

PLANNING COMMISSION

Minutes

May 17, 2007

I. ROLL CALL

Fred Walstrom	Present
Andrew Bowman	Present
Jack Deegan	Absent
Jeff Ford	Present
Mary Ellen Hughes	Present
Laura Kors	Present
Sheryl McCleery	Present
Peter Sears	Present
Sara Smith	Absent

Also present were City Planner Larry Nix, City Attorney Jim Ramer and City Manager Fred Geuder.

Chairman Fred Walstrom called the meeting to order at 6:00 p.m.

II. MINUTES

Motion by Hughes, seconded by Bowman, to approve the minutes of the April 19, 2007, regular meeting, with the following correction:

“the sentence immediately following the approval of the minutes should read, “The City Manager noted the public hearing comments from February 15, 2007.””

Motion carried.

III. PUBLIC COMMENT AND CORRESPONDENCE

None.

IV. NEW AND OLD BUSINESS

A. Public Hearing on Proposed Special Land Use Request—SLU-2007-04, Maureen Vaughan, Proposed Fitness Center Use, 160 E. Main St. (upstairs)

The City Manager noted that the request from Ms. Vaughan did not exactly match a fitness center use, but that it was close to that, so it was required to be considered as such. He noted that the request from Vaughan was for a Personal Training/Sports Massage service.

Correspondence was received from Mick & Ann Phillips in support of the proposal.

No other public comments were received.

Walstrom closed the public hearing.

B. Consideration of SLU-2007-04

Planner Larry Nix noted that the proposed use was not a traditional retail use, but that the code had Special Use Standard for a Fitness Center, and he noted that it was appropriate that the City Manager had brought it to the Commission.

Nix noted that the proposal met the general standards of a Special Land Use, but that not all of the standards of the Fitness Center were applicable to this use, since it was on the second floor, and was not being planned as a Fitness Center that would likely have multiple users.

Nix suggested that approval of this proposal should add a condition that music or noise from the proposed use should not be audible from the outside.

Motion by McCleery, seconded by Hughes, to approve SLU-2007-04, a proposed Personal Training/Sports Massage service establishment for Maureen Vaughan, at 160 E. Main Street, as presented, with a condition that music or noise not be audible from the outside. Motion carried, 7-0.

C. Public Hearing on Proposed Special Land Use Request—SLU-2007-05, Proposed Restaurant Use at 11 W. Bay Street (the Depot), Karen Shaw

The City Manager noted that the applicant had not followed through with providing additional information, so there would likely be enough questions remaining that the Planning Commission would table the issue.

Dan Gorman, stated that he was acting on behalf of the owner, but that he did not have all the answers either. His role had been to draw up a potential floor plan for presentation to the Commission. He said he would take any information or questions back to the applicant. Gorman noted that the applicant had suffered a medical problem, which prevented her follow through on the additional information.

The City Manager noted correspondence from Ward Walstrom, Walstrom Marine that contained a number of questions.

The City Manager noted all of the following questions:

1. Where will customers park?
2. Where will employees park?
3. Where will delivery trucks drop off and pick up?
4. Where will garbage be stored and picked up?
5. Where will grease be stored and picked up?
6. Where will services vehicles park?
7. What type of restaurant will this be? What are the hours of operation planned?
8. Do you have a commitment for selling you parking?

9. What is your interest in this property? Do you own it or will you lease it?
10. Do you have a liquor license, and what is the procedure for approving it for use in Harbor Springs?

Walstrom asked for other public comment.

Brain Ewbank said that the questions noted by the City Manager were the same questions he would have asked.

Walstrom closed the public hearing.

D. Consideration of SLU-2007-05

Motion by Bowman, seconded by Sears, to table the request until the June 21, 2007 meeting, provided that the applicant provides answers to the questions posed. Motion carried

Walstrom noted that if any other questions needed to be raised, Commissioners should forward them to the City Manager.

E. Consideration of Proposed Special Land Use Request, SLU-2007-03, Accessory Living Quarters at 564 Arbor Street, Haan/Bila

The City Manager noted that the public hearing had been held in April. Questions that remained included whether lighting for the building needed any limitations, and whether a drainage and screening plan for the parking lot needed to be considered. He also noted that the applicant would need to sign an affidavit acknowledging the use, and that the Accessory Building should not be occupied until the new house is completed.

Nix concurred with these suggestions, and noted that they should be incorporated as conditions.

Gerald Haan asked if these would be reviewed administratively or whether they would come back to the Commission.

Nix suggested that they be approved administratively.

Bowman asked whether any boundary issues in this area would have an effect on this proposal.

The City Manager noted that it would not affect placement of this building; there was adequate space regardless.

Motion by Sears, seconded by Bowman, to approve SLU-2007-03, Accessory Living Quarters at 564 Arbor Street, per the plan presented, with the following conditions:

1. The applicant must provide and use an exterior lighting plan for the Accessory Building, subject to the approval of the City Manager and City Planner, and the City reserves the right to require the applicant to change said lighting after installation if it is determined to be too intrusive.
2. The applicant must present a drainage and screening plan for the parking area for approval by the City Manager and City Planner, and install it as approved. The drainage plan must be prepared by a registered Engineer.
3. The applicant must sign an affidavit acknowledging use restrictions, as prepared by the City.
4. The applicants shall not occupy the accessory building until such time as an Occupancy Permit for the new principal building is received.

Motion carried, 7-0.

F. Comments on The Depot

Craig Bell apologized for being late. Bell noted that he was the owner of the Depot, and that the proposed applicant for a restaurant at that location had not closed on the purchase of the building, and that the advertisement for the Public Hearing on this use had had an adverse affect on his existing business.

The City Manager noted that the City is required to advertise for such a use, and it was their understanding at the time of application that the applicant was under contract for the purchase.

The Planning Commission tabled the request because not enough information was available to make a decision, and the applicant must provide said information to the Commission by June 11. If the applicant cannot demonstrate an interest in the property at that time, the City will not consider her application.

G. Consideration of Proposed Lot Split/Realignment—372 Glenn Drive, Pursley

The City Manager noted that since the April meeting, Mr. Pursley had clarified his request to be that 63' of frontage would be split, but that it would be to be joined to the Buhl property. It would leave him roughly 63' on Glenn Drive.

Peter Pursley commented that this is his proposal. He noted that the property split off would be slightly irregularly shaped so that his driveway would remain completely with the parent parcel. Pursley also noted that he had verbally made an agreement with Larry Buhl III, for purchase of the property.

The City Manager noted all of the correspondence received (list attached to these minutes). He also noted that he had conversed with David Buhl on Wednesday the 16th, and at that time no agreement had been reached. David Buhl had said that the Buhls do not have any specific plans at this time for the property.

Pursley stated that because the property would be combined with the Buhl property, there would really be no increase in traffic in the area, since the Buhls are already there.

Steve Graham, Jr., on behalf of Robert Burskey, 374 Glenn Drive, said that the real standard for consideration of a lot split that creates a non-conforming situation is whether the applicant can demonstrate a hardship; that the property cannot be used per the intended use of that zoning district. Graham stated that he sees no zoning reasons for this request to be granted.

Planner Larry Nix reviewed the existing property. He noted that the division proposed causes the Pursley property to become non-conforming, because it would no longer have the required 100' of road frontage.

Nix also noted that while we have a verbal confirmation of a sale, the Commission has not seen a commitment in writing. But Nix noted that the real issue is the creation of a non-conforming status. If approved, the lot which is currently conforming would become non-conforming, not because of the overall size of the property, but because of the width of the property on the road.

Generally speaking, the Planning Commission should NOT create non-conformities, because it begins to undermine the integrity of the code, not just in this district, but city wide. You can make lots that exceed the minimum standards, but it is not good policy to go the other way. Nix noted that the many existing lots that are less than the minimum standards were there historically, and were not as recent.

Nix noted that the applicant has not cited any practical difficulty or hardship for this requested land division. Nix recommends a denial of the request.

Pursley noted that his deal with the Buhls can be completed if the split is approved.

Nix again noted that the existing lot is in conformance with the 100' width standard, and the applicant can split off 26' without a variance.

Jeff Ford noted that in a visual tour of the immediate neighborhood, there are numerous lots less than 100'. He also noted that Pursley could conceivably build a guest house in that area with proper zoning approval. He also noted that he understands the issue of non-conforming, but he is generally sensitive to what the area looks like and that this could work.

Andrew Bowman asked the City Attorney if he (Bowman) would be correct in an assumption that denying the request leaves the City in the best legal situation should someone be inclined to sue the City.

The City Attorney agreed with that analysis. Absent a demonstrated practical difficulty or hardship, he noted that the City should not approve the request.

Bowman noted that the applicant could sell 26' to his neighbor.

Motion by Sears, seconded by McCleery, to recommend denial of the requested land division, because approval would cause the parent parcel to be non-conforming, and because no practical difficulty or hardship has been demonstrated. Motion carried, 6-1, Ford dissenting.

H. Approval of Outdoor Dining

The City Manager noted that outdoor dining or placement of tables has become rather routine and has worked over the last several years, but that approval should be done on a yearly basis, and the uses monitored.

He noted the following locations that require approval in the CBD:

- Yummies
- Woolybugger
- Island Bean
- Turkey's
- Kilwin's
- Cornichon's

The City Manager also noted that the outdoor cooking at Island Bean had been on a one-year trial basis and had worked well. One of the limitations was the hours.

McCleery suggested that the limitations on hours of operation for Island Bean be lifted.

Motion by Hughes, seconded by Bowman, to approve all of the outdoor dining and tables as previously for the locations noted above, and to approve Island Bean's outdoor cooking, but with no limitations on the hours of operation. Motion carried.

V. MEMBER COMMENTS

Peter Pursley commented that it is nice to get updates on issues.

The City Manager noted that the Catholic Church received their height variance for the Narthex (part of the church building), but did not receive the height variance for the Parish Hall portion.

The Commission also discussed penalties for property owners or contractors who violated permit processes. They would like to see higher fees or penalties.

The City Attorney noted that one option might be to make these civil, rather than criminal infractions, and that the City could look at their fee process.

By consensus, the Planning Commission asked the staff to look further at this issue.

VI. ADJOURNMENT

There being no further business, the meeting was adjourned at 7:00 p.m.. The next regular meeting is scheduled for Thursday, June 21, 2007, at 6:00 p.m.

Frederick W. Geuder, City Manager

**Correspondence
Re: Pursley Property Split
May 17, 2007**

5-2	Jim & Mary Ellen Holton	Glenn Drive	Opposed
5-2	Robert Hermann	Glenn Drive	Opposed
5-2	Lotsie Holton	405 Glenn Drive	Opposed
5-4	Cynthia Shafer	348 Glenn Drive	Opposed
5-4	Art Hailand	415 Glenn Drive	Opposed
5-4	John Failey	471 Glenn Drive	Support/Comments
5-4	Consie Pierrepoint	Glenn Drive	Opposed
5-4	Bob Smith	Glenn Drive	Opposed
5-8	Barbara & David Young	14 Woods Dr.	Opposed
5-10	Susan Riley	Glenn Drive	Opposed
5-14	Dru Doehrman Case	445 Glenn Dr.	Opposed
5-15	Jim & Jane Haugh	463 Glenn Dr.	Opposed
5-15	Cynthia Greene	Glenn Dr.	Opposed
5-16	Donald Streett	Woods Dr.	Opposed
5-17	Virginia Hume	Woods Dr.	No Objection (via phone)
5-17	Mark Pursley	127 Traverse	Supports (via phone)
5-17	Abby Plunkett	121 Traverse	No Objection (via phone)
5-17	David Lundeen	333 E. Third	No Objection (via phone)
5-17	Lambert Johnson	420 Glenn Dr.	No Objection
5-17	Bill Tribble		Support (via phone)
5-17	Dean Champagne	570 E. main	Support (via phone)
5-17	Bo Morley	Woods Drive	Support (via phone)
5-17	Steve Graham, Jr. on behalf of Robert Burskey	374 Glenn Drive	Opposed