



City of Boyne City
Founded 1856

319 N. Lake Street

Boyne City, Michigan 49712
www.boyne-city.com

Phone 231-582-6597
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AGENDA
BOYNE CITY PLANNING COMMISSION
Monday April 18, 2016, 5:00 p.m.
Boyne City Hall



Scan QR code or go to
www.cityofboyne-city.com
click on Boards & Commissions for complete
agenda packets & minutes for each board

1. Call to Order
2. Roll Call - Excused Absences
3. Consent Agenda
The purpose of the consent agenda is to expedite business by grouping non-controversial items together to be acted upon by one Commission motion without discussion. Any member of the Commission, staff, or the public may ask that any item(s) on the consent agenda be removed to be addressed immediately following action on the remaining consent agenda items. Such requests will be respected.
- Approval of minutes from February 15, 2016 Boyne City Planning Commission meeting.
4. Hearing Citizens Present (*Non-Agenda Items*)
5. Reports of Officers, Boards, Standing Committees
6. Unfinished Business
7. New Business
 - A. Development Plan Review 970 E Division for Vandam Marine.
 - B. Review Sidewalk Café Ordinance and make recommendation to City Commission on ordinance amendment to allow alcohol service.
8. Staff Report
9. Good of the Order
10. Adjournment – Next Meeting May 16, 2016

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**Meeting of
February 15, 2016**

Record of the proceedings of the Boyne City Planning Commission regular meeting held at Boyne City Hall, 319 North Lake Street, on Monday, February 15, 2016 at 5:00 pm.

Call to Order

Chair MacKenzie called the meeting to order at 5:04 p.m.

Roll Call

Present: Ken Allen, Jason Biskner, George Ellwanger, Jim Kozlowski, Jane MacKenzie, Tom Neidhamer, and Joe St. Dennis
Absent: Chris Frasz and Aaron Place (arrived at 5:27 pm)

Excused Absence(s)

****MOTION**

2016-02-15-02

St. Dennis moved, Ellwanger seconded, PASSED UNANIMOUSLY, a motion to excuse the absence(s) of Chris Frasz and Aaron Place

Meeting Attendance

City Officials/Staff: Planning and Zoning Administrator Scott McPherson, and Recording Secretary Pat Haver
Public Present: None

Consent Agenda

****MOTION**

2016-02-15-03

Ellwanger moved, Allen seconded, PASSED UNANIMOUSLY, a motion to approve the consent agenda; approval of the Planning Commission minutes from January 18, 2016 as presented.

**Citizen comments on
Non-Agenda Items**

None

**Reports of Officers, Boards
and Standing Committees**

None

Unfinished Business

None

New Business

**Review and
recommendation on
City 2016 - 2021
Capital Improvement Plan**

****MOTION**

Planning Director McPherson reviewed the 2016 - 2021 CIP Plan that was included in the agenda packet. The 6 year layout out is being shown for 2016 through 2021. After board discussion, **motion by St. Dennis, second by Ellwanger, PASSED UNANIMOUSLY**, to recommend approval to the City Commission the 2016 - 2021 Capital Improvement Plan as presented.

**Receive 2015 Planning
and Zoning Report**

Also included in the agenda packet was the 2015 Planning and Zoning report for the board's review. Highlights of the activity last year was the completion of the Master Plan Update, which assisted the city's efforts in becoming a Re-development Ready Community, working on the Low/Moderate Income Survey, obtaining acceptance of the plan for the Safe Routes to School grant with construction on track to begin in the summer of 2016, hiring of Patrick Kilkenny, Assistant Zoning Administrator, and site plan reviews for several exciting projects that are continuing to move forward. Both the Planning Commission and Zoning Board of Appeals are full boards, and the department is continuing with development and support from the GIS system. The report was received and filed.

Staff Report

- The Community Input survey is on line with submittals being accepted through February 18th, if you have not filled out survey, please do so.
- The Last River Draw crowd funding efforts are moving forward with several events having been held with approximately \$10,000 of our \$25,000 match funds raised so far. If anyone is interested in making a contribution or have questions contact Lori Meeder, Main Street Manager.

Good of the Order

Jim Kozlowski will not be available for the March meeting.

Adjournment

****MOTION**

The next regular meeting of the Boyne City Planning Commission is scheduled for Monday, March 21, 2016 at 5:00 pm in the Auditorium.

2016-02-15-10

St. Dennis moved, Place seconded, PASSED UNANIMOUSLY a motion to adjourn the February 15, 2016 meeting at 6:04 p.m.

Chair Jane MacKenzie

Pat Haver, Recording Secretary

CITY OF BOYNE CITY

To: Chair Jane MacKenzie and fellow Planning Commissioners

From: Scott McPherson, Planning Director

Date: April 18, 2016

Subject: 970 E Division



Background Information

The property located at 970 E Division is owned by Vandam Marine. The property is in the RC/IND zoning district and is approximately 11 Acres. The property is currently used for their business and an additional 80'x 150' building is being proposed to provide additional storage for the business. The property and location of the proposed structure area shown below.



Discussion

The proposed building will match the size, character and color of the existing adjacent storage buildings on the site and will be used in a similar manner.

PROCESS

The application requires Site plan review as per article 19 Development Plan Requirements, and a checklist of the requirements has been attached for your review and consideration.

RECOMMENDATION

The Planning Commission should then review the applicable development plan requirements and make a determination based on the relevant facts if the standard is met, not met or met with conditions. If approved with conditions the conditions must be listed, if denied the reasons for denial must be stated.

**DEVELOPMENT SITE PLAN REVIEW STANDARDS
FINDINGS OF FACT
970 E Division**

Section 19.40 Development Plan Approval Criteria.
In order that buildings, open space and landscaping will be in harmony with other structures and improvements in the area, and to ensure that no undesirable health, safety, noise and traffic conditions will result from the development, the Planning Commission shall determine whether or not the development plan meets the following criteria, unless the Planning Commission determines that one or more of such criteria are inapplicable:

ORDINANCE REQUIREMENT	STATUS	FINDINGS
<p><u>A. General.</u> All elements of the development plan shall be designed to take into account the site's topography, the size and type of plot, the character of adjoining property, and the traffic operations of adjacent streets. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance. The development plan shall conform with all requirements of this Ordinance, including those of the applicable zoning district(s).</p>	<p>The subject parcel is located at 970 E Division and is the current location of Vandam Marine Co. The parcel is zoned RC/IND and is approximately 11 Acres. Site is flat and clear with no significant vegetation or topography. The proposal conforms to all dimensional and use requirements of the zoning district.</p>	
<p><u>B. Building Design.</u> The building design shall relate to the surrounding environment in regard to texture, scale, mass, proportion, and color. High standards of construction and quality materials will be incorporated into the new development. In addition to following design guidelines adopted in specific district or sub-area plans, the building design shall meet the architectural and building material requirements of this Ordinance.</p>	<p>The proposed building matches the size and character of the existing adjacent structures on the site.</p>	
<p><u>C. Preservation of Significant Natural Features.</u> Judicious effort shall be used to preserve the integrity of the land, existing topography, and natural, historical, and architectural features as defined in this Ordinance, in particular wetlands designated /regulated by the Michigan Department of Environmental Quality, and, to a lesser extent, wetlands which are not regulated by the Department.</p>	<p>The proposal does not impact any significant natural features</p>	
<p><u>D. Streets.</u> All streets shall be developed in accordance with the City of Boyne City Subdivision Control Ordinance and City Municipal Standards, unless developed as a private road in accordance with the requirements of the City.</p>	<p>Not Applicable</p>	

**DEVELOPMENT SITE PLAN REVIEW STANDARDS
FINDINGS OF FACT
970 E Division**

<p><u>E. Access, Driveways and Circulation.</u> Safe, convenient, uncongested, and well defined vehicular and pedestrian circulation within and to the site shall be provided. Drives, streets, parking and other elements shall be designed to discourage through traffic, while promoting safe and efficient traffic operations within the site and at its access points. All driveways shall meet the design and construction standards of the City. Access to the site shall be designed to minimize conflicts with traffic on adjacent streets, particularly left turns into and from the site. For uses having frontage and/or access on a major traffic route, as defined in the City of Boyne City Comprehensive Plan, the number, design, and location of access driveways and other provisions for vehicular circulation shall comply with the access management provisions of this Ordinance.</p>	<p style="text-align: center;">Existing driveway and circulation will be used.</p>	
<p><u>F. Emergency Vehicle Access.</u> All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as required by the Fire Department, Ambulance Department and Police Department.</p>	<p style="text-align: center;">Emergency vehicle access is provided.</p>	
<p><u>G. Sidewalks, Pedestrian and Bicycle Circulation.</u> The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and sidewalks/pedestrian or bicycle pathways in the area. There shall be provided a pedestrian circulation system which is separated from the vehicular circulation system. In order to ensure public safety, special pedestrian measures, such as crosswalks, crossing signals and other such facilities may be required in the vicinity of primary and secondary schools, playgrounds, local shopping areas, fast food/service restaurants and other uses which generate a considerable amount of pedestrian or bicycle traffic.</p>	<p style="text-align: center;">No Applicable</p>	
<p><u>H. Barrier-Free Access.</u> The site has been designed to provide barrier-free parking and pedestrian circulation.</p>	<p style="text-align: center;">Not Applicable</p>	

**DEVELOPMENT SITE PLAN REVIEW STANDARDS
FINDINGS OF FACT
970 E Division**

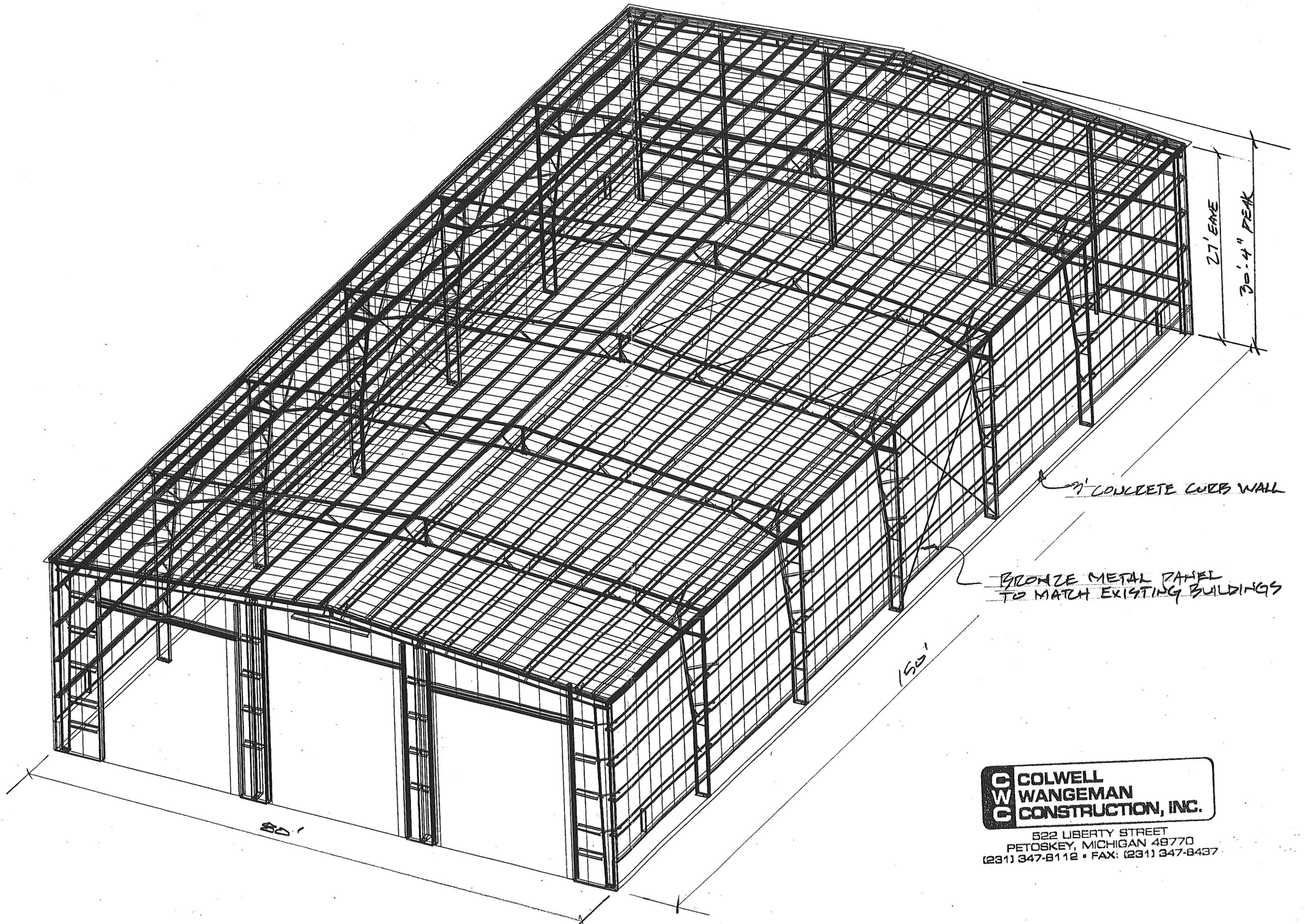
<p><u>L. Parking.</u> The number and dimensions of off-street parking [spaces] shall be sufficient to meet the minimum required by this Ordinance. However, where warranted by overlapping or shared parking arrangements, the Planning Commission may reduce the required number of parking spaces, as provided in this Ordinance.</p>	<p>The proposed use is for storage and will not generate additional parking demands</p>	
<p><u>J. Loading.</u> All loading and unloading areas and outside storage areas, including refuse storage stations, shall be screened in accordance with this Ordinance.</p>	<p>Not applicable</p>	
<p><u>K. Landscaping, Screening, and Open Space.</u> The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. Landscaping shall be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property. Landscaping, landscape buffers, greenbelts, fencing, walls and other protective barriers shall be provided and designed in accordance with the landscaping provisions of this Ordinance. Recreation and open space areas shall be provided in all multiple-family residential and educational developments.</p>	<p>Site is screened with existing trees</p>	
<p><u>L. Soil Erosion Control.</u> The site shall have adequate lateral support so as to ensure that there will be no erosion of soil or other material. The final determination as to adequacy of, or need for, lateral support shall be made by the Planning Director or City Engineer, and have a valid Charlevoix County Soil Erosion permit.</p>	<p>Obtain soil erosion permit from Charlevoix County if required.</p>	

**DEVELOPMENT SITE PLAN REVIEW STANDARDS
FINDINGS OF FACT
970 E Division**

<p><u>M. Stormwater Management.</u> Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate stormwater which complements the natural drainage patterns and wetlands, prevent erosion and the formation of dust. Sharing of stormwater facilities with adjacent properties shall be encouraged. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create standing water. All such measures shall comply with the Charlevoix County Stormwater Ordinance.</p>	<p>Swales proposed to direct stormwater to existing drainage patters.</p>	
<p><u>O. Lighting.</u> Exterior lighting shall be arranged so that it is directed preferably downward onto the subject site and deflected away from adjacent properties. Lighting shall not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.</p>	<p>Additional lighting not shown on provided plan.</p>	
<p><u>P. Noise.</u> The site has been designed, buildings so arranged, and activities/equipment programmed to minimize the emission of noise, particularly for sites adjacent to residential districts.</p>	<p>Use similar to existing and not anticipated to</p>	
<p><u>Q. Mechanical Equipment.</u> Mechanical equipment, both roof and ground mounted, shall be screened in accordance with the requirements of this Ordinance.</p>	<p>No exterior mechanical equipment proposed</p>	
<p><u>R. Signs.</u> The standards of the City of Boyne City's Sign Ordinance are met.</p>	<p>No additional signage proposed.</p>	

**DEVELOPMENT SITE PLAN REVIEW STANDARDS
FINDINGS OF FACT
970 E Division**

<p><u>S Hazardous Materials or Waste.</u> For businesses utilizing, storing or handling hazardous material such as automobile service and automobile repair stations, dry cleaning plants, metal plating industries, and other industrial uses, documentation of compliance with state and federal requirements shall be provided.</p>	<p style="text-align: center;">No hazardous materials or waste</p>	
<p><u>T. Other Agency Reviews.</u> The applicant has provided documentation of compliance with other appropriate agency review standards, including, but not limited to, the Michigan Department of Natural Resources, Michigan Department of Environmental Quality, Michigan Department of Transportation, Charlevoix County Drain Commissioner, Northwest Michigan Community Health Agency, Charlevoix County Building Department, and other federal and state agencies, as applicable.</p>	<p style="text-align: center;">Other agency reviews as required</p>	
<p><u>U. Approval Process.</u> The development plan shall be reviewed by the Planning Commission. If disapproval is recommended, the Planning Commission shall cite reasons for such disapproval. If the Planning Commission finds a development plan not in conformity with this section, it may, at its discretion, return the development plan to the applicant with a written statement of the modifications necessary to obtain approval. Upon resubmission of the modified development plan, the Planning Commission shall review the plan. The Commission may approve, disapprove or approve subject to compliance with such modifications and conditions as may be deemed necessary to carry out the purpose of this Ordinance and other ordinances and resolutions of the City. If disapproved, the Planning Commission shall cite reasons for such disapproval.</p>		



**C COLWELL
W WANGEMAN
C CONSTRUCTION, INC.**

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(231) 347-8112 • FAX: (231) 347-8437

CITY OF BOYNE CITY

To: Chair Jane MacKenzie and fellow Planning Commissioners

From: Scott McPherson, Planning Director

Date: April 18, 2016

Subject: Sidewalk Café Ordinance Amendment



Background

At the City Commission meeting of March 15th a group of citizens and business owners requested that the Commission reconsider their position on allowing alcohol service in sidewalk cafés. The Commission indicated that they would put the issue on the agenda for discussion at their regular scheduled meeting of April 12th. At that meeting the Commission passed a motion to begin the process of having the planning commission review the ordinance and make a recommendation for possible changes.

Discussion

In 2013 the City Commission adopted the Outdoor Sidewalk Café Ordinance. The adopted ordinance has been provided for your review. Also for your review the draft ordinances, staff reports and minutes from the meetings of April and May of 2013. As the Planning Commission may recall the ordinance that was recommended at the time by the Planning Commission provided for alcohol service. While the City Commission did ultimately adopt a sidewalk café ordinance the ordinance was changed to eliminate the alcohol service. To eliminate alcohol service the adopted ordinance was changed the definition of an outdoor sidewalk café ordinance as follows:

Outdoor Sidewalk Café – A type of outdoor café consisting of a service area set aside for the customers of a restaurant or similar establishment to be served food and drink with the exception of alcoholic beverages, on a public sidewalk or other public property other than a public parking space.

If the Commission decides to reconsider allowing alcohol service as part of an Outdoor Sidewalk Café at a minimum an amendment to the definition would be required. During the discussion at the April 12th City Commission meeting the issues of congestion on sidewalks during 4th of July and during Stroll the Streets was raised and it was requested that the planning commission consider these issues when developing any proposed changes to the ordinance.

Process

The process for the amendment and adoption of ordinances is established by the Boyne City Charter which requires that the City Commission must hold a first reading and not less than one month later hold a second reading at which time the ordinance can be adopted. Once adopted the ordinance can become effective not less than 15 days after adoption. In addition to this required procedure, it has been City policy to have the Planning Commission review and make recommendations on new and amended ordinances.

Action

Review the sidewalk café ordinance and make a recommendation to the City Commission

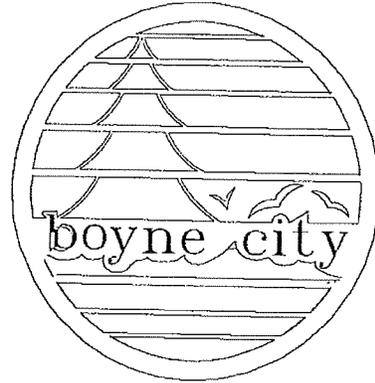
CITY OF BOYNE CITY

To: Chair Jane MacKenzie and fellow Planning Commissioners

From: Scott McPherson, Planning Director

Date: April 15, 2013

Subject: Proposed Outdoor Sidewalk Café Ordinance



Background

Magnum Hospitality has submitted to the City a request for the City to consider changing the existing ordinance to allow the serving of alcohol in outdoor eating areas which are located on the public sidewalk. Prior to this request Mary Palmer submitted an application to the City Planning Department for a permit to have an outdoor eating area with alcohol at Café' Santé. Outdoor eating areas, without alcoholic beverages, are allowed in the Central Business District as per the Boyne City Zoning Ordinance section 10.20(Q) which is follows:

Q. Outdoor cafés, outdoor eating areas, carry-out, and open front restaurants, (without alcoholic beverages) subject to the following site design standards:

- 1. Outdoor cafés may be permitted on a public right-of-way, on a building roof top, as part of a patio or deck, or within the boundaries of a parcel or lot. Those proposed for use of the public right-of-way must secure an annual permit from the City for temporary use of the right-of-way. However, no use of the right-of-way will be permitted on July 4th.*
- 2. A minimum of four (4) feet of public sidewalk along the curb and leading to the entrance to the establishment must be maintained free of tables and other encumbrances. The pedestrian area shall also be free from benches, waste receptacles, fire hydrants, and similar structure. If the sidewalk is not wide enough to allow for a four (4) foot wide clearance for circulation, the outdoor café shall not be permitted on a public sidewalk.*
- 3. Pedestrian circulation and access to building entrances shall not be impaired. A boundary (maximum encroachment width and length) into the public sidewalk shall be established with an accessible aisle being maintained between this line and the curb, in accordance with the provisions of all state and federal regulations.*
- 4. The outdoor café must be kept clean, litter-free, and with a well-kept appearance within and immediately adjacent to the area of the tables and chairs. Additional outdoor waste receptacles may be required. Written procedures for cleaning and waste containment and removal responsibilities must be included with all applications and approved by the City staff.*
- 5. Tables, chairs, planters, waste receptacles, and other elements of street furniture shall be compatible with the architectural character of the adjacent buildings. If table umbrellas will be used, they shall complement building colors. When not in use, all tables, chairs, umbrellas, and other furniture and fixtures must be stored inside the building or in an alternate location other than a public sidewalk.*
- 6. Other additional signs are not permitted beyond those permitted for the existing restaurant.*
- 7. Such areas are permitted seasonally between April 1 and October 31, except July 4th. The hours of operation for the outdoor café shall be established and noted with the application.*

8. *Preparation of food and beverages may be prohibited by the Planning Commission in the outdoor café.*
9. *The outdoor café or its operation shall not damage, stain, or discolor any part of the sidewalk or public right-of-way.*
10. *The outdoor café shall comply with any policies and/or regulations adopted by the City Commission for private use of public right-of-way. Liability issues for use of the public sidewalk may be addressed and reviewed by the City Attorney.*
11. *The outdoor café shall provide evidence of insurance coverage naming the City as an additional insured party in an amount acceptable to the City.*

Discussion

The City ordinance that allows outdoor eating areas on the public sidewalk has been in place since the ordinance rewrite in 2001. An annual \$10 permit is required and in the spring of each year the Planning Department mails permit application forms that contain all of the ordinance requirements to the restaurants in the Central Business District. While I do recall previous informal inquiry's about the ordinance prohibition of alcohol, this is the first formal request that has been made asking the City to consider changing the Ordinance.

City staff has done some preliminary research on communities that do allow alcohol in the outdoor eating areas and found that there area several ways this can be regulated. The use can be regulated as a use under the zoning ordinance or it can be regulated by adopting a stand alone ordinance.

To change the zoning ordinance to allow alcohol could be done relatively simply by eliminating the provision that prohibits alcohol. Some additional language in regards to how a area is clearly defined and delineated to meet requirements of the Liquor Control Commission would probably also be needed. However, this is not the suggested course of action. If at some point the City would desire to reconsider the ordinance and rescind the provision allowing alcohol any use established under the zoning ordinance could continue indefinitely. Zoning ordinances confer grandfathering rights on uses that are established lawfully under the ordinance so the even if the zoning ordinance is changed at a later date the use can continue as a legal nonconforming use. This is not the case for a stand alone police power ordinance as these types of ordinances do not have grandfathering rights.

It is staffs opinion that the best course of action, if the City wishes to allow alcohol on sidewalks is to adopt a separate ordinance that regulates outdoor café' on public sidewalks and amend the existing zoning ordinance to no longer regulate café' uses on public property. Outdoor café's on private property would continue to be allowed by the zoning ordinance. A proposed ordinance for outdoor sidewalk café's and proposed amendments to the zoning ordinance have been provided for you review.

Recommendation

Review the issue and proposed ordinances and make a recommendation to the City Commission.

Outdoor Sidewalk Cafés

- (a) Purpose: The purpose of this ordinance is to regulate Outdoor Sidewalk Cafés in order to protect the public health and safety while promoting vitality in the city's commercial areas.
- (b) Definition: Outdoor Sidewalk Café – A type of outdoor café consisting of an area set aside for the customers of a restaurant, bar or similar establishment on a public sidewalk or other public property other than a public parking space.
- (c) Outdoor Sidewalk Café Licensing: No person or entity shall operate an Outdoor Sidewalk Café without an Outdoor Sidewalk Café license. This license shall be required in addition to any other license, permit or approval required by the city, county or state agencies for operation of a restaurant, bar or similar establishment. The license shall be valid for the calendar year of the date of issuance.
- (d) Outdoor Sidewalk Café license: An Outdoor Sidewalk Café license may be issued upon approval of the City Manager or designee with a finding that the applicant meets the requirements below:
- (1) Outdoor Sidewalk Café hours shall be between 9:00 a.m. and 11:00 p.m., from April 1 to November 1. No Outside Sidewalk Café shall be permitted on the 4th of July.
 - (2) A minimum of four (4) feet of public sidewalk shall be maintained free of tables and other encumbrances. The pedestrian area shall also be free from benches, waste receptacles, fire hydrants, and similar structure. If the sidewalk is not wide enough to allow for a four (4) foot wide clearance for circulation, the outdoor sidewalk café shall not be permitted on a public sidewalk.
 - (3) Furnishings of an Outdoor Sidewalk Café shall all be readily removable, including railings and planters.
 - (4) Furnishing materials and finishes shall be durable, smooth and easily cleanable and shall be kept in sound condition and good repair. Tables, chairs, planters, waste receptacles, and other elements of street furniture shall be compatible with the architectural character of the adjacent buildings. If table umbrellas will be used, they shall complement building colors.
 - (5) Outdoor Sidewalk Cafés may only be located in the sidewalk that is adjacent to the business they are associated and may not extend in front of any other business or residence.
 - (6) Outdoor Sidewalk Cafés may not interfere with any public service facility such as a bench, waste receptacle, bike rack or mailbox.
 - (7) The Outdoor Sidewalk Café must be kept clean, litter-free, and with a well-kept appearance within and immediately adjacent to the area of the tables and chairs.
 - (8) The Outdoor Sidewalk Café or its operation shall not damage, stain, or discolor any part of the sidewalk or public right-of-way.
 - (9) If alcohol is to be served in conjunction with the proposed Outdoor Sidewalk Café, delineation of the service area with a physical barrier in conformance with the design criteria of the City and acceptable to the state liquor control commission must be utilized.

- (e) Application for Outdoor Sidewalk Cafés License: An application for any Outdoor Sidewalk Café License shall include:
- (1) A completed application form provided by the City.
 - (2) A plot plan drawn to scale showing the proposed arrangement of the chairs, tables, railings and any other equipment proposed for the Outdoor Sidewalk Café.
 - (3) A narrative explaining the proposed operation of the café, including hours of operation.
 - (4) Samples or pictures showing the materials and colors of all tables, chairs, railings planters, waste receptacles or any other items proposed for the Outdoor Sidewalk Café.
 - (5) The Outdoor Sidewalk Café shall provide evidence of insurance coverage naming the City as an additional insured party in an amount acceptable to the City.
 - (6) Before granting a permit for an Outdoor Sidewalk Café, a notice shall be mailed by regular mail to adjacent property owners or occupants, giving such persons notice of the proposed use and given an opportunity to provide comments concerning the proposed operation.
 - (7) The fee as established by the City Commission.
- (f) Revocation of an Outdoor Sidewalk Café's license: The City Manager may revoke any Outdoor Sidewalk Café license for failure of the licensee to comply with the conditions of this ordinance or their license or if the operation for any reason creates a nuisance or hazard. The City Commission on its own motion may, without cause, revoke an Outside Sidewalk Café permit upon 30 days' written notice to the permittee.
- (g) Appeal of Administrative Decision: An applicant for an Outdoor Café License may appeal denial of the license. Appeals shall be made to the City's Zoning Board of Appeals.
- (h) Severability: If any clause, sentence, paragraph or part of this section shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this section; but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

- Q. Outdoor cafés, outdoor eating areas, carry-out, and open front restaurants, ~~(without alcoholic beverages)~~ subject to the following site design standards:
1. Outdoor cafés may be permitted *within the boundaries of a parcel or lot* ~~on a public right-of-way, on a building roof top, or as part of a patio or deck, or within the boundaries of a parcel or lot.~~ Those proposed for use of the public right of way must secure an annual permit from the City for temporary use of the right of way. However, no use of the right of way will be permitted on July 4th.
 2. ~~A minimum of four (4) feet of public sidewalk along the curb and leading to the entrance to the establishment must be maintained free of tables and other encumbrances. The pedestrian area shall also be free from benches, waste receptacles, fire hydrants, and similar structure. If the sidewalk is not wide enough to allow for a four (4) foot wide clearance for circulation, the outdoor café shall not be permitted on a public sidewalk.~~
 3. ~~Pedestrian circulation and access to building entrances shall not be impaired. A boundary (maximum encroachment width and length) into the public sidewalk shall be established with an accessible aisle being maintained between this line and the curb, in accordance with the provisions of all state and federal regulations.~~
 4. The outdoor café must be kept clean, litter-free, and with a well-kept appearance within and immediately adjacent to the area of the tables and chairs. Additional outdoor waste receptacles may be required. ~~Written procedures for cleaning and waste containment and removal responsibilities must be included with all applications and approved by the City staff.~~
 5. Tables, chairs, planters, waste receptacles, and other elements of street furniture shall be compatible with the architectural character of the adjacent buildings. If table umbrellas will be used, they shall complement building colors. ~~When not in use, all tables, chairs, umbrellas, and other furniture and fixtures must be stored inside the building or in an alternate location other than a public sidewalk.~~
 6. Other additional signs are not permitted beyond those permitted for the existing restaurant.
 7. ~~Such areas are permitted seasonally between April 1 and October 31, except July 4th. The hours of operation for the outdoor café shall be established and noted with the application.~~
 8. ~~Preparation of food and beverages may be prohibited by the Planning Commission in the outdoor café.~~
 9. ~~The outdoor café or its operation shall not damage, stain, or discolor any part of the sidewalk or public right of way.~~
 10. ~~The outdoor café shall comply with any policies and/or regulations adopted by the City Commission for private use of public right of way. Liability issues for use of the public sidewalk may be addressed and reviewed by the City Attorney.~~
 11. ~~The outdoor café shall provide evidence of insurance coverage naming the City as an additional insured party in an amount acceptable to the City.~~

membrane over steel which will run out towards the back parking lot. We will have 15 feet width of drain tile and plants next to the building. Pedestrian entrances will be at the ends of the buildings, with entrance lights only. We are not proposing any parking lot lights. We will be working with Tip of the Mitt Watershed Council on our landscape plan. Again, we would like to keep this as natural as possible, so will follow their lead with the suggestions of plantings.

Meeder – You mentioned a court yard where will that be?

Hannah – On the west side, the current overhang with a concrete pad will extend down to the L-shape of the addition.

Meeder – Is there still problems with the loading dock and the water?

Hannah – It is better now, a culvert was put in down at the corner and grading has been done next door. A 6" culvert will be put in at the end of our driveway to go into the drainage system. We have been talking about adding 18" in the truck well to raise it up a bit.

Meeder – You talked about possible expansion, where would that go.

Hannah – What is presented pretty much takes care of the current site, however, we have the option on the adjoining lot as first right of refusal.

City Manager Michael Cain – The LDFA met on site this afternoon, excited about their expansion. We talked about lighting, encouraged them to stay away from wall packs and high pressure sodium, and encouraged LED. LDFA asked them to take a look at possible decorative elements for the east side wall addition; Classic Instruments is taking a look at that. Everyone is very excited about the expansion.

MacKenzie – There is a check list for this?

McPherson – This is follow-up to the approval previously given in 2011. I copied the section of the ordinance for criteria, which is pretty minimal; I believe these changes meet the spirit and intent of the ordinance.

Frasz – Is it just the landscaping around the dumpster and end of the parking lot that is going to be new?

Hannah – It is pretty much all going to be new, will be putting trees out along M-75, and waiting on the input from the Tip of the Mitt for the final landscaping plan.

Frasz – Leaving town on the left side, the large size of the west end wall wondering how that is going to look, will you use landscape there?

Hannah – Trying to stay away from the building, because we will use that as our court yard for car shows, however, will be bringing in trees along the roadway and use the rise as apart of the landscape plans which will soften the look of the building.

Kozlowski – Will there be any mechanical elements on the roof for heating or air conditioning?

Hannah – It will be heated with a forced air system, and if there is a unit on the roof, it will be on the Southwest corner, to eliminate the site line from Moll Dr. if at all possible.

2013-04-15-7a

With no further board discussion, **motion by Ellwanger, seconded by Crum PASSED UNANIMOUSLY** that the findings are in compliance with the architectural requirements of section 22.30 of the zoning ordinance; the plans as presented tonight.

MOTION

Review and recommendation on a proposed Sidewalk Café Ordinance to allow alcohol

Planning Director McPherson reviewed the staff report included in the agenda packet. The city received a request from Magnum Hospitality to serve alcohol outside in front of their businesses, one that is in the Waterfront Residential District. The current ordinance specifically prohibits alcohol sales on public sidewalks, so a permit could not be issued. There have been meetings held with

**for outdoor cafés on
public sidewalks**

the City Commission, the Main Street board, and a public presentation. It seems to be moving forward, and a stand alone draft ordinance proposal was submitted in your packet. An ariel photo and slides were viewed showing the different widths of sidewalks in the downtown area, those businesses that currently have a liquor license along with businesses with the ability to serve food outdoors. It also showed the sidewalks with tables, benches, trees, signs, merchandise displays and other items out on the walk. A couple of the slides portrayed other communities and how they delineate their outdoor service areas. The current zoning ordinance regulates uses on the public sidewalk, and McPherson fundamentally disagrees with that. If it is in a public domain it should be controlled under any other type of ordinance; if you want to eliminate it at a later date because it does not work, you do not have to worry about grandfathering things in the public domain. Approach would be to eliminate that aspect in the zoning ordinance, and allow outdoor dining on private property with minimal requirements. Building on a new stand alone ordinance, a lot of requirements were removed from the current ordinance section, and some things were added. If you want to move forward, a public hearing would need to be held.

Hugh Conklin: Main Street Manager - Have had a community information meeting, and the Main Street board has discussed this and they have not received any negative feedback. The board feels that this could be a good thing to continue to bring vibrancy to the downtown. Have talked to a lot of different communities, and those who have started this type of program, have not had any problems. Chief Gaither has had an opportunity to speak with other communities, and if they had any problems, they have been able to deal with them. Main Street has some concerns about the hours, and they don't want it to bother the neighbors. They don't want it to be a "bar scene" only to have alcohol served with dinner.

Michael Cain: City Manager - Go back and think of how the downtown side walk uses have evolved in the last 12 years. The most popular times are when there is a lot going on downtown. We have not been able to locate any communities with concerns. Local concerns have been expressed with alcohol use on the sidewalks. The uses would be contained, and must stay within specified boundaries. Things could go wrong, but the attitude of Boyne City is to try something if it is reasonable, with rules and regulations. If it does not work, we could go on to something else, or revise it. Taking appropriate risks has gotten our community where we are, and I believe it is worthy of further consideration.

McPherson - This would be a free standing ordinance that would need to be adopted by the City Commission. He went through the draft ordinance that was included in the agenda packet with board discussion. Concerns the board had was the 4 foot wide clear public walk able area, that could be a "serpentine" pathway if one business had their merchandise/tables at the façade and others at the curb, retail stores would want easy access into the stores, and to see the store front windows for as long as possible, try to eliminate the impact for non-food businesses, and safety for pedestrians who may be unsteady and do not like to walk next to the curb. The board liked the idea of providing insurance coverage naming the City as additionally insured, however, did not like the 30 day written notice to the permittee to have the license revoked if they did not comply with the conditions of the ordinance.

(At this point, there was technical difficulty with the tape recorder, it was fixed and recordings started again. Approximately 3 minutes of the meeting was not recorded)

Cain - If there is a safety hazard, could the city manager revoke immediately?

McPherson - Yes.

Cain – If they did not like the decision, they could appeal to the ZBA?
McPherson – If they appealed to the ZBA, there are no real clear parameters for them to use to make their decision. It would be an appeal of an administrative decision. As a stand alone ordinance does not come under the jurisdiction of the zoning ordinance, I don't know what they would/could base their decision from. I would not put in an appeal process.

Neidhamer – Leave it up to the City Manager, keep it simple.
The board has requested staff to revise/develop language and schedule a public hearing for next month.

Review proposed striping and intersection reconfiguration for Boyne Avenue

Michael Cain: City Manager – Board was looking at the rendition in the agenda packet. The City and MDOT have had ongoing discussions about M-75 as it goes through town and safety concerns with pedestrian traffic, at the intersections of M -75 and East St. near the post office, and across the street on the Dilworth side. They propose to define traffic movement with white lines. Additional lines would be put down and these could be used as a bike lane continuing out towards the schools. The intersection on the Dilworth side is the worst one in town. Staff has looked at the possibility of making this a one way street going south only. The other awkward intersection is at Main St. and M-75 (Boyne Avenue). MDOT has made some suggestions to remove the large "throat" areas at the intersection, by creating a 90 degree intersection. We could try temporarily for a season and get input, and see how it works. It would eliminate the straight through traffic across M-75 from Main St. The board feels that it would definitely help in those areas of concern.

Recommendation for Planning Commission re-appointments of Lori Meeder, Aaron Place, and Joe St. Dennis

With confirmation that all members are willing to remain **motion by Crum, seconded by Ellwanger, PASSED UNANIMOUSLY** to recommend the reappointment of Lori Meeder, Aaron Place and Joe St. Dennis to the Planning Commission for an additional 3 year term expiring May 31, 2016.

****MOTION**

Redevelopment Ready Community Presentation

Motion by Place, seconded by Crum, PASSED UNANIMOUSLY, to schedule a special joint Redevelopment Ready Community presentation with the City Commission for May 28th, at 6:00 pm.

****MOTION**

Staff Report

None

Good of the Order

Ellwanger – What is the status of Kirtland?

McPherson – The attorneys are still working on this.

Cain – There was a hearing on Friday, April 12th, reviewed records. Kirtland has 28 days to file a brief; we have 21 days to respond. Unknown time line.

Adjournment

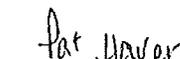
The next meeting of the Boyne City Planning Commission is scheduled for May 20, 2013 at 5:00 pm in the Auditorium.

****MOTION**

2013-04-15-10

St. Dennis moved, Frasz seconded, PASSED UNANIMOUSLY a motion to adjourn the April 15, 2013 meeting at 7:09 p.m.


Jane MacKenzie, Chair


Pat Haver, Recording Secretary

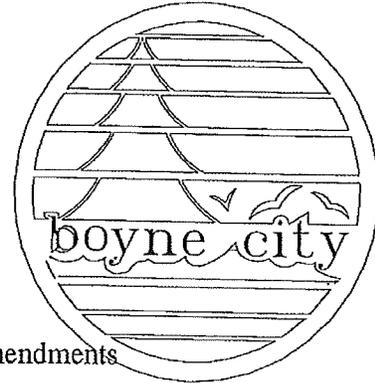
CITY OF BOYNE CITY

To: Chair Jane MacKenzie and fellow Planning Commissioners

From: Scott McPherson, Planning Director

Date: May 20, 2013

Subject: Proposed Outdoor Sidewalk Café Ordinance Amendments



Background

At the April 15, 2013 Planning Commission meeting the Commission review the request Magnum Hospitality to consider changing the existing ordinances to allow the serving of alcohol in outdoor eating areas which are located on the public sidewalk. After review and discussion about the proposal and possible ordinance changes the planning commission directed staff to develop amendment to the zoning ordinance to eliminate the provisions for outdoor café's on the public sidewalk and develop a new stand alone ordinance to regulate outdoor sidewalk cafés.

Discussion

The proposed change to the zoning ordinance removes much of the language of section 10.20(Q) that contains standards for outdoor café's on public sidewalks. The effect of the amendment would eliminate outdoor cafés on public property as a use regulated by the zoning ordinance. Outdoor café's on private property would continue to be allowed by the zoning ordinance.

To provide for outdoor cafes, with or without alcohol, a new separate new ordinance to regulate all outdoor café's on public sidewalks is also being proposed. The proposed ordinance would carry over many of the same outdoor café standards that are currently in effect in zoning ordinance section 10.20(Q). In additional to a provision that would allow alcohol, some additional regulations that have been added to the proposed ordinance are hours of operation, permit application requirements, prior notice to adjacent properties and the ability to revoke the permit with or without cause.

The proposed ordinance for outdoor sidewalk café's and the proposed amendments to the zoning ordinance have been provided for you review.

Process

In accordance with the Michigan Zoning Enabling Act and the Boyne City Zoning Ordinance Section 2.40 Amendment Procedures, a public hearing was scheduled for the Planning Commission on May 20, 2013. The Commission should review the proposed amendment and use the amendment criteria as listed in section 2.50(B) of the zoning ordinance as a guide in making their decision on the proposed amendment. Section 2.50 (B) is as follows:

Section 2.50 Amendment Criteria.

- B. For amendment requests to change or to add additional regulations or standards to a district or a use, the Planning Commission and City Commission shall use the following as a guide:
1. The proposed rule, change or addition helps to reinforce the Comprehensive Plan.
 2. The proposed rule, change or addition is in keeping within the spirit and intent of the this Ordinance, and with the objectives of the zoning district.
 3. The problem or issue which the change is intended to address cannot be accomplished in another, more appropriate fashion.
 4. The proposed amendment would correct an error in the Ordinance.
 5. The proposed amendment would clarify the intent of the Ordinance.
 6. Documentation has been provided indicating problems and conflicts in implementation or interpretation of specific sections of this Ordinance.
 7. The proposed amendment would address changes to county, state or federal legislation.
 8. The proposed amendment would address potential legal issues or administrative problems with this Ordinance based on recent case law or opinions rendered by the Attorney General of the State of Michigan.
 9. The proposed amendment would promote compliance with changes in other city ordinances and/or county, state, or federal regulations.
 10. The proposed amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.
 11. Other criteria as determined by the Planning Commission or City Commission which would protect the health, safety, and welfare of the public, protect public and private investment in the City, promote implementation of the goals and policies of the Comprehensive Plan, and enhance the overall quality of life in the City.

CITY OF BOYNE CITY
COUNTY OF CHARLEVOIX

AN AMENDMENT TO THE BOYNE CITY ZONING ORDINANCE (A-80)

THE CITY OF BOYNE CITY HEREBY ORDAINS:

Section 1. Purpose.

The purpose of this ordinance is to amend Article X Section 10.20(Q) to eliminate zoning ordinance provisions that regulate outdoor cafés on public sidewalks.

Section 2. Amendment of Section 10.20(Q) Outdoor cafés of Article X Central Business District.

Section 10.20 (Q) Outdoor Cafés is amended to read as follows: (strikethrough indicates words to be deleted and *italics* indicates words to be added)

- Q. Outdoor cafés, outdoor eating areas, carry-out, and open front restaurants, (~~without alcoholic beverages~~) subject to the following site design standards:
1. Outdoor cafés may be permitted *within the boundaries of a parcel or lot* ~~on a public right of way, on a building roof top, or as part of a patio or deck, or within the boundaries of a parcel or lot.~~ Those proposed for use of the public right of way must secure an annual permit from the City for temporary use of the right of way. However, no use of the right of way will be permitted on July 4th.
 2. ~~A minimum of four (4) feet of public sidewalk along the curb and leading to the entrance to the establishment must be maintained free of tables and other encumbrances. The pedestrian area shall also be free from benches, waste receptacles, fire hydrants, and similar structure. If the sidewalk is not wide enough to allow for a four (4) foot wide clearance for circulation, the outdoor café shall not be permitted on a public sidewalk.~~
 3. ~~Pedestrian circulation and access to building entrances shall not be impaired. A boundary (maximum encroachment width and length) into the public sidewalk shall be established with an accessible aisle being maintained between this line and the curb, in accordance with the provisions of all state and federal regulations.~~
 - 4-2. The outdoor café must be kept clean, litter-free, and with a well-kept appearance within and immediately adjacent to the area of the tables and chairs. Additional outdoor waste receptacles may be required. ~~Written procedures for cleaning and waste containment and removal responsibilities must be included with all applications and approved by the City staff.~~
 - 5-3. Tables, chairs, planters, waste receptacles, and other elements of street furniture shall be compatible with the architectural character of the adjacent buildings. If table umbrellas will be used, they shall complement building colors. ~~When not in use, all tables, chairs, umbrellas, and other furniture and fixtures must be stored inside the building or in an alternate location other than a public sidewalk.~~
 - 6-4. Other additional signs are not permitted beyond those permitted for the existing restaurant.
 7. ~~Such areas are permitted seasonally between April 1 and October 31, except July 4th. The hours of operation for the outdoor café shall be established and noted with the application.~~

- ~~8. Preparation of food and beverages may be prohibited by the Planning Commission in the outdoor café.~~
- ~~9. The outdoor café or its operation shall not damage, stain, or discolor any part of the sidewalk or public right of way.~~
- ~~10. The outdoor café shall comply with any policies and/or regulations adopted by the City Commission for private use of public right of way. Liability issues for use of the public sidewalk may be addressed and reviewed by the City Attorney.~~
- ~~11. The outdoor café shall provide evidence of insurance coverage naming the City as an additional insured party in an amount acceptable to the City.~~

Section 3. Conflicting Standards.

If any of the standards set forth in this amendment conflict with any other standards of previous or future ordinances or amendments, the stricter standards shall apply.

Section 4. Repeal; Savings Clause.

All ordinances, resolutions, or orders, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, repealed.

Section 5. Severability

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 6. Effective Date

This Ordinance shall become effective fifteen (15) days from its enactment.

Public Hearing May 20, 2.13

First Reading:

Second reading:

Enacted:

Effective:

**CITY OF BOYNE CITY
COUNTY OF CHARLEVOIX**

AN AMENDMENT TO THE BOYNE CITY CODE OF ORDINANCES TO REGULATE THE LICENSING AND OPERATION OF OUTDOOR SIDEWALK CAFÉS ON PUBLIC SIDEWALKS AND TO PRESCRIBE PROCEDURES THEREFOR, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THE ORDINANCE.

NOW THEREFORE, THE CITY OF BOYNE CITY ORDAINS:

Section 1. Article VI Outdoor Sidewalk Cafés of Chapter 54 Street Sidewalks and Other Public Places of Boyne City Code of Ordinances shall be adopted as follows:

Article VI Outdoor Sidewalk Cafés

Sec 54-170. Outdoor Sidewalk Café.

No person or entity shall operate an Outdoor Sidewalk Café without an Outdoor Sidewalk Café license. This license shall be required in addition to any other license, permit or approval required by the city, county or state agencies for operation of a restaurant, bar or similar establishment. The license shall be valid for the calendar year of the date of issuance.

- (a) Definition: Outdoor Sidewalk Café – A type of outdoor café consisting of an area set aside for the customers of a restaurant, bar or similar establishment on a public sidewalk or other public property other than a public parking space.

Sec 54-171 Outdoor Sidewalk Café license.

An Outdoor Sidewalk Café license may be issued upon approval of the City Manager or designee with a finding that the applicant meets the requirements below:

- (a) Outdoor Sidewalk Café hours shall be between 9:00 a.m. and 11:00 p.m., from April 1 to November 1. No Outside Sidewalk Café shall be permitted on the 4th of July.
- (b) A minimum of four (4) feet of public sidewalk shall be maintained free of tables and other encumbrances. The pedestrian area shall also be free from benches, waste receptacles, fire hydrants, and similar structure. If the sidewalk is not wide enough to allow for a four (4) foot wide clearance for circulation, the outdoor sidewalk café shall not be permitted on a public sidewalk.
- (c) Furnishings of an Outdoor Sidewalk Café shall all be readily removable, including railings and planters.
- (d) Furnishing materials and finishes shall be durable, smooth and easily cleanable and shall be kept in sound condition and good repair. Tables, chairs, planters, waste receptacles, and other elements of street furniture shall be compatible with the architectural character of the adjacent buildings. If table umbrellas will be used, they shall complement building colors.

- (e) Outdoor Sidewalk Cafés may only be located in the sidewalk that is adjacent to the business they are associated and may not extend in front of any other business or residence.
- (f) Outdoor Sidewalk Cafés may not interfere with any public service facility such as a bench, waste receptacle, bike rack or mailbox.
- (g) The Outdoor Sidewalk Café must be kept clean, litter-free, and with a well-kept appearance within and immediately adjacent to the area of the tables and chairs.
- (h) The Outdoor Sidewalk Café or its operation shall not damage, stain, or discolor any part of the sidewalk or public right-of-way.
- (i) If alcohol is to be served in conjunction with the proposed Outdoor Sidewalk Café, delineation of the service area with a physical barrier in conformance with the design criteria of the City and acceptable to the state liquor control commission must be utilized.

Sec 54-172. Application Requirements for Outdoor Sidewalk Cafés License.

An application for any Outdoor Sidewalk Café License shall include:

- (a) A completed application form provided by the City.
- (b) A plot plan drawn to scale showing the proposed arrangement of the chairs, tables, railings and any other equipment proposed for the Outdoor Sidewalk Café.
- (c) A narrative explaining the proposed operation of the café, including hours of operation.
- (d) Samples or pictures showing the materials and colors of all tables, chairs, railings planters, waste receptacles or any other items proposed for the Outdoor Sidewalk Café.
- (e) The Outdoor Sidewalk Café shall provide evidence of insurance coverage naming the City as an additional insured party in an amount acceptable to the City.
- (f) Before granting a permit for an Outdoor Sidewalk Café, a notice shall be mailed by regular mail to adjacent property owners or occupants, giving such persons notice of the proposed use and given an opportunity to provide comments concerning the proposed operation.
- (g) The fee as established by the City Commission.

Sec 54-173. Revocation of an Outdoor Sidewalk Café's license.

The City Manager may revoke any Outdoor Sidewalk Café license for failure of the licensee to comply with the conditions of this ordinance or their license or if the operation for any reason creates a nuisance or hazard. The City Commission on its own motion may, without cause, revoke an Outside Sidewalk Café permit upon 30 days' written notice to the permittee.

Sec 54-174. Penalty.

Any person who violates any of the provisions of this section are responsible for a municipal civil infraction.

Section 2. Conflicting Standards.

If any of the standards set forth in this amendment conflict with any other standards of previous or future ordinances or amendments, the stricter standards shall apply.

Section 3. Repeal; Savings Clause.

All ordinances, resolutions, or orders, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, repealed.

Section 4. Severability

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 5. Effective Date

This Ordinance shall become effective fifteen (15) days from its enactment.

DRAFT

**Meeting of
May 20, 2013**

Record of the proceedings of the Boyne City Planning Commission meeting held at Boyne City Hall, 319 North Lake Street, on Monday, May 20, 2013 at 5:00 pm.

Call to Order

Chair MacKenzie called the meeting to order at 5:00 p.m.

Roll Call

Present: George Ellwanger, Chris Frasz, Jim Kozlowski, Jane MacKenzie, Lori Meeder, and Tom Neidhamer

Absent: Gretchen Crum, Aaron Place (arrived at 5:04 pm), and Joe St. Dennis

2013-05-20-2

Frasz moved, Ellwanger seconded, PASSED UNANIMOUSLY, a motion to excuse the absences of Crum and St. Dennis

Meeting Attendance

City Officials/Staff: Planning Director Scott McPherson, Main Street Manager Hugh Conklin, City Manager Michael Cain and Recording Secretary Pat Haver
Public Present: Nine

Consent Agenda

2013-05-20-3

Neidhamer moved, Meeder seconded, PASSED UNANIMOUSLY, a motion to approve the consent agenda. Approval of the April 15, 2013 Planning Commission minutes as presented.

**Comments on
Non-Agenda Items**

None

**Reports of Officers, Boards and
Standing Committees**

None

Unfinished Business

None

New Business

**Public Hearing zoning
ordinance amendment to
Section 10.20(Q)**

Planning Director McPherson reviewed the staff report included in the agenda packet. Last month the board went over draft language allowing alcohol on the sidewalks. The proposed change to the zoning ordinance deletes and/or changes much of the language of section 10.20(Q) that contains standards for outdoor cafés on public sidewalks. The effect of the amendment would eliminate outdoor cafés on public property as a use regulated by the zoning ordinance, and put it into a free standing ordinance. Outdoor cafés on private property would continue to be allowed by the zoning ordinance. Staff reviewed section 10.20 of the ordinance.

Public hearing opened at 5:06 pm

Hearing no comments, public hearing was closed at 5:07 pm

Board Discussion

Place – Is this to stream line?

McPherson – The intent is to move the request for alcohol on the sidewalk that was brought before the board forward, also to remove this section from the zoning ordinance, as it is not appropriate for the zoning ordinance to regulate things in the public domain. Even if the City Commission does not pass this request, I recommend taking this aspect out of the zoning ordinance and placing it in a stand alone ordinance.

Neidhamer – For private property only?

McPherson – The current zoning ordinance allows on public and private property, and this change will take out the public aspect.

Neidhamer – Current private establishments are allowed now?

McPherson – Yes, we are not eliminating that aspect.

Section 2.50 amendment criteria were reviewed, with sections 3, 4, & 5 the most applicable.

MOTION

With no further board discussion, **motion by Ellwanger, seconded by Place** to recommend to the City Commission the amendments to Section 10.20 (Q); as presented tonight, as Section 2.50 amendment criteria sections 3, 4, & 5 most applicable.

2013-05-20-7A

Roll Call:

Aye: Ellwanger, Frasz, Kozlowski, MacKenzie, Meeder, Neidhamer, and Place

Nay: None

Absent: Crum and St. Dennis

Motion Carries

**Public Hearing for
proposed Sidewalk Café
Ordinance**

Planning Director McPherson reviewed the staff report included in the agenda packet. This would be a new free standing ordinance, which will be incorporated into the Code of Ordinances, Chapter 54 article 6: Street, sidewalk and other public places. Sidewalk cafés will be regulated under this section. The proposed Article 6 Outdoor Sidewalk Cafés was read. At any time, a free standing ordinance can be changed without having to “grandfather” anything/activity.

Public hearing opened at 5:20 pm

Hugh Conklin: Main Street Manager – Concerns were expressed about the placement of tables, whether up against the building or out by the curbside. Various communities handle this differently. The Main Street Board has reviewed this, and are in full support. Contact has been made with several communities that offer this service with no problems, possibly a couple of occasional issues. Magnum Hospitality is bringing this forward, as a business advantage. Let’s give it a try. If it doesn’t work out, we can always change. Don’t see anything to keep us from moving forward.

Frasz – Were any of those communities allocating just 4 feet or did they have something different?

Conklin – It varied, 6 feet was the standard. A lot depends on how wide the sidewalks are.

Becky Harris: citizen – I am here to speak up in support of this, it is a wonderful experience and is a family setting as well.

Justin Gibbert: Manager of Red Mesa Grill – Looking forward to having this move forward. See good things happening. It will be fully regulated with one server only; we are also concerned about alcohol leaving the premises. It would be a family destination, and I believe people would appreciate it.

Scott MacKenzie: - Thank you on behalf of the community for being pro-active enough to get this far with the hearing, and being open to new ideas. We are progressive which is garnering a sense of place and excitement; we are staying ahead of other communities in the state. With responsible management, it should be no problem in our community, and urge you to continue to move forward, and vote in favor of this.

Tony Williams: Fresh Water Gallery Business Owner – Robin and I are in full support of this. The key is if we have problems we can stop. It is more than worth a try.

Jim Baumann: Chamber Director – I think this is a great thing, Hugh has contacted a lot of other cities, they have not had any problems, it adds to the ambiance of the town. Would encourage you to support this.

Nate Jason: Café Sante – We are excited about the opportunity this presents. Outdoor dining is our most requested seating, this gives up more possibilities. We are excited that you are entertaining this idea. Thank You.

Robin Berry: Fresh Water Gallery Owner- Main Street has been able to address and discuss some of the negative issues, with the fears and potential problems being addressed and handled very appropriately. The important element is the ability to stop if needed. I also, am in full support of this.

Conklin – 4th of July, encourage you to strike this. I don't see any problems with this, and see no reason to restrict no tables on the sidewalk or time frame.

With no further comments, the public hearing was closed at 5:32 pm

Board Discussion

Meeder – Section 54.171, regarding the grandfathering; is this going to impact somebody with an outdoor café last year?

McPherson – Any one, who had an outdoor café last year, will be protected by the current zoning ordinance clause, and will be allowed to continue on. If the new ordinance were repealed, if they were started up after the new ordinance, they would have no right to continue.

Meeder – Noise ordinance, what creates a nuisance or hazard? Who decides that? Do the businesses have to sign an acknowledgement that the discretion would fall under the City Manager?

McPherson – There is no specific form other than the application and by signing the permit application they are acknowledging they will abide by the rules.

Place – 54.171B – Benches, waste receptacle, etc are listed - are tree planters considered part of that?

McPherson – Yes, it talks about clear zones

Place – I would like to see the 4th of July amended time wise or taken out.

Neidhamer – I would support Aaron, and taking that out.

Kozlowski – Parallel parking, how do you capture for clear walking zone?

McPherson – It will be case by case basis and each circumstance. Would have to look at site for possible obstructions.

Kozlowski – 4th of July item, the timing won't hurt anything, you have to be fair to everybody across the board.

Ellwanger – Very much in favor of this, I would like to see the 4th of July taken out. If there are problems they can be addressed at that time, it will be positive for the community. Scott you did a great job on putting this together, in favor of the whole proposal.

Frasz – Water Street Café serves breakfast before 9 am, and the hours noted are 9:00 am to 11:00 pm. I think it is a great direction we are headed in. Change the 9:00 am start to 8:00 am. 4th of July, strike that and make amendments if needed in the future. Item D: if table umbrellas are used, should compliment building colors. I think we should add not to have signage on them. Section F should take into consideration and should be fair with what public items are located in front of what cafés. If you have a bench in front of one, and not in front of another one, we should be consistent and take into consideration placement. How will pedestrian traffic funnel? Thank you Hugh for providing the information you presented. In areas that I am familiar with, they are on the street side, and I like that for a number of reasons: (1) safety for foot traffic which is up against the building, (2) retail shops the foot traffic stays tight up against the building and you have the

window experience which is huge for business, and (3) consistent foot traffic, and not going in and out. My vote is put it to the street side.

Neidhamer – Item F: I'm not sure this requirement is necessary. Full support to eliminate the 4th of July. Chris, you make very legitimate discussion points about foot traffic.

With no further board discussion, **motion by Place, seconded by Meeder** to recommend to the City Commission to adopt Article VI Outdoor Sidewalk Cafés with changes to 54.171 (a), change the time to read 8:00 am to 11:00 pm; also from this section strike "*No outside sidewalk café shall be permitted on the 4th of July*"; and (d) add: If table umbrellas will be used, they shall complement building colors, and *no signage allowed on the umbrellas.*

2013-05-20-7B

Roll Call:

Aye: Ellwanger, Frasz, Kozłowski, MacKenzie, Meeder, Neidhamer, and Place

Nay: None

Absent: Crum and St. Dennis

Motion Carries

**Review Main Street
proposed bike rack art
project for downtown**

Hugh Conklin: Main Street Manager - Reviewed the renditions of various bike racks that were included in the agenda packet. The Main Street Design committee deals with façade, streetscapes elements; and visual items within the downtown. This idea has been in the development process for awhile, a grant was applied for and the group received \$1,500.00 towards the project. Slides were viewed of conceptual ideas, which could be unique to Boyne City, such as beautiful pieces of art as well as serve a function. Proposed ideas are an apple, fork, books, and juggler on a unicycle. This will be very visible and visual, and wanted to make sure everyone was comfortable with the designs that we will have created for us.

Becky Harris: Design committee member - As a member of the design committee, this has been in the development stages for a long while, they are functional pieces of art.

Michael Cain: City Manager and design committee member - This will generate a lot of discussion; the committee believes they are a good idea, it adds one more unique feature to the community, and we want to encourage people to get to Boyne City any way they can, and this would be a fun places to put bikes. These are concepts and proposed locations, if these are allowed to take place; the community will have discussions about the type of racks.

Jim Baumann: Chamber Director - I think they are great, and commend the design committee for the work they put into this. It will generate discussion and I believe is cool. I see people taking pictures by the fish all the time.

Conklin - We would like to have input from the board. This is very public, and will be talked about for along time.

Board Discussion

Meeder - I think they are pretty cool, I am worried about the placement of the racks, which I feel is quite important.

Place - Where we have showed you possible locations, there are existing bike racks there now. These could be made to add unique bike racks. Discussion will need to be had about removing the existing bike racks and replacing them with new ones, or in addition to the existing.