

PLANNING COMMISSION

Minutes

June 16, 2005

I. ROLL CALL

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

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

Jack Deegan called the meeting to order at 6:05 p.m.

II. MINUTES

Motion by Pfeifer, seconded by Hughes, to approve the minutes of the May 19, 2005, meeting, as presented. Motion carried.

III. PUBLIC COMMENT AND CORRESPONDENCE

Correspondence was received from Alan Hegedus commenting on the proposed Bluff Ordinance.

IV. NEW AND OLD BUSINESS

A. Consideration of a Renewal Permit for use of the Coffee Roaster at Woolly Bugger (Darrell Lavender)

The City Manager noted that the permit for use of the coffee roaster at Woolly Bugger had come due last fall. The City Manager said he had missed placing it on the agenda at that time.

Woolly Bugger owner Darrell Lavender noted that he did 780 batches in 2004, and there were only 6-8 occasions when they forgot to ignite the afterburner. He admitted that there are occasions when there is an odor, but noted that many of his customers like the smell. Lavender noted that he does roast for the Charlevoix store, as well as supplying beans for his mail order business.

Lavender said that the capacity of the roaster was 10 lbs., and that this was the smallest size roaster available for commercial applications.

Alan Hegedus, who lives in the downtown area, said that he likes the business and has never had a problem with the odor.

Jean Jardine stated that she was concerned with the odor that sometimes occurs.

Pringle Pfeifer said she was concerned about whether the roasting part of this business was an appropriate use for the downtown. On occasions where the odor is present, she feels it is a very strong smell, and she does not like it.

Jack Deegan commented that he has never noticed the odor when he is in the downtown area. He noted that his office in Petoskey is near “Roast and Toast”, and an odor does occur at that location regularly.

Sheryl McCleery, owner of Tom’s Mom’s Cookies, said she is concerned that the amount of beans being roasted could increase beyond the tolerance level. She said the current level is generally acceptable, although when the strong odor occurs, it smells like her cookies are burning.

Lavender was asked whether the level of use could increase in the future and to what extent.

Lavender said if it came to the time when someone always had to be roasting coffee, as opposed to the counter workers doing it as needed, the costs would probably be prohibitive, and he would likely need to have an off-site roasting location.

Lavender also noted that whether the odor is unpleasant is subjective.

Julie Bacon, who is a downtown resident, said that on occasion she does smell the roasting, and it may be dependent on the wind directions.

Planner Larry Nix noted that when approval was initially granted in 2002, permission to use the roaster was given on a one-year trial basis, and was renewed in 2003. He noted that neither the City Manager nor the Chamber of Commerce has been inundated with complaints, and at this time the number of times when there is a significant odor is not sufficiently overwhelming to be a public nuisance.

Nix noted that new information received this evening was the size of the roaster batches—ten pounds per batch, which nets eight pounds of coffee. Nix noted that the Commission has three options:

1. Simply grant an approval again.
2. Deny the request.
3. Approve with conditions.

Nix asked whether it might be reasonable to limit hours. Lavender explained that the roasting occurs when needed, but does not occur every day.

The City Manager suggested that one condition might be to say that Lavender is limited to the 10 lb. size roaster.

The City Attorney was asked whether it could be approved, but subject to removal due to complaints.

City Attorney James Ramer commented that it would be harder to enforce under that type of condition, because the level of nuisance would be subjective and difficult to quantify.

While Lavender would rather not have to return to the Planning Commission each year, the general feeling of the Commission members seemed to be that they would be more comfortable if they could monitor the use on an annual basis to see if the roasting process was becoming a nuisance.

Motion by Deegan, seconded by Hughes, to grant an extension of the permit to use the roaster to September 2006, subject to the condition that the roaster capacity be limited to the current 10 lb. capacity. Motion carried, 5-0.

B. Review of Conceptual Plan for 257 East Main (Julie Bacon)

Mark Buday, on behalf of the property owner, reviewed a plan to replace the old shops on the rear of the property with new buildings, possibly adding a second floor apartment. To accomplish this, new parking would be needed, and the purpose of appearing before the Planning Commission was present a possible scenario for parking. Buday suggested a plan where the owner (Bacon) would share a driveway of East Third Street with the adjacent property owner (Kevin O'Neill). Both properties could gain parking. Bacon would potentially have a total of seven parking spaces. Buday also needed an interpretation from the Planning Commission as to how many spaces were previously required for this property.

The City Manager reviewed the history of the property at 257 East Main. The primary change to the property previously was the conversion of 400 square feet of residential use space to commercial use. That would have created the requirement for one parking space. He also opined that the previous conversion of the two small outbuildings to commercial use would have created a requirement for two parking spaces. So the City Manager's interpretation was that Bacon should be required to have three parking spaces. If Bacon could create seven usable spaces, she would have four extra spaces available for potential new space and/or uses.

Sheryl McCleery asked whether the property owner to the west (Jean Armstrong) had been included in the planning process.

Buday and Bacon said that Armstrong had been approached, but was not interested in participating. The City Manager said a similar overture from a different developer had occurred 2-3 years earlier with the same result, although that plan did not come to fruition.

Planner Larry Nix noted that he agreed with the City Manager's interpretation.

The Commission asked what would happen next.

Buday said that if the Commission agreed on the number of parking spaces that were currently required, then Bacon could go ahead with a full site plan for the property, as well as formalizing an agreement with O'Neill for the joint use of the driveway.

The City Manager asked the Commission to approve his interpretation that said Bacon was required currently to have three parking spaces for the current uses.

Motion by McCleery, seconded by Smith, to establish that the current parking requirement for the current uses at 257 East Main is three (3) parking spaces. Motion carried, 5-0.

Buday and Bacon thanked the Commission, and said they would be back with a formal site plan.

C. Review of Proposed Bluff Ordinance

The City Manager asked the City Attorney to review the changes that he had proposed for the ordinance, based on the public comments.

City Attorney James T. Ramer stated that there were four principal changes:

1. He removed all references to tree trimming regulations from the ordinance.
2. He also stated that he had redefined the regulated area on the toe of the bluff to be three feet north (or further up into the bluff) of the point where the Bluff first exceeds 18.5 degrees in slope.
3. He also stated in the proposed ordinance that where existing retaining walls exist (either as stand-alone walls or as part of a building) the regulated zone would begin at the point of the retaining wall. If the retaining wall were part of a building, it might mean that on each side of the building the regulated area would not be in a straight line with the retained wall of the building, but this would ensure that the existing retaining walls, whether stand-alone or part of a building, could be repaired.
4. He also proposed that rather than having the approval process for proposed projects in the regulated areas be Special Land Uses (which require notification to all properties within 300'), the process would be a Site Plan review by the Planning Commission. If the Planning Commission denied approval, the applicant could file an appeal with the Zoning Board of Appeals (ZBA).

Ramer felt that the change proposed in #4 was an advantage, because the denial of a Special Land Use application could NOT be appealed to the ZBA, but would need to go directly to court. The City Manager would still review applications for projects in the Regulated Zone, but could require that they go to the Planning Commission for consideration. The applicants would be required to have engineered plans for projects in the regulated zone.

Finally Ramer suggested that it was his recollection of what was said to the public in attendance at the hearing in May was that the Planning Commission would call a second Public Hearing. He

suggested that the Commission have a new hearing in July, and they could hopefully send a recommendation to the City Council for action in August.

It was the consensus of the Planning Commission to proceed with a public hearing in July.

D. Consideration of Master Plan Update Proposal

The City Manager reviewed a proposal from City Planner Larry Nix for Nix's firm, Williams & Works, to do an updated Master Plan. In the proposal, Nix noted that the State of Michigan now requires that communities review and if necessary update their Master Plan every five years. The City last updated their Master Plan in 1989. Nix outlined the process, and proposed to do the update at a cost of \$9600.

The City Manager noted that the City had budgeted funds in the 2005 budget towards such an update, and the timing would be such that the cost could be spread over two fiscal years.

The Commission reviewed the proposal with Nix and the City Manager.

Motion by Hughes, seconded by Smith, to recommend to City Council that they proceed with a Master Plan update per the Williams & Works proposal. Motion carried.

V. MEMBER COMMENTS

None.

VI. ADJOURNMENT

There being no further business, the meeting was adjourned. The next meeting is scheduled for Thursday, July 21, 2005, at 6:00 p.m. The second Public Hearing on the proposed Bluff Ordinance will be scheduled for this meeting.

Frederick W. Geuder, City Manager