

CITY OF GRAND HAVEN
GRAND HAVEN, MICHIGAN
PLANNING COMMISSION MINUTES

June 11, 2019



A regular meeting of the Grand Haven Planning Commission was called to order by Chair Erin Von Tom at 7:00 p.m. in the Grand Haven City Hall Council Chambers. On roll call, the following members were:

Present: Tom Crum, Ryan Cummins, Tim Deiters, Mike Dora, Bill Ellingboe, Robert Grimes, Kirsten Runschke, Steve Skodack, Chair Erin Von Tom.

Absent: None.

Also present were Jennifer Howland, Community Development Manager and MaryAnn Poel, Administrative Assistant.

Chair Von Tom welcomed new member Robert Grimes.

Motion by Skodack, seconded by Dora, to approve the May 14, 2019 regular minutes was unanimously approved.

Chair Von Tom gave a call to the audience and asked that they limit their comments to no more than two minutes.

Call to Audience

1. John Loeffler, 312 Elliott, wanted to speak to the Commission about extending key street segments in the OT District, specifically on 3rd Street between Fulton and Jackson. He had done some research and thought about 71% of that area was already rentals, about 21% was residential, about 7% was non-conforming, and 4 establishments had doors on 3rd Street. He felt this area was traditionally a business corridor and would like the Commission to consider adding more key street segments.
2. Lisa Royce, 1770 Navaho in Ferrysburg, stated she owned 1432 Washington which was a rental unit right next to 1442 Washington. She was upset that she didn't get a notification that a bar was trying to locate right next to her property. She stated her property didn't have a driveway and her tenants had to use the parking lot of this business, the Knights of Columbus, or the alley to gain access to the back of her property where the parking was. She stated there was no sign in either parking lot that said people couldn't drive through the parking lots.
3. Lisa Whipple, 1432 Washington Apt 3, stated a bar at that location was too close to her house and there would be too much parking of cars and lights from the cars. She said parking was a real issue in her neighborhood and the ice cream store that just opened up was creating a lot of new parking issues already. This was going to make it much worse.
4. Melanie Riekels, 619 Lake, stated she was a Zoning Board of Appeals member and she wanted to address the Commission about changing the waterfront ordinance. She stated the intent statement called for the waterfront area to be "park like" and she stated that possible T-shirt shops on Harbor Ave did not fit the term "park like". It also seemed that a small 500 square foot space was not going to support much of any type of retail business. She agreed that many times when things took place in the city the residents did not get

notices. She was asking that changes be made to keep the waterfront district from being handled the same way as the main street central business district.

5. Aaron Smith, 410 N Causeway, Muskegon, was part of Agri Med and explained that he and his uncle Greg Maki had received the first State Provisioning Center license in both Muskegon and Ottawa Counties. He was very familiar with the State process and also many of the ordinances in other municipalities. He offered his assistance to the Commission and also offered to provide a tour of their facility.

Chair Von Tom asked that the Commission give some feedback about the key street request.

Deiters stated the Commission was just starting a rezoning process and he felt this could be looked at as part of that review.

Skodack stated he would be favorable to reviewing it.

Ellingboe felt it should be looked at during the zoning review.

Crum and Dora agreed with Ellingboe.

Cummins stated he would be willing to review it. He pointed out that adding or extending key streets would result in the more dense uses being allowed, so that would need to be looked at carefully. He also felt the concerns voiced by Riekels should be looked into.

Case 19-14: A request from William Schultz for approval of a fence located in the rear yard of a waterfront lot located at 1815 Pennoyer Avenue (parcel #70-03-27-128-004) per Section 40-327.B.1.b of the Zoning Ordinance.

Howland stated this applicant had come before the Commission last year for the north side of his waterfront lot property and now he would like the same fence on the south side of his property.

Dora asked if the setback was the same as the other side and Howland replied yes.

Cummins stated as long as the slats in the fence didn't go any further than what they had allowed on the other side, he was supportive of the request.

Motion by Skodack, seconded by Runschke, to approve the request from William Schultz for a fence located in the rear yard of a waterfront lot located at 1815 Pennoyer Avenue (parcel #70-03-27-128-004) per Section 40-327.B.1.b of the Zoning Ordinance. The motion passed on the following roll call vote: Ayes: Crum, Cummins, Deiters, Dora, Ellingboe, Grimes, Runschke, Skodack, Chair Von Tom. Nays: None.

Case 19-15: A request from Long Road Distillers for a Site Plan Review for a proposed semi-permanent sidewalk café located at 18 Washington Avenue (parcel #70-03-20-407-006).

Howland stated this property had a previously approved site plan for a semi-permanent café that

was approximately 6 foot by 18 foot long but the new owners of the building would like to amend that plan. They were requesting a 6 foot by 14 foot café area that would be elevated. There would be a 12 inch tall platform sitting on a rubber mat in order to elevate the sidewalk café to the same grade as the interior floor of the establishment. The Department of Public Works had reviewed the plan including the rubber mat that would protect the sidewalk and had no concerns. The area would be enclosed by articulated wood posts and a 3 foot tall stainless steel cable railing system. The furniture layout included 10 counter-height stools around the perimeter of the café with a counter-height rail for food and beverages. There would also be one 4-person table. Hours of operation would be 10am to 11pm May through October. The applicant would be adding a sliding patio door to the front of the building and the café would only be accessed from the inside of the business. The patio door would increase the first floor transparency from 25% to 65%.

Owner Kyle VanStrien explained the goal was to create a great guest experience and pointed out that he was shrinking the previous café footprint and enhancing the space.

Deiters stated that previously trash had been a problem and asked if there would be a trash can available. VanStrien stated there would be wait staff that would keep the café area clean.

Skodack asked why he wanted the café raised. VanStrien stated the floor level of the restaurant was elevated and they wanted the access out to the patio to be at the same level so there was no issue for any guest to be able to access the patio area. The other option was to drop the level of the interior floor but that was just not feasible. Skodack stated he had some concern about it being raised and he wasn't sure he would like to see other cafés be raised.

Ellingboe felt it was a good idea to have the access from the interior as it would help control service better.

Crum was concerned this looked permanent and VanStrien stated the sidewalk cafes were only allowed to be on the sidewalk from May to October so each year it would be removed in October.

Dora pointed out that none of the other sidewalk cafés were raised so that was a bit of a concern. He was concerned that the cable type fencing being proposed didn't match the type that the City allowed. Howland stated the cable system wasn't on the list, but she believed that the list was only a guide. She stated the palette had not been codified as part of the ordinance.

Dora stated if this was approved then others would be able to do it as well. He asked if the 36 inch fence was measured from the sidewalk or from the platform and Howland stated it could be interpreted either way. He pointed out measuring the 3 foot fence from the platform would make it a 4 foot tall fence from the sidewalk, but measuring 3 feet from the sidewalk would end up being just a 2 foot tall fence for the people sitting on the elevated deck.

Cummins wanted to make sure the Commission wasn't arbitrarily creating a new allowable look if there was a greater process that took place when the first list of fence types was approved. He stated he liked the additional transparency and other than the cables the design looked good. He wanted to make sure that there wouldn't be issues for a wheelchair being able to roll over the grate that was around the tree. He felt the design looked good as long as they could determine that the cable fencing was allowable.

VanStrien stated the reason for the cable type fencing was to allow as much visibility as possible.

Dora asked what the requirement for post spacing was compared to what was being proposed. Howland stated the required spacing was “not less than 48 inches and not more than 60 inches” and the proposed spacing was 66 inches. Howland stated VanStrien may need to adjust the spacing. Dora suggested adding a 4th post and Grimes suggested making the center one wider.

Ellingboe stated if the Commission wanted this list to be restrictive then that should be reviewed and incorporated during the zoning update. At this point he felt what was proposed complied with the intent of the ordinance.

Runschke felt the 12 inch platform worked well and was appropriate considering the level of the interior floor.

Chair Von Tom agreed that it made sense but was a little concerned about how this would look and function in this particular area. She hoped the doors would be secured in the off season so no one would fall out or try to walk out and fall. VanStrien stated they would most likely not be open in the off season.

There was some discussion about the possibility of food falling through the deck spacing and how that would be kept clean and sanitary, but it was also pointed out that if there was no spacing then water may not drain well and the surface would become slippery.

Motion by Ellingboe, seconded by Runschke, to approve the site plan from Long Road Distillers for a proposed semi-permanent sidewalk café located at 18 Washington Avenue (parcel #70-03-20-407-006) subject to the following conditions:

1. Seating is limited to 10 counter-height stools around the perimeter of the cafe, with a counter-height rail for food/beverages, plus one 4-person table.
2. The City Council must approve the license agreement for the sidewalk café.
3. The business owner must obtain a Sidewalk Café Permit every year.

The motion passed on the following roll call vote: Ayes: Crum, Cummins, Deiters, Grimes, Ellingboe, Runschke, Chair Von Tom. Nays: Dora, Skodack.

Case 19-16: A request from Burzurk Brewing for a Site Plan Review for 1442 Washington Avenue (parcel #70-03-21-481-027).

Runschke stated she was the architect for the project and stated she needed to recuse herself.

Howland stated this was an existing 2 tenant building in the Beechtree district. The proposal was for the western tenant space to become Burzurk Brewing which was considered an eating and drinking establishment and was an allowed use in the Beechtree district. The site plan review was for a small addition to the west for the purpose of a walk in cooler. There were no other exterior improvements being proposed. 25 parking spaces were required based on a 75 person occupancy. They were requesting the 20% reduction for providing a covered bike rack for 8 bicycles, which brought the required parking down to 20 spaces, but they were still going to provide 25 spaces. There were 4 spaces including a handicap space on the north in front of the building, there were 9 spaces in the existing unimproved parking lot on the west side of the building, they were allowed 10% of available on-street parking within 300 feet which was 1 space, they had submitted a shared parking agreement with The Sign Factory for 4 spaces, and had a shared parking agreement with the Knights of Columbus for 7 spaces for a total of 25 spaces. Howland explained the recording

studio owner across the street at 1447 Washington had been approved for a Special Use Permit in 2014 which was conditioned upon several shared parking agreements, including 8 spaces from 1442/1444 Washington and 25 spaces with the Knights of Columbus. The recording studio had access to more spaces than was required, so those agreements were being modified so all parties would have sufficient parking. The applicant planned to be open from 3pm to midnight on their longest day. Howland stated the Beechtree district also had specific screening requirements that would require the applicant to install either a wall or landscaping on the west side of their property.

Deiters asked if only 1 handicap space was required and Howland replied yes.

Skodack felt the site plan met the ordinance.

Ellingboe felt the ordinance was met and agreed the screening was required between the business use and the residential use in order to shield the home from the car lights.

Howland stated she was not aware of any easements in place that allowed the residents of the house next door to cross the applicant's private property.

Bruce Emens, owner of 1444 Washington, stated there was no legal easement to use his property. He advised that the neighbor had a parking pad at the front and due to the closeness of that to his property line, he was concerned that if the wall was added to that area the tenants parking there would not be able to open their car door.

Howland suggested the wall or the landscaping start at north building wall of the house then run length of the property to the south or to allow a gap at the back of the property if the Commission felt that was appropriate.

Dora would be favorable to modifying the length of the wall to keep the area open that the neighbor uses to access the home.

Cummins explained that the use being proposed was an allowed use in the Beechtree district not a Special Land Use so that's why there was no notification to the neighbors since a public hearing was not required. He thought the landscape buffer might be better than a wall, he was agreeable to the 20% reduction due to the bike rack, and the proposed shared parking agreements seemed in order. He thanked staff for reviewing the existing parking agreements to ensure they were not creating a conflict with previous shared parking approvals. He was appreciative of the development that was happening along Beechtree, but wanted to stress again that parking was an issue in this district and they needed to give attention to this during the zoning review.

Deiters wanted to clarify that if there was no legal easement for the neighbors to access the applicant's property then their only legal access to their property was from the public alley and the renters did not really have "rights" to drive through the 1444 Washington property. He also explained that this case was a site plan for an allowed use and therefore no public hearing or notification had been required.

Chair Von Tom wanted to make sure the Commission was comfortable with the 20% reduction in exchange for the covered bike rack and comfortable with the shared parking agreements. She felt they should clarify for the owner if those parking agreements needed to be recorded. There were

already a couple agreements with several of these area businesses so she wanted to make sure the Commission did not over share these other locations.

Deiters wanted to clarify that a sprinkling system was required if the applicant chose landscaping instead of the wall. Howland confirmed that either an underground irrigation system or an acceptable watering alternative was required.

Chair Von Tom asked why the parking lot was not required to be paved. She felt it would be appropriate in this case. Howland stated it was not required because it was an existing lot.

Grimes stated he would rather see the parking lot paved and he was more agreeable to landscaping than the wall.

Chair Von Tom stated there seemed to be several items that were not clear at this point and wondered if the case should be postponed so the site plan could be revised.

Howland suggested that the landscaping run along the west property line starting about 20 feet from the north property line and run to approximately 15 feet from the south property line. That would leave open space for the adjacent neighbor.

Dora pointed out according to Section 40-605.02 off street parking areas had to be bituminous, concrete or approved pavers so he didn't think they could actually require a paved parking lot.

Cummins didn't want to create conditions that weren't required by the ordinance.

Motion by Cummins, seconded by Skodack, to approve the site plan from Burzurk Brewing for a 1442 Washington Avenue (parcel #70-03-21-481-027) subject to the following conditions:

1. A 20% parking waiver has been granted in exchange for providing covered bicycle parking.
2. Shared parking agreements with The Knights of Columbus and The Sign Factory must be recorded and maintained.
3. A dense landscaping buffer shall be added that complies with the ordinance.

Dora asked if he wanted to add that the shared parking spaces in The Knights of Columbus lot had to be striped and Cummins stated he wanted to leave his motion as stated.

The motion passed on the following roll call vote: Ayes: Crum, Deiters, Dora, Ellingboe, Cummins, Skodack. Nays: Grimes, Chair Von Tom.

Runschke returned to her seat on the Commission.

Case 19-17: A proposed text amendment to Section 40-327.B.2 of the Zoning Ordinance to change the required opacity of decorative fences located in the required front yard and corner front yard.

Howland stated the most common fence permits issued were for 6 foot tall fences in the rear yards and picket fences in the front yard. The ordinance gave homeowners the option for fences in the front or corner front yard of either a 3 foot tall fence with 50% opacity or a 4 foot tall fence with 35%

opacity. She would like to amend the ordinance to allow a 4 foot tall picket fence with 50% opacity just to simplify the ordinance for residents.

Chair Von Tom asked what the issue seemed to be and Howland stated most residents seemed to want to have the 4 foot fence in order to better contain their yards for children and pets. There were many times when they didn't understand the difference in the opacity either.

Grimes wondered if the reason for the 35% on the 4 foot fence was to be able to see the homes better.

Motion by Ellingboe, seconded by Skodack, to set the public hearing for the July 9 meeting was carried by voice vote.

Case 19-13: Per the City Council's direction, the Planning Commission will begin a discussion to develop proposed regulations governing medical marijuana facilities.

Howland stated the Commission started the process of creating ordinance language for medical marijuana last month and decided to deliberately take small focused steps each month. Last month was looking at the different laws and the process that we might follow. This meeting would be to discuss the 5 types, how to classify them, decide which ones would be appropriate for the city, and which districts would be suitable for which type. She had created a power point which summarized the types with a definition and the use each type was most similar to in our existing ordinance.

- Provisioning Center – showed areas that allowed retail
- Processor – showed areas that allowed manufacturing & processing
- Grower – showed industrial areas that allowed greenhouses
- Secure Transporter – showed areas that allowed warehouses and storage
- Safety Compliance Facility - showed areas that were similar to research & development

She felt the residential districts that did not allow non-residential uses would be off the table. She felt it would be a good idea to discuss districts, what was allowed on key street segments in those districts, and if this would be a Special Land Use or not. She had also given several sample ordinances.

Chair Von Tom stated she would prefer this not become a 35 page document similar to what another area community had recently created.

Skodack suggested that a bank would be a good fit for a Secure Transporter since they already handled cash and it was a secure facility. In regards to the Safety Compliance Facility, it seemed like there weren't too many out there statewide yet and he thought that would be good to have here. He felt the Grower may fit in the industrial area. He stated there seemed to be quite a few Processor places around so he didn't want the city saturated with those. He thought a Provisioning Center should be anywhere that we could have one, even in the downtown area. He was basically in favor of all the types but would like to have some discussion about how many of each type should be allowed.

Grimes stated it seemed like this had all become very complicated. It seemed like if a brewery could be in a district then the medical marijuana should be able to be there too. Likewise if a store was allowed to sell alcohol then why shouldn't the same store be able to sell marijuana.

Deiters agreed with Skodack that all 5 types should be allowed.

Ellingboe also agreed with Skodack but he felt the medical marijuana was more like a pharmacy use since it would be patients going in to obtain it. He felt this should be a Special Land Use to start and could be looked at again later when the process became more comfortable for both residents and users. He thanked Howland for the very helpful analysis. He would like to know more about what kind of security issues were typical for each use.

Crum stated he was in favor of allowing all 5 types and he agreed with the way Howland had classified each type.

Dora also agreed with many of Skodack's comments. He pointed out there was a very lengthy set of state requirements for each type and he felt those might influence what they decided to allow in the city. For instance one of the requirements for a Grower was it had to be totally fenced in with a fence that was high enough that no one could see inside. There had just been some discussion in the previous case about not allowing fences to be too high. He suggested that the Commissioners read through all those requirements before they decided which types to allow. Some of the requirement lists were 60 pages long.

Cummins stated he and Bob Monetza had met with Jamie Cooper and went through all of the license types. He pointed out there would be an odor with the grower use and they may not be able to mitigate that so they should keep that in mind. He stated the city didn't have a lot of agricultural area so they may need to look at the smaller class of grower for the city. He would like each license type to be a Special Land Use so each was reviewed individually. He felt the retail business definition fit the Provisioning Center use for the most part. He had also met with Rebecca Neil of Paradigm Wellness and found that some facilities actually had a Doctor on site so maybe there should be some mixing of definitions that would be a little bit beyond just retail to make sure they were including everything that a center would encompass. He really didn't want any of the types to be allowed in the residential districts.

Runschke stated these were all good points so far and although the city may not have a place that would allow a grower, she didn't want to rule it out at this point.

Aaron Smith advised there were some state chartered banks and credit unions that accepted marijuana deposits right now, but it was still a risk at this point. There was some legislation in process that might allow cash deposits, but that was probably a couple of years away yet.

Chair Von Tom asked that he give them some insight about the process he went through to get his license.

Smith stated it was intense and took from April 2018 until just this month to get their license. He stated the background check was similar to what it would be for opening a casino. Once they got through the state process then they had to go through the local process which was more time and cost them another \$40,000. Currently he and his Uncle had 2 state Provisioning Center licenses. They also had several local approvals for grow and processing licenses. He stated there were only

four Safety Compliance testing centers in the whole state. There were probably about 150 of those licenses available at the state level so that one was not in too much demand. The Secure Transporter was similar to a Brinks truck but most used a van for the transportation. The price of land for a warehouse type facility was actually pretty high in Grand Haven so that might not be feasible here. A Grower was going to need approximately 5,000 square feet to 15,000 square feet and then another 2,000 square feet for a Processing Center. He stated most people were trying to open the Provisioning Center. Crockery only allowed one license to begin with and were now running into monopoly issues so you might want to consider allowing at least two. Another thing to be aware of was that some entities were getting as many municipality licenses as possible and then either not opening or reselling the license. So many municipalities were putting conditions in their ordinances that the local licenses had to be used within a certain amount of time.

Runschke asked where the nearest Safety Compliance Facility was and Smith replied currently it was in Kalamazoo.

Jamie Cooper stated Howland did a great job on the presentation. As much as she would like to see Provisioning Centers in the downtown area she felt that parking was going to be a problem and that Beacon, Jackson, Taylor and Robbins would be better locations. In regards to the buffers she felt daycares and children centers should not be included in the buffer zones. She would like to see an education requirement on how to use marijuana be added to the ordinance.

Chair Von Tom stated it would be a good idea to look through the state requirements because, as Dora pointed out, some of the requirements may not fit within the districts in the city. She suggested that they use the next meeting to flush this out more and review the districts further.

B. ZBA Liaison Report – Cummins stated the appeal was held last month for the Dairy Treat site plan. He had to be removed because he was on the Planning Commission and had already voted on the plan. That hearing ended with a motion to have staff draft a sample motion to uphold the Commission's approval and there would be a meeting next week to review that motion and vote.

Howland reminded the Commission of the tour of the Muskegon Agri Med facility tomorrow.

Howland stated the first zoning tour took place today. She also advised that all of the changes to the ordinance in the last 6 months had now been codified and was online on the city's website.

Chair Von Tom stated this was the last meeting for Crum and Skodack and thanked them for their years of service.

Adjournment:

Motion by Skodack, seconded by Crum, to adjourn was unanimously approved by voice vote. The meeting adjourned at 10:15 p.m.



MaryAnn Poel
Administrative Assistant
Community Development Department