

**PLANNING COMMISSION
CITY OF WILLOUGHBY
REGULAR MEETING
MAY 9, 2013
REGULAR MEETING
MINUTES**

PRESENT: G. Merhar, C. Cox; K. Kary; R. Irvine, Chairman
ABSENT: R. Fiala
OTHERS: Mike Lucas, Legal Counsel; Jim Sayles, City Engr.; Janice Lipscomb, Econ. Devel. Mgr.; Richard Smith, Chief Zoning & Bldg. Inspec.; Chris Woodin, Ward 1 Councilman; Jerry Ranally, Ward 3 Councilman, Betty Nardelli, Sec'y

Chairman Robert Irvine called the regular meeting to order at 7:05 p.m.

MINUTES

April 11, 2013

A motion was made by Jerry Merhar and seconded by Chuck Cox to approve the minutes of April 11, 2013 as written.

ROLL CALL: Yeas: J. Merhar; C. Cox; B. Irvine
 Absent: B. Fiala
 Abstain: K. Kary

Motion Carried: APPROVED

OLD BUSINESS

A motion was made by Chuck Cox and seconded by Jerry Merhar to remove all old business from the table for discussion.

ROLL CALL: Yeas: J. Merhar; C. Cox ; K. Kary; B. Irvine
 Absent: B. Fiala

Motion Carried: APPROVED TO UNTABLE OLD BUSINESS

ON THE GREENS	P.P.#27B-52-1	Rezoning -
PROPERTY CO.	38890 Hodgson Rd.	19.5733 acres
(Anthony Slyman)		G-B to RMF-LR

Anthony Slyman represented this rezoning application.

Jerry Merhar said that this application was tabled at the last meeting until more than three members would be present. Chuck Cox said that Bob Fiala had the most concerns because the use was not

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consistent with the Master Plan. Janice Lipscomb said that the Master Plan calls for some commercial development in that area.

Mr. Slyman said that they had this property for years and have marketed this property for many years to the best of their ability. Mr. Slyman said that there is no call for commercial development for 20 acres in that area. Ken Kary said that you need density like Arbor Ridge and Cross Creek to bring commercial development to that area. The Parkway on the west side of Lost Nation Road has empty lots and buildings. Nothing happens without homes. Mr. Kary said you have to bring in the people. Chairman Irvine said that Mentor has both a thriving commercial development and the density. Mr. Slyman said that there is residential development all around this parcel. There are 98 homes on the other side of the golf course, along Lost Nation Rd. and on N. Bay Dr. Mr. Slyman said that if you are worried about mixing the uses it already is mixed across the street along Lost Nation Rd.

Mr. Slyman said the entrance from the corner of Lost Nation Rd. and Hodgson Rd. is about 600' to 800' in response to Chairman Irvine's question. Jim Sayles said that a traffic light would be helpful at this intersection in response to Chairman Irvine's question. Mr. Merhar asked Mr. Slyman if he would do a traffic study for a traffic light if one is needed. Mr. Slyman said he will do anything to make this development go forward. Chairman Irvine said that a warrant must show that there's a requirement for a traffic light.

Chairman Irvine was concerned about this property being rezoned and then this plan doesn't go forward. Mr. Smith read into the record all the permitted and conditional uses for the RMF-LR zoning Classification. Mr. Slyman said that this plan is the most economic salable plan he has for this property. Mr. Slyman said that he is willing to do deed restrictions for this plan.

Mr. Lucas said that Planning Commission approves the rezoning pursuant to the applicant's request with recommendation to City Council's approval and City Council approves the rezoning subject to the Court's approval.

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Chairman Irvine requested a motion.

A motion was made by Jerry Merhar and seconded by Ken Kary to approve the rezoning application as submitted subject to two conditions: (1) That the property in conjunction with the rezoning be deed restricted for the development plan as submitted subject to the approval process by itself; (2) that the Court independently approves rezoning by the action of Council's approval.

ROLL CALL: Yeas: J. Merhar; K. Kary; B. Irvine
 Nays: C. Cox
 Absent: B. Fiala

Motion Carried: APPROVED

KELLY/ERIC HENDRIX	S/L 7	Grading plan -
(ARBOR RIDGE)	1481 Westover Dr.	Chg to Arbor Ridge
		Sub-1A plan -
		Landscape mound
		at rear of prop.
		RMF-LR / C/O dist.

Kelly Hendrix, Owner of S/L 7, and Jessica Milliman, owner of S/L 6, represented this revised grading plan. A presentation was given showing 60% reduction in the drain area and 60% reduction in the peak runoff. The mound starts out low on the Milliman property and elevates onto the Hendrix property and continues onto the next property. The overall height of the mound is 3' in response to Chairman Irvine's question. Mrs. Milliman said that five trees will be planted on top of each sub lot's mound which are Blue Spruce and River Birch.

Ken Kary said he was pleased with what was presented here this evening. Mr. Kary said that the mound on the Hendrix property will have to stay high onto the next property. Mr. Kary said he hopes they continue the procedure onto the adjoining properties.

Mr. Kary said that whatever we do here is going to happen on Tamarac Blvd. where the buffer is.

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A motion was made by Jerry Merhar and seconded by Ken Kary to approve the grading plan change to Arbor Ridge Sub-1A plan for S/L 7 as submitted.

ROLL CALL: Yeas: J. Merhar; C. Cox; K. Kary; B. Irvine
 Nays: None
 Absent: B. Fiala

Motion Carried: APPROVED

JESSICA/HENRY MILLIMAN	S/L 6	Grading plan -
(ARBOR RIDGE)	1477 Westover Dr.	Chg to Arbor Ridge
		Sub-1A plan -
		Landscape mound
		at rear of prop.
		RMF-LR / C/O dist.

A motion was made by Ken Kary and seconded by Jerry Merhar to approve the grading plan change to Arbor Ridge Sub-1A plan for S/L 6 as submitted.

ROLL CALL: Yeas: J. Merhar; C. Cox; K. Kary; B. Irvine
 Nays: None
 Absent: B. Fiala

Motion Carried: APPROVED

FRANK & TONY'S	38107 2 ND St	CUP -
(Angelo Gallo)		Sls or SVC of
(Rob't Orovets)		alcohol. bev. On-site
		consump. w/p/use
		C.O.1141.03(c)(17)
		D-B dist.

Angelo Gallo submitted a revised elevation plan for an addition of a second floor and a patio and represented this conditional use permit, tabled at the April 11, 2013 meeting, for an expansion of his existing permit. Mr. Gallo said that he talked to the following neighbors: Courtney Evers who runs the building across the street and to Anthony Grandini of Ciro's who owns the newly built residential building next door. Mr. Gallo said that he measured the distance from Frank & Tony's to the following buildings:

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212' to the Bed and Breakfast building,
24' to the next door residential building,
127' to the US Bank building, (measured from the patio side of F &
T to the wall of the residential floor),
127' to Mullarky's (to the second floor resident's floor),
163' to Panzo's,
148' to Cork's.

Mr. Gallo said that the 1899 Pub is closer than the Bed & Breakfast building.

Mr. Gallo said that the main reason for the addition is that he hosts fund raisers. It will help to bring business to a higher level to his establishment. Mr. Gallo submitted letters from groups that held fund raisers at F & T in the past.

Mr. Gallo said that the concern of Jerry Merhar at the last meeting was that F & T was adding more bar space. Mr. Gallo said he took the bar out, added glass sliding windows, and has an open floor plan. The new plan shows a second floor with a patio with a knee wall and three glass sliding windows on each side of the addition. He will have low ceilings and low tables. Mr. Merhar said he would like to see the windows not open facing the B & B. The other sides are not an issue. Mr. Gallo said that with that much glass it would hinder air flow. It would be similar to a green house.

Mr. Gallo said he will not have speakers on the second floor patio in response to Jerry Merhar's question.

Mr. Gallo said he could not do the addition without the patio in response to a question from the last meeting. Mr. Gallo said that there would just be a stairway on that side of the building.

Mr. Gallo said the second floor will be open all the time and not just for special events. Mr. Smith said that the smoking area has to be totally open.

Mr. Gallo said that originally the fund raisers time was limited to 4:00 p.m. until 7:00 p.m. on Saturdays. Mr. Gallo changed the fund raisers time to 6:00 a.m. until 11:00 p.m. on the night of fundraisers.

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Mr. Gallo said that the windows in the second floor addition will be open in response to Jerry Merhar's question. Chairman Irvine said: "then no music period, is allowed on the second floor". Mr. Gallo then asked "what will the customers do then"? Mr. Gallo said we're talking about a juke box, not live music. Mr. Merhar said he has no problem with music on the second floor. He has a problem with the open windows. Then the addition becomes a patio. Mr. Gallo stated that if he would make a provision to keep the windows closed on the building addition and not on the patio where there is no music if that would be sufficient. Mr. Merhar said if it were made a condition that the windows are inoperable then he has no problem with the music.

The conditions agreed upon are:

1. Hours of operation:
11:00 a.m. until 2:30 a.m. 7 days a week.
2. Fund raisers are limited to 6:00 a.m. until 11:00 p.m. on Fund raiser evenings.
3. A 42" high knee wall on the patio is required.
4. Music is not permitted on the patio.
5. The windows on the 2nd floor of the building shall not be operable.

Chairman Irvine asked for a motion.

A motion was made by Jerry Merhar and seconded by Ken Kary to approve the conditional use permit subject to the conditions stated this evening.

ROLL CALL: Yeas: J. Merhar; C. Cox; K. Kary; B. Irvine
 Nays: None
 Absent: B. Fiala

Motion Carried: APPROVED

FRANK & TONY'S 38107 2nd St.
(Angelo Gallo)

Add'n - 2nd floor
Party room / patio
Site / elev. plans
D-B dist.

Angelo Gallo submitted a revised elevation plan and represented

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this site plan and elevations for the second floor addition which was tabled at the April 11, 2013 meeting.

Chairman Irvine said that the knee wall on the patio needs to be 42" high. The glass paneled windows shall be inoperable in the building addition on the second floor.

Mr. Gallo said that the roof will be metal in response to Chairman Irvine's question.

A motion was made by Jerry Merhar and seconded by Chuck Cox to approve the site plan and elevations plan for the addition with a 42" high knee wall for the patio and inoperable windows for the building addition.

ROLL CALL: Yeas: J. Merhar; C. Cox; K. Kary; B. Irvine
 Nays: None
 Absent: B. Fiala

Motion Carried: APPROVED

NEW BUSINESS

**KIRTLAND TUDOR
ESTATES PH II**
(Chas. Szucs)
(Wm. Sanderson)

P.P.#21A-22-29
Kirtland Rd.

**Prelim. Plan/
re-design PH II - 38
envel. fee simple Lots /
PH I - 13 lots
RMF-LR dist.**

William Sanderson represented this preliminary plan for the redesign of phase II for 38 fee simple envelope lots. Phase one are attached condos. Three variances were granted at the April 24, 2013 meeting for the proposal.

Jerry Merhar wanted to know how the previously approved second story buildings were being handled. Mr. Sanderson said that one building is a dog cottage and they are marketing the condominium building and finishing the interior of the non-occupied units. Those will remain condominiums.

Mr. Sanderson said that detached single family homes that back up to Kirtland Rd. are going to be converted to fee simple transfer, not condominiums. The balance of the site will be simply transfer governed by an association that will have maintenance.

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Mr. Sanderson said that this plan represents the best opportunity to go forward with a fairly expensive product on a valuable site and still have the ability to complete the site. One unit was lost when converted to fee simple lots in response to Jerry Merhar's question.

Jim Sayles, City Engineer, said that this development will increase the sanitary sewer flow to the site but it will not be a problem downstream because they have been making improvements the past few years.

The retention runoff will be less because there will be more paved units there. The detention was located off-site previously for the other units. So whatever is built, Mr. Sayles said it will be adequate. Mr. Sayles said that there is space to add more detention in response to Chairman Irvine's question.

Mr. Sayles said that they got a tap in surcharge for this area. Kirtland Tudor paid for the first phase. St. John's Bluff has also paid a surcharge. It is still in effect for the initial units. An offset cost is being incurred for that.

A motion was made by Jerry Merhar and seconded by Ken Kary to approve the preliminary development plan for the overall 51 envelope fee simple lots for P.P.#21A-22-29 Kirtland Rd.

ROLL CALL: Yeas: J. Merhar; C. Cox; K. Kary; B. Irvine
 Nays: None
 Absent: B. Fiala

Motion Carried: APPROVED

BEAL'S PICKLES-N-PINT 36200 Euclid Ave.
(Chas. Beal)

**CUP -
Sls or SVC of
alcohol. bev. On-site
consump. w/p/use
C.O.1141.03(c) (17)
G-B dist.**

Charles Beal, owner, represented this conditional use permit application. Mr. Beal said there are two outside speakers on the patio in response to Chairman Irvine's question. Chairman Irvine

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said that typically Planning Commission doesn't permit outside speakers. It's the "ole" precedency. Jerry Merhar said that Planning Commission has been approving them lately at a low volume.

The conditions agreed upon are:

1. Hours of operation:
11:00 a.m. until 2:30 a.m. 7 days a week.
2. A bar is not permitted outside.
3. A speaker is permitted on the patio at low volume at a conversational level.
4. Live music is not permitted.

Chairman Irvine asked for a motion.

A motion was made by Jerry Merhar and seconded by Ken Kary to approve the conditional use permit application with the conditions stated this evening.

ROLL CALL: Yeas: J. Merhar; C. Cox; K. Kary; B. Irvine
 Nays: None
 Absent: B. Fiala

Motion Carried: APPROVED

YOUNG SUSHI INC. 4082 Clark Ave.
(Young Lee)

**CUP -
Sls or SVC of
alcohol. bev. On-site
consump. w/p/use
C.O.1141.03(c)(17)
D-B dist.**

Young Lee, owner, represented conditional use permit application. Mr. Lee said he will serve alcohol outside on the patio and the patio is enclosed in response to Jerry Merhar's questions.

The conditions agreed upon are:

1. Hours of operation:
11:00 a.m. until 12:00 midnight.
2. Alcohol service is permitted outside.
3. Speakers are not permitted outside.
4. Music is not permitted outside.

Chairman Irvine asked for a motion.

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A motion was made by Jerry Merhar and seconded by Ken Kary to approve the conditional use permit application with the conditions stated this evening.

ROLL CALL: Yeas: J. Merhar; C. Cox; K. Kary; B. Irvine
 Nays: None
 Absent: B. Fiala

Motion Carried: APPROVED

DISCUSSION

BMA MEDIA
(Todd Crockett)

4091 Erie St.

Add speaker

to exist monitor
Displayed in windows
D-B dist.

Todd Crockett, Real Estate Specialist of Howard Hanna, represented this discussion for BMA Media. Mr. Crockett said he is looking to advertise downtown merchants using a controlled speaker under the awning for audio for a video screen displayed in BMA Media's window. It will be two separate screens. One for music and one for audio. BMA Media presently has a video screen but they don't have volume for the screen.

Jerry Merhar said that the problem is that Willoughby has music on Erie St. for the merchants and he told Mr. Crockett that you don't want to compete with that. Mr. Crockett said that you would have to be under the awning to hear an audio. It is a combination of advertising for downtown merchants in response to Chairman Irvine's question.

Richard Smith said that there is no ordinance for this use in response to Chairman Irvine's question. Mr. Smith said that you could end up with a lot of businesses with individual speakers which is the reason he told Mr. Crockett to go before Planning Commission.

Mr. Merhar taught it was admirable that you are able to control the volume under the awning which shouldn't cause any issues but others might try something less.

Chairman Irvine said that the problem is that there is nothing in our Code that governs this so his interpretation is if it isn't in

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the Code than it isn't permitted. Chairman Irvine said that he would like to see if this is done in other communities. Chairman Irvine said that volume control is the most difficult thing that Planning Commission faces presently.

Chairman Irvine said that the Law Department should research other communities to see if they have an ordinance for this. Mike Lucas said he doesn't have Volume I of the ordinances with him this evening to check for audio output but the index on Volume II shows Chapter 510 referencing the noise level reaching a nuisance level.

Chairman Irvine advised Mr. Crockett to contact the Heart of Willoughby or the Downtown Merchants Association on how this will affect businesses, negatively or positively. Janice Lipscomb suggested that Mr. Crockett contact the Design Review Board which deals with ambiance and architecture.

Ken Kary said that you could plug into the video and use earphones to hear the audio portion.

Chairman Irvine said that you would think that if this were widely accepted that everyone would be doing it.

No action was taken on this discussion.

There being no further business the regular meeting closed at 9:20 p.m.

Robert Irvine, Chairman

Betty A. Nardelli, Secretary