a couple pieces because of the driveways. But that might be unique for the city.

Jolly: Okay. For the record. I'm the Council President Jim Jolly. I'm joined by the Council Vice President Laura Toy and Councilman Scott Morgan, here. Our other colleagues were not able to be here tonight. So, with that, Ms. Toy, do you have any questions?

Toy: Yes, just a couple of to Mr. Taormina, and if I may, was it a unanimous denial? Or do you recall?

Taormina: I don't recall. I don't believe it was unanimous.

Toy: And if I'm clear, you mentioned the berm it's going to be flattened and the fence will be put up with landscaping?

Taormina: Yeah, so that berm, and it's in your packet. Again, I apologize for not being able to show this right now, the berm has probably about as high as this table, and that's going to be lowered. Right now, it basically angles up and then dropped straight down, that's going to be flattened to about a foot, foot and a half in height. And then on top of that is where the fence would go.

Toy: Would you suggest or know if the vegetation was maybe aging and maybe struggling a little bit because of the uniqueness of where that location is in regards to the street?

Taormina: You know, it's probably a combination of factors. Okay, so, it's located on a major road. So, it is subject to a lot of, severe wind as well as salt wash and, and those types of things. The plantings, you know, they were spaced very close together, that may have had an impact on their ability to survive. The soils may have been a factor. So, there was a number of things. It looked well, I mean, it looked great for 10 or 15 years, but then it started to deteriorate after that.

Toy: Thank you. Thank you, Mr. Chair, that's all I had.

Jolly: Mr. Morgan.

- Morgan: Yeah, I have a couple questions. First of all, in the ordinance, what was the reason, the specific reason for denial? Could you maybe elaborate on that? Was it the length of the fence the height of the fence because of it sitting on a berm or are those fences are just not allowed in that area?
- Taormina: I apologize. I did not go refresh my memory on the discussion prior to tonight's meeting. But as I recall, if some of the Commissioners were concerned that it was it was the length of the fence. And it's how close it was to the to the road right-of-way. And the visual intrusion, if you will, that it would represent, that's about what I remember. How much they articulated those concerns and if those are shown in the minutes, and I can't remember.
- Morgan: Can you maybe elaborate? Do you have any idea why this was or what the violation is?
- Bernier: It wouldn't be a violation necessarily of our ordinances on the fence. However, it was, they had to come through the Planning Commission because of the prior site plan. So, the site plan didn't allow for it and so, if they want to change the site plan, they have to come back to Council. There are provisions that allow for a six-foot privacy fence. And quite frankly, I didn't look into it. I don't know if...it probably would be allowed if all other conditions were met, but I can't give you an answer to that.
- Jolly: Mr. Taormina, if they were gonna go through the process of cutting down the height of the berm, why leave the berm at all? I don't know, did that come up at all or?
- Taormina: I believe that, and I'm gonna let the landscaper address this issue, there is a retaining system along the side of the berm that faces the residences. And I believe that may have some impact on why or some maybe part of the reason if they removed that retaining system that might cause some drainage issues. I'm not sure I'll let them answer it. I think too, you know, they do get an extra foot out of it, which is for screening I think would be helpful, because they do have some raised decks directly behind that area. So, it gives them a little bit of additional privacy, an additional foot or so.
- Jolly: Thank you, sir. Petitioner, the floor is yours. If we can, let's try to limit your presentation to five to ten minutes if we can and we can get to anybody else.
- Watkins: My name is John Watkins. Craig Gerard is our manager, he was the Petitioner, he did that on our behalf. He unfortunately couldn't be here for to answer any questions. I took pictures to explain this. Up and down in

Newburgh Road. As late as last year, white fence was put in within two blocks. I gave pictures, I've turned them in.

Jolly: I don't think we have them we'll try to review them.

Watkins: In short. Within two blocks with our condo, there's privacy fences all over. Okay. And why we're doing this is, we're 36 units and quite a few of the folks showed up tonight. The reason we want the privacy fence is, we're trying to cut down on our expenses, okay. To try to maintain those trees is really expensive, and like I said, we're only 36 of us. So, they've been in there awhile. What's happening, I can answer you on the berm. What's happening on the berm already is, I go walking at 530 in the morning. So, I noticed this morning that there's mud on the sidewalk out there and it's coming down because of the rain is coming down onto the sidewalk. So, it would probably be better, and we've got somebody here to answer that.

Jolly: Do you have a position with the association?

Watkins: Yeah, I'm the President.

Jolly: Okay. Thank you.

Soerens: My name is Glenn Soerens, the Civil Engineer for the site plan. Okay. So, to answer the question about the berm, currently, it's about three feet high, it's proposed to be cut down to about one and a half feet. A lot of that settlement will come once the trees get cut down and the roots get taken out. But the reason to have the berm there is to raise the fence a little bit to keep the sight distance of the people in the backyard sitting on their decks not being able to see over the top of the berm and see the traffic and also the traffic not being able to look and see the residents in their backyard. As Craig mentioned, those trees are evergreens have been there for 20 years that are dying, and there's no privacy anymore. They're just dead on the inside. And they're apparently getting killed on the maintenance of the irrigation and trying to keep these trees alive and the trees are falling. And actually, in some of the spring storms, they fell over on the houses. So, they're trying to get something that's less maintenance, less cost and a lot easier maintenance. So, I know you have questions about the Planning Commission. I wasn't at it, but I know the vote was two in favor and four against, so it was not unanimous. And just reading from some of the minutes I think they had, there was a lot of mention about the fence being white. And there is a note on the plans, it says to be tan or almond in color. Also, since the TVs aren't working, you don't have the updated rendering that I could pass around if you haven't seen it. It was supposed to be tan or almond in color. And these documents that I found in the beginning are just trying to keep costs down. Yeah, it's gonna be a tan or almond, so, it's not going to be as stark as the pictures that were

shown on the front of the site plan, it's not going to be as stark as I looked at the site plans.

Jolly: While my colleagues look at them, so, I run, I live about a mile from where you're at right up Newburgh and I run in front of this berm quite often. And I noticed that the trees are getting very unwieldy. That's the best way to put it. It's very noticeable.

Watkins: There was some concern, Mr. Jolly, with a color back at the other meeting, the gentleman looked at me and asked if this is going to be white. No, because my better half told me no, it's not going to be white. So, the other thing is the trees, the pear trees that are in front, that kind of softens it too, along the road. That softens it down too, and what we've done also, just to let you know, on the inside, we've had mulch and it costs so much every year to replace it. So, what we've done is, we hired a company to come in and put stone and that's helping us with our budget. So, everything that was around this, we were trying to get it where it really looked like, and we want it to be nice. And when they said it wasn't up in the area, they just put one in last year and it's all along, if you run along there, that white one, there was one gentleman had 10 years ago, and then this, his neighbor added on here. So, it's a big, long run. It's almost the block long. I can't remember the street there, I'm sorry. But if you run around and you'll see it there, they're all over. The fences are all over Newburgh within two blocks, we have probably four fences.

Jolly: Right. So, is there anything else from the Petitioner?

Watkins: Nothing unless you have a question for me.

Jolly: Nothing at this point. Well, before we go to the audience, we're being joined by our colleague, Ms. McIntyre. Sometimes these meetings come up, and we don't know. So, we plan accordingly. Ms. Toy.

Toy: Mr. Chair, I kind of have the crux of it, I don't job, no offense to our President because God bless him for doing it, my jogging days are over. But I am familiar with the area. I knew people that lived in there, I, you know, I just a whole host of things. I have absolutely no problem offering a approving on this at this point, I really don't. I think, for what has been said by both our City Planner and others, yourselves, it makes perfect sense what you're trying to do. I can empathize with you in regards to the condo, I used to live in a condo, my business partner lives in a condo, I know the hassles you go through, and the expenses you go through are outrageous. And if you have to hire a management company, it's even more, it adds more cost to the homeowner. So, we want to keep you in Livonia to keep you happy and your group doesn't look like you're going to trash the place. So, I'm going to offer an approving, Mr. President, I think these people have given us a very good story and good cause.

- Jolly: Okay. So, I have similar opinions as Ms. Toy. The only thing I would say that is important to me is that there is a long length of fence there. So, it's very important that the sharp shrugs in the plans, break that up and soften that. So, I don't think any of us want to be looking at the stark color for any 800-foot length of area. So, I think so long as the landscaping is reflected the way the gentleman showed me, I would be okay with it as well. And I know my colleague, Mr. Morgan wants to speak as well.
- Morgan: Yeah, I just I had a question for you. Just out of curiosity, I should remember is kind of complex, but you may not know, have you done a cost analysis as far as what the fence costs, versus replacing the trees and things like that?
- Watkins: A lot of the trees, from what I'm told, Mr. Gerard, he by the way, Craig lives at our place, so we do it, and you know, he does it for a heck of a lot less money than if we had to hire, at least twice a consultant or manager. He we haven't done that yet. We are going to do that. All we needed was permission from you. We didn't want to go ahead and start checking this out. It's a good question because Craig is in Florida right now and he told me, he said we should get together and try it out, maybe we can put some other type of foliage that would give privacy. The fence seemed to be an idea for the folks that live there, there are quite a few older folks, myself included, and we just feel a little more safe with that along there. The problem with the weather, sir, is we get the winds come along there, and it actually blows them over. They wanted us to put arborvitaes in there, this last storm we had most of our arborvitaes were laying down on the ground. So, we thought about that, now, that won't work. So, but we are going to do it, if you give us the permission, we don't know if we're going to actually put the fence up or put more foliage in there. We just don't know we're going to do a cash cost analysis on it.
- Morgan: Okay. The reason I'm asking is because you know, those fences are very, very expensive, 800 feet of that is, that's going to be an enormous cost. And then to maintain those type of fences because they have to be cleaned pretty much yearly, or they will start to fade and get mud and everything else on. So, I'm just throwing that out there. Because you know, I mean, everyone here that you live there, so if you want it I'm okay with that. As long as it looks good.
- Jolly: Yeah, I think so far, you're being shown that you have the support of three of us up here. If I can be a little non-conventional in regards to, is there anybody here who would like to speak against this fence? If you wouldn't mind come up to the podium here, because I presume everybody else is in favor of the fence. Good evening, ma'am. Please tell me your name and address and you'll have three minutes to voice your concerns.

Hicks: Thank you. My name is Vicki Hicks. I live at 37578 South Sherwood Court directly across from this facility. I've lived there for 44 years, and I've been there longer than this facility has existed. I also have a Michigan builder's license 210194935 and I am a certified nursery woman with the Michigan Nursery and Landscape Association. I am very much against this because, as it's been said, there is not a facility that has this much privacy fence being put up anywhere in the city. In addition to which, I traveled from Plymouth Road to Eight Mile Road along Newburgh, there are approximately 12 fences down in Newburgh in that mileage. And if you put all of those together, they would not equal as much fencing is proposed for this facility.

Jolly: If you don't mind, please keep your comments. Be respectful.

Hicks: Thank you. Putting this much fence up whether it is white, or whether it is almond or tan, it's still going to look like an industrial complex from our side of the world. I understand that trees do grow and they do die. They've died on my property as everybody else's has my arborvitae fell over as well. Fortunately, I stood mine up and they're still alive. But I don't want to live where it looks like I live next to an industrial complex with so much fencing up. In addition to being spoken about the fact that the berm would be lowered to one and a half feet. And then you're going to put a six-foot privacy fence on top of it, which must be six inches above the ground level, which now means that the fence is eight feet tall, which is not allowed for anybody else in the city of Livonia. So why should this one be able to have an eight-foot-tall fence?

Jolly: Is it all you would like to say ma'am?

Hicks: Yes. Thank you.

Jolly: Thank you very much. Is there anybody else here in opposition to this petition? Is there anybody here in favor of it who would like to add anything to the gentleman's comments, the Petitioners? If you'd like to comment, please come up to the podium. Please start by identifying yourself with your name and your address.

H. Watkins: Helen Watkins. You said you wanted my address?

Jolly: I have to ask for it if you want to give it.

H. Watkins: 15707 Hunter Grove. Our condo, my husband and my condo, are facing Newburgh. We paid a lot of money for that condo. That condo has gone up in value quite a bit. But I think anybody coming to buy a condo along the road would not buy it. You cannot sit on the deck. People are walking by peering at you. Traffic is unbearable with the noise. And I felt that if we had a fence that would kind of soften the sound from the traffic and it would

give me privacy, right that sit there and have a meal. I can't do anything. Now the only thing I can do is let my dog out on my deck.

Jolly: Is that the dog that keeps barking at me?

H. Watkins: That's all I have to say.

Jolly: Thank you ma'am. Anybody else that would like to address this matter. Okay, if there's nobody else from the public wishing to address it, I'm going to close public comments. Okay, public comment is now closed on item 1 of the public hearing. Is there anything else from the Council? I see nothing. Okay, so you do have an approving motion that's been offered by Ms. Toy in regards to this. Because you are asking to fundamentally change the site plan that was approved back in the early 2000s, I'm going to ask you to do a little bit of homework. You don't yet have a cost for the fence. And I think Mr. Morgan is correct, you may find that that is extremely expensive, and it may be something once you determine the cost, that you do not wish to do. Okay. This will be put on a City Council Regular agenda as an item for us to speak about again briefly and then we will vote on it, our other colleagues will be there at that time as well. When that's on the agenda, I want you to come prepared and tell us, we have looked into the cost, we wish to proceed, or we do not wish to proceed. Because I don't want to change a site plan and say you can have a fence. Because if you do that and you don't put the fence there, then you'll be in violation the other way. Does that make sense? Okay, so I appreciate you all being here today. I appreciate your comments as well as the other colleagues who will be here. If you'd like to come that night as well. You're more than welcome to address it that night as well. Okay. If there's nothing else from the Council, August 9, this will be on the Regular agenda for the City Council. Okay, So, you got about three weeks to get that price. I thank you all very much. Good night. The Public Hearing is adjourned.

As there were no further questions or comments, the Public Hearing was declared closed at 7:28 p.m.