

**WRITTEN SUMMARY
PLANNING COMMISSION
MEETING MINUTES
Monday, October 17, 2016
1:30 p.m.**

The meeting was called to order at 1:30 by Mr. McAllister.

Roll Call:

Members Present:

Mr. Dave Belew, Mr. Dale McAllister, Mayor Pat Moeller, Mr. Mike Samoviski and Mr. Joshua Smith.

Members Absent:

Mr. Tom Alf and Ms. Teri Horsley.

City Staff Present:

Mr. Eugene (Bud) Scharf, Mr. John Creech, Mrs. Heather Hodges, Ms. Kim Kirsch, Mrs. Meredith Snyder, Mr. Ed Wilson, and Ms. Kathy Dudley (Assistant Law Director).

Swearing in of Those Providing Testimony to the Commission:

Ms. Dudley swore in the audience members wishing to speak.

Approval of Meeting Minutes- Written summary and audio recording for the following dates:

1. **October 3, 2016** - Motion to approve by Mr. Samoviski, 2nd by Mr. Belew. With all "ayes" to roll call vote, the motion was approved.

Old Business:

Agenda Item #1- Public Hearing

Staff: John Creech

Tabled Item from October 3, 2016

Request for a Conditional Use to allow the establishment of an Automobile Service and Minor Repair Facility (i.e. self service fuel dispensing) on property zoned B-2 Community Business District located at 302 East Avenue (City Lot No. 32098) (Thomas Dunn/Trenton Veer Inc., Applicant/Owner).

Mr. McAllister made a Motion to take the Motion off of the table. With a 2nd by Mr. Smith and all "ayes", the Motion was removed from the table and the Public Hearing progressed.

Mr. Creech gave a summary of the case before the Board. He then gave details of the site visit and meeting that Staff had on October 10, 2016, with Mr. Tom Dunn, the owners

of the property, several members of the Board, and residents of the surrounding neighborhood. The hours of operation, fencing, landscaping, and security of the property were discussed and agreed on between the residents, the owners, and the architect doing the work, and Mr. Creech gave the specifics of those to the Board.

Mr. Creech then showed the revised site plan, verified the lighting plan, and showed the new plans for the fencing.

Mr. Creech stated that if the Planning Commission approves the request for a Conditional Use, the Department of Community Development requests that the Planning Commission recommends that City Council approve the request for a Conditional Use subject to the following conditions of approval:

1. Construction drawings/documents for the proposed improvements and work shall be revised subject to any future review requirements of the City of Hamilton Inter-Departmental Review.
2. Proposed building will be single story masonry material veneer as shown on plans and supporting material submitted by the applicant.
3. Minimum of six (6') feet of proposed fuel canopy island supports be covered/wrapped in masonry material to closely match final building color.
4. Proposed dumpster/refuse area enclosure be covered/wrapped in masonry material to closely match final building color.
5. Proposed fencing along east property line, approximately 120 feet in length, to be four (4') high chain link.
6. No exterior storage/sales of merchandise or material other an ice and/or propane sales to be indicated on final construction plans.
7. Landscaping shall be provided as follows: All proposed landscaping item sizes to conform to the minimum size requirements found in Section 1111.10 of the Hamilton Zoning Ordinance. (Deciduous trees minimum of 2 ½ inches caliper, evergreen trees minimum of six (6') feet in height, shrubs/bushes minimum of 12 inches). Final landscaping selection to be coordinated with Municipal Arborist. Landscaping located along east property line will be kept low by planting bushes and shrubs instead of trees.
8. All future signage (permanent or temporary) will comply with Section 1138.00 Hamilton Sign Ordinance.
9. Mechanical equipment in support of the building to be screened from the public right of way by landscaping/privacy fencing.
10. Add a pedestrian connection from front of building to the East Avenue or Ludlow Avenue sidewalk.
11. No automobile repair, sales or storage is permitted on the property, only dispensing of fuel and fluids for operable motor vehicles.
12. Hours of operation will be:
 - Monday – Thursday 6AM to 11PM
 - Friday 6AM to 12AM (midnight)
 - Saturday 7AM to 12AM (midnight)
 - Sunday 8AM to 10PM

13. All improvements and work indicated on construction drawings/documents approved as part of the Conditional Use be installed and maintained in good repair and replaced as necessary to remain in compliance with the approved Conditional Use - (includes building and exterior finishes, canopies, dumpster enclosure, landscaping, pavement surfaces, fencing, and striping).

Mr. Smith asked if the additional elevations asked for previously are included in the presentations being done for the Board, and Mr. Dunn indicated that he had not provided those previously, but they were on the drawings that he brought with him for the Board to review.

Mr. Smith asked Mr. Creech some questions about the elevation drawings, and Mr. Creech answered those. Mr. McAllister and Mr. Smith then asked Mr. Dunn several questions about the plans, and he answered those.

Mr. Smith then gave specifics of what he will be asking for with regard to any Motion that may be made with regard to the materials on the building, the dumpster enclosure, and supports for the canopy.

Mr. McAllister then asked Mr. Creech to give a brief synopsis of the on-site meeting, and Mr. Creech did so, saying that he had repeated the specific issues agreed on to the residents at the on-site meeting in order to ensure that there were no misunderstandings.

Mayor Moeller then spoke about the meeting to Mr. Dunn and expressed his appreciation to him for meeting Staff and the Board on site, and said that he hopes that the owners will stay sensitive to the neighborhood's needs.

Mr. Scharf verified with Mr. Creech that all residents in attendance at the site visit were notified in writing of the agreed issues and the current meeting being held.

Mr. Smith then added a request that he would like a condition be added that the chain link fence be coated in black vinyl. Mr. Scharf asked Mr. Creech if there was a concern expressed about being able to see through the fence, and Mr. Creech said that the residents did want to be able to see through it.

Mr. McAllister and Ms. Dudley had a brief conversation about the items that Mr. Smith had requested and the procedure for adding them.

Mr. McAllister asked if there was anyone in the audience wishing to speak on behalf of the item.

First was Mr. Thomas Dunn. He gave his opinion of the meeting, and said that Mr. Creech's summary addressed all issues that were covered at the October 10 meeting. Mr. McAllister questioned whether the proposed "Hours of Operation" that were listed were for the entire business operation or just the gas pumps, and Mr. Creech verified that they were for the entire operation.

Mayor Moeller then spoke to the audience members that were at the site meeting. He thanked them for coming out and for working hard to get their property looking good as well.

Mr. Ed Walker, 334 East Avenue, spoke. He asked how high the proposed chain link fence was going to be, and it was answered that it will be 4' high.

There was then a Motion and 2nd to close the Public Hearing. With all "ayes", the Public Hearing was closed.

Mrs. Linda Walker, 334 East, expressed a desire to speak. There was a Motion and 2nd to reopen the Public Hearing. With all "ayes", the Public Hearing was re-opened.

Mrs. Walker said that they want the proposed business to make the neighborhood look better, but she is concerned about loitering, the hours, parking, security, and the Board addressed those items with her. As part of the discussion, Mr. Dunn advised that there are 15 parking spaces in addition to the spots by the pumps. Mr. Smith said that he believes the parking should be adequate, but added that she should contact the City if there are not enough.

Mr. Scharf explained the Conditional Use specifics to Ms. Walker and ensured her that Staff will be monitoring the property to make sure the guidelines are being followed. Ms. Walker asked if there was another meeting scheduled regarding the property, and Ms. Dudley told her that there was nothing further scheduled.

With no further discussion, Mr. Samoviski made a Motion to re-close the Public Hearing. With a 2nd by Mr. Smith and all "ayes", the Public Hearing was closed.

Mr. McAllister thanked the Staff for working with the residents, and also thanked Mr. Dunn for resolving the issues and coming up with a workable solution for all parties involved.

Mr. Smith asked if there has been a Condition Use permit that ties to law enforcement type of issues and Mr. Scharf answered him. Ms. Dudley added that once the Conditional Use is done, it cannot be changed, no matter what the issues may be that trigger police calls. There was a bit of conversation after that between the Board regarding the matter, and the final determination was that if there are issues other than what's provided for in the Conditional Use with regard to trespassing, etc, it would be between the owner and the Police Department.

Mr. McAllister verified with Mr. Creech that there is to be no Automotive Repair outside of the building.

Mr. Smith made a Motion to Approve the Conditional Use permit with the recommendations provided by the Planning Staff with following amendments:

Condition #2 to read “ Proposed building will be single story masonry of 3' red brick wainscoting and the remainder being stucco as currently shown on the submitted elevation plan.”

Condition #3 to read “Proposed fuel canopy island supports be covered/wrapped in red brick material to exactly match the wainscoting material on the building.”

Condition #4 to read “Proposed dumpster/refuse area enclosure be covered/wrapped in red brick to match the red brick on the building.”

Mr. Smith said he will defer to Planning Staff for where to place the black vinyl coating on any of the fencing that’s going to be installed, wherever they think the most appropriate place is for that.

He said that he believes that this is consistent with the last two service stations that have been installed, the one on High Street and also the one on Rt. 4.

With a 2nd by Mr. Samoviski and a roll call vote of all “ayes”, the Motion passes with a vote of 5-0 and the Conditional Use permit is approved.

New Business:

Agenda Item #2 - PublicHearing

Staff: John Creech

Request for a Conditional Use to allow the expansion of an existing Vehicle Impound Lot to operate on property zoned I-1 Limited Industrial District located at 259 South Edgewood Avenue (City Lot No. 5993) (Robert M. Day/Day’s Sunoco & Towing LLC

Mr. Creech gives the details of the Conditional Use permit request. He shows the Public Hearing map, with the areas in questioned being highlighted in red and yellow.

The property is zoned I-1 Limited Industrial District and is comprised of a single 35,153 square foot lot (0.807 Acres). Vehicular access to City Lot No. 5993 is provided by the same driveway for 859 Franklin Street.

He then shows a different map with the zoning for surrounding areas, and gives specifics of those.

Day’s Sunoco & Towing LLC was issued a notice of zoning violation on November 4, 2015, after the City received a complaint about vehicles being stored at 259 South Edgewood Avenue. These vehicles were visible from South Edgewood and Millville Avenue. On November 24, 2015, Mr. Day visited the City of Hamilton Community Development Department Office to discuss the zoning violation. Mr. Day was informed that the City had no record of a Conditional Use approval on the subject property for a Vehicle Impound Lot. His options were to cease using the property as a Vehicle Impound Lot or apply for a Conditional Use. Because Mr. Day did not cease using the property as a

Vehicle Impound Lot or submit an application for a conditional use before the extended deadline of December 28, 2015, the city now has pending legal action against Day's Sunoco & Towing LLC, which prompted the application for a Conditional Use.

Mr. Creech then shows pictures from Google images with vehicles parked in the front of the property on Edgewood Avenue.

The subject property is zoned I-1 Limited Industrial District. Vehicle Impound Lots are Conditional Uses in the I-1 zoning district. Vehicle Impound Lots require Conditional Use review by the Planning Commission and approval by City Council (Section 1155.00).

Mr. Creech then shows the map again with the zoning for surrounding areas and gives more details of those, including the U.S. Post Office branch on Franklin Street and the old Hamilton Beltway railroad right-of-way.

He shows the one-page written description of the property, survey, and photographs as provided by Mr. Day. Mr. Creech states that Mr. Day did not submit a site plan for the property (other than some written description). Based on that, Staff is assuming that Mr. Day has no plans for changing the property as it currently is.

In response to the nine Criteria to be considered by the Planning Commission, Mr. Day submitted a Conditional Use application along with a written document entitled "*Criteria in Support of Application*". *The last sentence of the document* indicates that the proposed conditional use meets the nine (9) conditional use standards above as follows: "*Lastly, Applicant suggest that the Application for Conditional Use as a vehicle impoundment lot meets the general standard for conditional use review criteria under 1155.30.C. (1) through and include (9).*"

A review of the nine Conditional Use Review Criteria found in Section 1155.30 (Exhibit C) provides the Planning Commission with the basic facts and circumstances of the proposed Conditional Use. After consideration of the Conditional Use Review Criteria and the information provided by the applicant there is sufficient reason in the findings below to consider **denial of the Conditional Use** based on Conditional Use Review Criteria – General Standards (#2, #3, #5, #7, and #9).

Mr. Creech then goes through each of the Criteria, and gives Staff information for each.

Notification

Public Hearing Notices were mailed to the owners of 172 properties within 500 feet of the property in question. One phone call of objection was received, and an email was received expressing vehicle parking concerns (provided to the Board prior to the meeting).

Mr. Creech then shows all supporting documentation to the Board, including photos which were taken by Staff after the Application was received, and aerial photos of the property from 2006 and 2015.

Mr. McAllister asks if there is anyone in the audience wishing to speak to the matter.

Mr. Robert Michael Day, 3051 Old Oxford Road, Hamilton, Ohio, spoke. He says that they have cleaned the property up significantly since they purchased it, put the gravel down, and put privacy fence up. He then spoke to the history of the property, the previous owner, and his use for the property. He says that he keeps cars parked on the lot in front of the impound lot that are overflow from his business (Sunoco) on Main Street, and to keep other cars from pulling in and loitering on the lot.

Mr. Day says that they have received no complaints from the neighbors. He continued, saying that the tires on the lot are picked up regularly from Rumpke, and the scrap metal is disposed of. He also said that they use the metal fencing because it is more secure and blocks the view of the cars.

He spoke of the constant traffic of semi trucks that there used to be with honking horns in and out of the post office. He said that his business has much less traffic, and tries to enter the business from Edgewood Avenue instead.

Mr. Day went on to say that he would like to try to resolve this issue with the City.

Mr. McAllister asked for questions from the Board.

Mr. Samoviski asked Mr. Day if there is a certain time frame that he keeps the cars on the lot. Mr. Day responded by saying that 80% of the time, the cars are picked up in 10 days. The exception to that is if it is a police tow, that might take longer (depending on the police department and the circumstances that it was towed).

Mr. Samoviski asked Mr. Day a few questions about daily business and what his normal access to the property is. Mr. Day answered his questions and gave a bit more information for his uses of the property.

Mr. Samoviski made a Motion to close the Public Hearing. With a 2nd by Mr. Smith and all "ayes", the Public Hearing is closed.

Mr. Smith asked Staff to go to Google Images to pull up the entrance on the Edgewood Street side. Mr. Smith then asked Mr. Day if what they were looking at on the screen was the area that he previously referred to where he parks overflow cars from his Sunoco station, and he said that it was. Mr. Day and Mr. Smith then had a brief conversation about some other cars on the lot.

Mr. McAllister then asked Mr. Day about the letter of opposition that Staff received about a blue Cadillac on the lot that has been there quite a while. Mr. Day says that the car belongs to Mr. Acton. He said that Mr. Acton either needs to pick the car up or he's going to have to put it back inside.

Mr. Day then spoke about a few of the cars that are on the lot that actually belong to the neighbors.

Mayor Moeller said that he's not in opposition to giving the matter a little bit of time to see if something can be worked out with the City.

Mr. Smith made a Motion to table the item and ask Staff to meet on site with the Board and talk through some options with the owner.

With a roll call vote of all "ayes", the Motion is tabled.

Mr. McAllister asked Ms. Dudley if tabling the Motion halts enforcement action against Mr. Day, and she responded that it does not.

Mr. McAllister asked Mr. Creech to set up a meeting for the Board and the owner to visit the site and take a look at the operation.

Mr. Samoviski said that based on the fact that the triangle is contiguous to an existing approved impound lot, it's totally isolated and screened away, it presents some unusual challenges for re-use. He continued, saying that Mr. Day is a person who has a viable business, provides a service, and has a difficult piece of property. He went on to say that he thinks that everyone can acknowledge the improvements that have been done by Mr. Day, and he thinks that the Board has to work with a local businessman to come to some reasonable solution. He concluded by saying that he disagrees with the commentary about the traffic, as there is no traffic anymore.

There was then a brief discussion on the best time for the meeting. It was decided that it will be at 8:30 a.m. on site, meet in the front parking lot on the Edgewood side, and all parties will be notified.

Verbal Reports:

Staff: John Creech

1. Architectural Design Review Board Meeting of October 4, 2016:
 - 228 Linden St – Painting - Tabled from previous meeting – Approved
 - 302 Main St – Painting - Approved
 - 407 N. Third St – Painting of Front Door (Purple Door) – Denied
2. Board of Zoning Appeals Meeting of October 6, 2016:
 - 140 Wasserman – Driveway Setback – Approved
3. Planning Commission cases in progress:
 - 735 S. Erie – Conditional Use for Auto Use - Denied – Effective 10/14/16
 - 140 Ross Ave – Conditional Use for Institutional Use – Approved – Effective 10/14/16
 - 759 Park Ave – Rezoning to R-2A – Public Hearing held 10/12/2016, Second Reading scheduled for 10/26/16

4. Upcoming Zoning Code Text Amendment R-4 Multi-Family Residence District:
- Amending the R-4 District by removing “Lodging and Boarding Houses” from the list of permitted land uses in the R-4 district and adding it to “Prohibited Uses”. That item will be on the November 4 meeting agenda.

Adjournment:

Mr. Samoviski made a Motion to adjourn. With a 2nd by Mayor Moeller and all “ayes”, the meeting was adjourned.

Respectfully submitted,

Ms. Kim Kirsch
Administrative Assistant



Mr. Eugene Scharf
Secretary



Mr. Dale McAllister
Chairman

PLANNING COMMISSION
City of Hamilton
Council Chambers

MEETING DATE: 10/17/16

MEETING TIME: 1:30 p.m.

Please sign in and provide requested information. Thank you for your participation.

Name	Agency	Address	Phone	Email
TOM DUNN	DUNN & TITUS ARCHITECTS	800 CAMP TON RD CINCINNATI 45221	513-582-7378	dunnandtitus@usa.net
Michael Day	Day's Townships	1275 MAIN ST, HAMMOTH	513-895-6907	mikeday@days-townships.com
Ed Shalke	Home Owner	334 EAST AVE	513 813 847	
Linda Walker	Home Owner	334 East Ave	" "	



John Creech <john.creech@hamilton-oh.gov>

Days Towing rezoning

Robert Batterson <bobbatterson@gmail.com>
To: john.creech@hamilton-oh.gov

Fri, Oct 14, 2016 at 1:19 PM

I am sending you this email in reference to the meeting for the possible rezoning of land owned by Days Towing on Edgewood and Franklin St. I have only one objection to this rezoning. I would have no problems with the rezoning as long as they will keep all of their towed vehicles behind their fenced area. I get to see several vehicles parked outside of their fenced area every time I leave my home. One vehicle, a blue Cadillac has been parked there for several months. Currently there are three other of their vehicles parked there also. Neighbors park there also but that doesn't bother me. As far as I can tell the area between the post office parking lot to the fence of the adjoining property is on city property according to the map at the county auditor. The traffic created by Days Towing is minimum.

I have no objection to the rezoning as long as Days Towing can guarantee that there will none of there vehicles left outside of their fenced area. I don't even care if they have to leave one outside of the fenced area if it is for a day or two. I understand there might be times that maybe another towing company might have to pick up a vehicle later without Days Towing being there.

Feel free to share this email with anyone involved in the rezoning.

Robert and Yvonne Batterson
850 Franklin St.
Hamilton, OH 45013

