

CITY OF HARBOR SPRINGS
PLANNING COMMISSION MEETING
MINUTES
April 16, 2015

Chairperson Walstrom called the Planning Commission Meeting to order at 6:01 p.m. in the City Council Chambers of City Hall, 160 Zoll Street, Harbor Springs, MI 49740.

1. Roll Call and Verification of a Quorum

Present: Jeanne Benjamin, John Cupps, Jack Deegan, Jeff Ford, Lee Kramer, Sara Smith, Fred Walstrom and Carrie Wiggins

Absent: Andrew Bowman

Also Present: City Manager Thomas C. Richards, City Planner Larry Nix, Dave Heater, Police Officer, C. Jeff Grimm, newly hired Planning/Zoning Administrator, and City Clerk Ronald B. McRae

City Clerk McRae acknowledged that a quorum was present.

2. Approval of Minutes

[Enter Deegan, 6:03 p.m.]

Motion by Cupps, second by Benjamin, to approve the minutes of the February 19, 2015 Planning Commission Meeting as read.

Ayes – 8

Nays – 0

Motion carried.

3. Public Comments and Correspondence

Doug Troszak, owner of 127 East Bay Street, questioned the process of granting a “Redevelopment Liquor License” and the City’s requirements to provide a recommendation to the Liquor Control Commission to approve a liquor license. City Manager Richards discussed this issue.

4. Old and New Business

A. Amended Site Plan Review of 145 East Main Street – The Paper Station

Planner Nix stated that the Applicant, Michael and Tawna Naturkas, owners of 145 East Main Street, submitted a sight plan for consideration last month. The sight plan lacked definitive dimensions for the proposed sign and awning, a statement of the white light to be used was lacking, and the issue of serving for outside dining could not be addressed due to not having the property line on the original sight plan.

Planner Nix stated that the sign will be one foot, nine inches tall by five feet 1 and eleven sixteenths of an inch wide. The total square footage is a little less than nine square feet. Planner Nix acknowledged the proposed sign meets the City's Zoning Code. Further, there will be two gooseneck light fixtures providing white light to illuminate the proposed sign. Again, the Applicants meet the City's Zoning Code.

Planner Nix stated that the proposed awning will be fifty inches high, come out from the wall six feet, and will have a clearance from the sidewalk of ninety-six inches. Also, there will be no sign on the awning. Again, the Applicants meet the City's Zoning Code.

Planner Nix stated that the proposal for outside dining cannot be approved by the Planning Commission due to the lack of space owned by the Applicant. There is four and four tenths feet owned by the Applicant from the face of the building to the south. The space proposed for the outside dining area is eight feet from the face of the building to the south. The use of three and six tenths feet of public right-of-way is not permissible.

The Planning Commission discussed the proposals with Planner Nix, City Manager Richards and Naturkas. After the discussion, the following motion was offered:

Motion by Wiggins, second by Ford, to approve the amended site plan as proposed by the Applicant, except for the outside dining proposal; noting the outside dining proposal requires a City Zoning Code change to make the outdoor dining approvable, as proposed.

Ayes – 8

Nays – 0

Motion carried.

B. Discussion of the Use of the Public Right-of-Way for Outdoor Dining

Planner Nix stated that Mike and Tawna Naturkas have proposed a change to the City's Zoning Code to allow outdoor dining using a portion of the City's Public Right-of-Way. Naturkas has drafted a policy to be followed. Naturkas stated he took this policy to the Downtown Development Authority (the "DDA") for their consideration. City Manager Richards stated the DDA thought the idea should be referred to the Planning Commission for their consideration.

Planner Nix stated that the Policy is allowed in other cities. Naturkas stated he used ideas from the Cities of Marquette, Ann Arbor, Plymouth, Traverse City and some others to draft the proposed policy. Planner Nix stated that the Planning Commission has to provide the direction for this to go.

Planning Commission members discussed this issue. Some of the comments from Commissioners were:

- There should be at least a four feet right-of-way for pedestrian traffic. Planner Nix stated that the City's Policy has always been approximately six feet.
- This issue needs to be looked at closely.
- Everything that deals with this issue should be reviewed and the City's homework needs to be done.

Chairman Walstrom stated that the changes in the issuance of liquor licenses are bringing about a lot of changes. Walstrom further stated that these changes are coming very quickly. Further, Walstrom stated that these issues need to be watched closely.

It was the consensus of the Planning Commissioners that this issue should be referred to the City Attorney to draft an ordinance to consider the use of public rights-of-way for outside dining.

C. Public Hearing on a Special Land Use for a Full Line Restaurant – Mustang Wendy's

Chairman Walstrom called the Public Hearing on a Special Land Use (a "SLU") for Mustang Wendy's at 129 East Bay Street at 6:42 p.m. for the purpose of receiving comments from the public.

Chairman Walstrom invited Scott and Wendy Forreider, the Applicant and owners of Mustang Wendy's if they would like to discuss their proposal. Scott and Wendy stated that the space on State Street was too small and did not allow enough room. Further, they needed more space to allow for the meeting of the seating requirements for a liquor license in order to provide the ambience of a dinner drink. These issues needed to be met to be competitive and to make a living.

Doug and Rhonda Troszak, the owners of 127 East Bay Street, questioned who was responsible for the enforcement of U.S., State, County and City laws. The Planning Commissioners stated that their purpose was to authorize the "use" of property, not the enforcement of other laws.

Mary Catherine Hannah stated that has a representative of the Harbor Springs Area Chamber of Commerce Business Committee, the Business Committee supports the approval of the Mustang Wendy's request to be a full line restaurant.

Chistine Rau, 530 Summit Street, also gave her support for the approval of the Mustang Wendy's SLU Permit.

[Wiggins retired at 6:50 p.m.]

Norman VanWormer, the owner of 129 E. Bay Street, discussed his desire to try to insulate the walls and ceilings between 127 East Bay Street and 129 East Bay Street. Mary Ellen Hughes stated that she supports the proposed outdoor dining at Mustang Wendy's.

Motion by Cupps, second by Kramer, to close the public hearing on the SLU Permit for Mustang Wendy's.

Ayes – 7
Nays – 0

Motion carried.

Chairman Walstrom closed the Public Hearing on the SLU Permit for Mustang Wendy's at 7:00 p.m.

D. Consideration of a SLU Permit for a Full-Line Restaurant Use for Mustang Wendy's

Planner Nix discussed the parking requirements for Mustang Wendy's. He noted that Mustang Wendy's, based on the site plan, requires eighteen spaces. However, they have six spaces in parking credits. This brings the required parking spaces to twelve spaces. Due to this being a new business, based on a recent Zoning Code change, those parking spaces should be reduced by fifty percent. After all of the adjustments are made, Mustang Wendy's must come up with six parking spaces. The required parking spaces may be leased with an irrevocable clause in the agreement, subject to the City Manager's and City Attorney's approval.

Planner Nix stated that the floor plan, serving as a site plan, shows an indentation of seventeen square feet allowing room for two tables for outside dining. That area is currently closed in. Forreider stated that the area is enclosed temporarily. When the construction is completed, there will be no enclosure.

Planner Nix next addressed the proposed signage. Based upon the dimensions of the front of the building, the allowed signage area is seventeen and one-half square feet for the building. The applicant appears to have over ninety square feet of signage as proposed.

Forreider stated the sign proposed for the back is for employees and deliveries. Planner Nix stated that the sign maximums must be maintained.

The garage is still planned to be used as a residential garage. Space will be maintained for a vehicle. However, Christine VanWormer stated that due to construction, a temporary set of stairs will be installed, but removed when everything is upstairs that needs to be up there. Troszak questioned if the garage would be for commercial or residential use. VanWormer stated that the garage would be for residential use.

Planner Nix stated that the parking issue must be resolved before the SLU Permit may be issued. The City Attorney will need to approve a lease agreement for the parking spaces, should there be one. The rental or lease agreement must be irrevocable. If the parking spaces become not available, the full-line restaurant use will be revoked.

Troszak stated that the issue of trash disposal has not been addressed. Forreider stated that the trash agreement has not been fully worked out. He believes that he can still use the dumpster behind the New York Restaurant because he has good relations with Matthew Bugera. The dumpster for Juillerett's will be available. Forreider believes that he could work something out for space there. Lastly, he could just use totes.

Planner Nix stated that the totes would need to be stored on the property at 129 East Bay Street. It appears that the site plan has the storage of totes on a concrete pad by the garage. A better site plan would be necessary to illustrate the property ownership.

Commissioner Ford questioned how the restaurant kitchen will be ventilated. The air will have to be exhausted. VanWormer stated the kitchen equipment will be ventilated through the roof.

Planner Nix stated that the unresolved issues relative to the site plan approval and the SLU Permit approval are:

1. Parking; the City Attorney will need to approve the lease agreements or parking spaces will need to be purchased.
2. Signage; the Applicant will have to prove that the signage will not exceed seventeen and a half square feet. This item will need to be shown on an elevation of the building in the site plan.
3. Garbage; the Applicant will need to show that totes will be stored on the property at 129 East Bay Street or an agreement must be presented to show the dumpster space has been provided for garbage.
4. Exhaust fans are proposed to exhaust the roof. The site plan will need to be changed to show the exhausts.
5. Until the temporary walls are removed, there can be no approval for the outdoor dining proposal.

Planner Nix stated that the issue of providing insulation to reduce the noise in 127 East Bay Street was a good offering. The insulation type and installation was reviewed with VanWormer. Troszak stated that the installation of insulation would do minimal good because of the construction of the building.

Deliveries were discussed. Forreider stated that deliveries could go through the garage or the front. It would be best if the deliveries were made before 10:00 a.m. Commissioner Ford stated that are very specific rules concerning the blockage of the alley between the Bar Harbor – Juillerett’s on the west side of the alley and the structure of 127 and 129 East Bay Street on the east side of the alley. This is something that needs to be reviewed very closely.

Troszak requested an “Independent Confirmation” on the off-street parking space count needed. Planner Nix stated that he would provide the “Independent Confirmation” requested, if approved by the City.

After the discussion, the following motion was offered:

Motion by Deegan, second by Benjamin, to approve the site plan and Special Land Use Permit, as presented by the Applicant, with the following conditions to be satisfied by the City Attorney, the City Manager and the City Planner. The conditions are:

1. Parking; the City Attorney will need to approve the lease agreements or parking spaces will need to be purchased.
2. Signage; the Applicant will have to prove that the signage will not exceed seventeen and a half square feet. This item will need to be shown on an elevation of the building in the site plan.
3. Garbage; the Applicant will need to show that totes will be stored on the property at 129 East Bay Street or an agreement must be presented to show the dumpster space has been provided for garbage.
4. Exhaust fans are proposed to exhaust the roof. The site plan will need to be changed to show the exhausts.
5. Until the temporary walls are removed, there can be no approval for the outdoor dining proposal.

Commissioner Cupps stated that his son has a contract to perform work at Mustang Wendy’s and would like to abstain. There were no objections.

Ayes: Deegan, Ford, Kramer, Smith, Walstrom and Benjamin
Nays: None
Absent: Bowman and Wiggins
Abstentions: Cupps

Motion carried.

5. Member Comments

None

6. Next Meeting

City Manager Richards stated that the next Planning Commission Meeting is scheduled for May 21, 2015.

7. Adjournment

With no further business, Chairperson Walstrom adjourned the meeting at 7:58 p.m.

Ronald B. McRae, City Clerk