

CITY OF GRAND HAVEN
GRAND HAVEN, MICHIGAN
PLANNING COMMISSION MINUTES

December 10, 2019



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

Present: Tim Deiters, Bob Grimes, Kevin McLaughlin, David Skelly, Kirsten Runschke, Mike Westbrook, Chair Bill Ellingboe.

Absent: None.

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

Motion by Deiters, seconded by Runschke, to approve the November 19, 2019 regular minutes was approved by voice vote.

Chair Ellingboe congratulated Mike Dora for being appointed to City Council and thanked him for his service on the Commission. He explained that as Vice Chair he had become the chair so they would need to elect a new Vice Chair.

Elections:

Motion by Runschke, seconded by McLaughlin, to nominate Tim Deiters for Vice Chair carried by voice vote.

Chair Ellingboe asked Deiters if he was still interested in remaining the ZBA liaison and Deiters stated now that he was Vice Chair he would prefer for someone else to have the ZBA position.

Motion by Runschke, seconded by Grimes, to nominate Kevin McLaughlin for ZBA Liaison carried by voice vote.

Call to Audience:

1. Father Charles Schwartz of St Patrick's Church, 920 Fulton, wished to make a comment in regards to B4 in the proposed regulations and conditions for medical marijuana about creating additional separation requirements. He asked that the Commission take houses of worship and other locations that served vulnerable people such as AA, OAR, Harbor Hospice, Salvation Army, and Community Mental Health locations into consideration for adding some kind of buffering into the regulations for medical marijuana.

Case 19-29: A Public Hearing for a Special Use Permit for a proposed mixed use development (Retail Sales and Marina) located at 4 Harbor Island Drive (parcel #70-03-21-100-008). This case will also require a Sensitive Areas Overlay Review and a Site Plan Review.

Howland explained this was a request for a new marina located at Halls Sports Center at 4 Harbor Island Drive. The proposed project included 24 boat slips that would be constructed on floating piers and an expanded parking lot. A total of 31 parking spaces would be provided on site. There was a small amount of paving being proposed to be added to the site to provide an adequate drive aisle width and explained that an encroachment permit had been granted by the City earlier this year for the pavement that would be on City property. The current retail operation was a legal nonconforming use in the Waterfront District and therefore could not be expanded. The proposed site improvements related only to the proposed new marina operation which was a Special Use in the Waterfront District.

Jim Milanowski, 403 Oak Street in Ferrysburg, engineer for the project, explained that the request was pretty straight forward. He stated some fire protection was being added per the Fire Marshall and they already had approval for a minor expansion into the Harbor Street right-of-way. He stated this location used to be a marina many years ago. He stated they had applied to EGLE and their plan was currently under review. Part of the proposal was to have portable disposal system where the portable units would be dumped into the city system. He stated that the Department of Public Works director had no issue with the portable units being allowed to be dumped into the city sewer system. He stated the Health Department was agreeable with that plan and that EGLE wanted proof of the city's approval of the plan before they would sign off on it. EGLE had also informed Milanowski that they wanted to have proof of city approval for encroaching on the city riparian rights on the west line where one of the boat slips was right up to the property line.

Chair Ellingboe opened the Public Hearing.

Public:

None

Correspondence:

None

Motion by Runschke, seconded by McLaughlin, to close the public portion of the case carried by voice vote.

Deiters stated that the south channel from the bridge outward had large amounts of concrete and debris in the water. He asked what they had in mind to get boats from their marina area out into the channel area.

Milanowski replied there was a substantial channel up to the Rycenga marina area so he didn't feel there would be a problem.

Deiters stated it was predicted that current water levels may increase by almost a foot next year and asked what would happen if the current sand bag system around the building failed.

Milanowski stated high water was a problem everywhere right now. He stated that owner Harold Hall had been pumping water from the area around his building for months now. He stated they planned to build a seawall and they had also been in discussions with DPW about elevating Harbor Drive. Currently there were no plans to try to elevate the retail sales building.

Harold Hall, owner, agreed there was a lot of debris that came into the channel with the current sometimes even including picnic tables and grills. He stated there was already a seawall on the north end of his property. The new one on the plan would be about a foot taller than the 100 year floodplain level.

Skelly and Westbrook had similar concerns about the flooding.

Chair Ellingboe asked if any Commissioner had concerns regarding the portable sewage disposal system or the boat slip that was right next to the property line with the city. No concerns were voiced.

Howland pointed out that DPW director Derek Gajdos had stated he needed to get confirmation from the City Manager first.

Ron Bultje, city attorney, stated staff should confirm that there wouldn't be any interference with city riparian rights on the common boundary between the applicants' property and city property, but he stated the Commission should make that a condition. He also suggested that there be a condition that the DPW director would give confirmation that the city had no objection to dumping the portable sewage into the city system.

Milanowski stated the Health Department also needed written approval from the city.

Motion by Grimes, seconded by Deiters, to approve the Special Use, the Sensitive Areas Overlay, and the Site Plan for the proposed mixed use development (Retail Sales and Marina) located at 4 Harbor Island Drive (parcel #70-03-21-100-008) subject to the following conditions:

1. No expansion of the retail operation is permitted because it is a nonconforming use.
2. Outdoor storage of boats and trailers related to the retail operation is limited to areas used prior to the approval of this special use permit. Boats and trailers related to the marina operation will not be stored on land.
3. A permit from EGLE is required prior to issuance of any construction permits.
4. Department of Public Works director shall confirm in writing the approval of the portable sewage disposal system and the discharge into the city system.
5. City staff shall confirm there is no riparian rights interference.

The motion passed on the following roll call vote: Ayes: Runschke, Westbrook, Skelly, McLaughlin, Grimes, Deiters, Chair Ellingboe. Nays: None.

Case 19-34: A Public Hearing for a zoning change of 215 North Beacon Blvd, 714 Elliott Ave, 222 North 7th St, 729 Fulton Ave (vacant), 727 Fulton Ave, 721 Fulton Ave, 719 Fulton Ave, and 715 Fulton Ave from NMU, Neighborhood Mixed Use District to C, Commercial District.

Howland explained this was a request to rezone 8 parcels from Neighborhood Mixed Use (NMU) to Commercial (C). The new owners of the existing car wash and oil change business wanted to expand but couldn't because the business was nonconforming in the NMU district. Howland pointed out that rezoning the parcels to the C district would allow any allowed use in the district not just the car wash and she had summarized the following items for the Commission to consider:

- Existing Land Uses: car wash, oil change, and 4 single-family dwellings. The car wash and oil change were nonconforming uses in the NMU District. The houses were conforming uses in the NMU District.

- Rezoning to C District would allow the car wash and oil change to expand via a special use process but the 4 homes would become nonconforming.
- Adjacent to the subject properties were an office building, two houses, and a laundromat.
- The Future Land Use Map designated the property as Traditional Neighborhood Mixed Use, which would not support the zoning change to C District. To the east on the other side of Beacon Blvd and further to the north was a Service/Commercial future land use area, which would support a zoning change to the Commercial District.
- Commercially zoned properties were to the immediate south and east of the subject parcels, so the rezoning would be contiguous to the existing Commercial District boundary.
- The properties fell within the Centertown Sub Area Plan of the Master Plan, as well as the Centertown Vision Plan from 2014. The only direct concept/recommendation related to these properties was the possibility for a pocket park at the corner of Elliott and Seventh.

Norm Kamps, with Touch of Class Auto Wash, stated his future plans were to add 3 vacuum stations in the existing car lot which couldn't happen if the properties weren't rezoned.

Chair Ellingboe opened the Public Hearing.

Public:

1. Ed Lystra, 527 Lafayette, stated he owned two residential homes in that area. He stated their proposed expansion could be accomplished with less parcels being rezoned. Rezoning to C would allow a sexually oriented business, a tattoo parlor, or a small engine repair business to operate right next to his residential homes. He stated he and his tenants were very opposed to this change and he requested that they deny the request.

Correspondence:

None

Motion by McLaughlin, seconded by Runschke, to close the public portion of the case carried by voice vote.

Deiters stated he understood Lystra's concerns but pointed out that almost the whole corridor was already commercial and that he was supportive of rezoning the parcels to commercial.

Skelly agreed with Deiters.

Westbrook asked why they needed to rezone the residential properties since it would make those properties nonconforming.

Howland stated that was discussed in the worksession that the owners wished to do all of the properties at one time and it would help make it all contiguous even though it was correct the residential properties would become nonconforming.

Norm Kamps stated they preferred to have it all done at once and not have their hands tied in case they wanted to expand further in the future.

Westbrook stated he would prefer to have a smaller rezoning request considered that would leave out the parcels with the residential homes.

Runschke understood the Future Land Use didn't quite support the rezoning of all of the parcels, but based on the information presented she was supportive of the request.

Grimes wanted to clarify that the existing homes could remain and continue to exist. Howland stated that was correct but pointed out if the homes were destroyed they could not be rebuilt.

Motion by Grimes, seconded by Deiters, to recommend approval to City Council for a zoning change for 215 North Beacon Blvd, 714 Elliott Ave, 222 North 7th St, 729 Fulton Ave (vacant), 727 Fulton Ave, 721 Fulton Ave, 719 Fulton Ave, and 715 Fulton Ave from NMU, Neighborhood Mixed Use District to C, Commercial District based on the information submitted for review. The motion passed on the following roll call vote: Ayes: Runschke, Skelly, McLaughlin, Deiters, Grimes, Chair Ellingboe. Nays: Westbrook.

Case 19-13: A proposed text amendment to establish five (5) new land uses related to medical marijuana establishments (provisioning center, grower, processor, secure transporter, and safety compliance facility), establish allowable zoning districts for each use, and establish special use regulations for each use. Affected sections of the Zoning Ordinance include Article 2 Interpretation and Definitions, Article 4 Zoning Districts, and Article 5 Standards and Requirements for Special Uses.

Howland explained the Commission had been discussing this amendment for several months. She stated there had been consensus to allow the medical marijuana in the C and TI districts but there had also been consensus for allowing it in areas that allowed retail as well. She stated the city attorney had reviewed the proposed ordinance and had some recommendations for the Commission to consider which were outlined in a memo in their packets. The city attorney had also recommended that they request City Council to create a regulatory ordinance. Howland put some maps up on the overhead which included the state required buffer from schools and also a buffer from the Loutit Library.

Chair Ellingboe opened the Public Hearing.

Public:

1. Jamie Cooper, 1386 Taylor, wanted to talk about tourism and stated that she had learned that 47% of visitors to Colorado did so because of legal marijuana. She was happy to see that Beechtree was being considered.
2. Carri Boersma, 15308 Saddlebrook, stated that 951 Jackson was zoned PD and she didn't see that any PD zoning areas were included in the map.
3. Rebecca Neil, 1644 Franklin, was glad to see Beechtree was going to be included but she stated parking could be an issue there. She understood that only medical marijuana was currently being considered, but she hoped that the recreational was going to be considered as well. She didn't feel that any buffer was needed from a church use.
4. Geri McCaleb, 1235 Slayton, stated she was not really excited about drawing tourism to Grand Haven because of marijuana use. She was supportive of the buffers that Father Schwartz suggested. She was supportive of adding buffers around parks where children played. She asked that the Commission remember to keep the rights of all people in mind

because many people were not in favor of allowing this. She agreed that starting off slower would be better.

5. Chris Silva, 3100 O Brien Rd SW, Grand Rapids, treasurer of the Cannabis Guild of West Michigan, stated this was already the most regulated industry and most of that was being imposed by the State. He asked that the Commission find ways to encourage the best applicants and to let the application process weed out the undesirable applications.
6. Andrea Hendricks, 1514 Pennoyer, was disappointed there were no incentives being offered. She was in favor of having less buffers and to just let it be market driven.
7. Pete Karachy, 5 S Beechtree, stated these buffers really restricted the marijuana business and pointed out that liquor stores did not have this many restrictions.

Correspondence:

None

Howland read the motion for the Main Street DDA recommendation which was "supportive of the buffers and the location of provisioning centers provided they were defined as a service business, which would not be permitted on the first floor facing Washington." Howland explained that currently on the first floor of buildings facing Washington between Harbor Drive and Third Street, professional service establishments and office buildings were permitted provided they did not front on Washington and shall be served by an entrance from a side street or rear entrance behind Washington.

The consensus was that the Commission was comfortable with that recommendation.

Motion by McLaughlin, seconded by Runschke, to close the public portion of the case carried by voice vote.

Westbrook was supportive of considering the request made by Father Schwartz for additional buffers especially from a church with a school. He understood the buffers limited the available area because this was a smaller community, but he would like to see something added even if it was something such as "with the approval of" whichever area church it was near.

McLaughlin pointed out there was a tremendous lack of parking in the Beechtree area. He was supportive of the C and TI Districts but not the B District.

Grimes stated he was open to having the medical marijuana in general and understood that because Grand Haven was smaller that there were fewer properties that were going to be available. He agreed that adding more buffers would make that even more difficult and stated that he was more favorable to keeping it more open and not adding more buffers.

Deiters stated this was medical marijuana and was something that patients needed. He reminded the Commission that the people of Michigan voted to allow this. He was in favor of the bigger map because otherwise he felt they were taking away the right of people to sell their property at a profit. If medical marijuana was a business it should be treated as a business.

Skelly agreed with Westbrook in regards to buffers to help protect some of the vulnerable people.

Runschke agreed with Grimes and Deiters. This was an ordinance for medical marijuana not the recreational so she also was supportive of the bigger map.

Chair Ellingboe was also supportive of the bigger map. He pointed out that pharmacies sold narcotics and they weren't required to have buffers. He then asked that city attorney discuss his concerns regarding the language in the proposed ordinance.

Ron Bultje, city attorney, gave the Commission a summary of his concerns:

1. Enforceability of Section 40-543a.B.
 - a. Subsection 4: Too vague and arbitrary. Won't be upheld in court. Be specific.
 - b. Subsection 5: Special land uses generally run with the land, so this section needed to be omitted. Not being transferrable might not be enforceable either.
 - c. Subsection 9: This went beyond what the City ordinarily required; consider adding language that required certain odor control measures to avoid a nuisance situation. Plus this was not imposed on other businesses.
2. Separation Distances: When a completed application was received by the City and accepted for processing through the approval process, that should guarantee priority over any subsequent applications for the normal amount of time to process an application (e.g. three, four months?). No subsequent application should even begin to be processed until the earlier application was resolved. Make sure to date and time stamp every application. He hadn't heard any discussion about the number of businesses being limited in any way.
3. City Council should create and adopt a licensing regulatory ordinance (separate from the Planning Commission process).

Grimes asked if the 1,000 foot distance between businesses was a State requirement or a City requirement and Howland stated it would be a City requirement.

Grimes stated in that case he was not in favor it.

Howland stated the Commission hadn't really discussed if there should be some sort of cap on how many would be allowed before they would need to stop and reevaluate.

Westbrook stated he wasn't sure what number would be reasonable.

Grimes stated if the districts were first restricted by State regulations and then further restricted with the 1,000 feet between businesses, then it might be such a small area left that it would already be self-restricted.

Deiters agreed with Grimes and stated he was not supportive of having the 1,000 feet between businesses.

Howland wanted to address the PD zoning question from earlier and explained that the PD zoning was considered residential in nature and since the State requirement was it was only allowed in commercial districts the PD zoned parcels in the city were not being considered.

Runschke stated the State requirements were already so strict and many of the uses were not even going to be feasible in the city. She mentioned the Commission had discussed the incentives and determined that only City Council had the authority to offer incentives.

There was consensus to eliminate B4 and B5 and either remove 9 or reword it. Bultje stated he preferred for it to be in a regulatory ordinance. Howland pointed out there already was a nuisance ordinance.

There was consensus to take out the 1,000 foot buffer between businesses but Westbrook felt if the buffer was eliminated then maybe there should be a cap on the number that would be allowed.

There was no support from the other Commissioners for a cap.

Motion by Grimes, seconded by Runschke, to recommend approval to City Council to amend Sections 40-201.07, 40-201.16, 40-201.19, 40-402.01, 40-411.02.B., 40-413.02.B., 40-414.02.B., 40-415.02.B., 40-416.02.B., 40-417.02.B., 40-418.02.B., 40-419.02.B., 40-420.02.B. and add Section 40-543a of the Grand Haven Zoning Ordinance to regulate medical marijuana facilities with the exception of B3, B4, B5 and B9, and for Council to consider developing a licensing regulatory ordinance at the same time to address non land use concerns.

The motion passed on the following roll call vote: Ayes: Deiters, McLaughlin, Skelly, Westbrook, Runschke, Grimes, Chair Ellingboe. Nays: None.

Case 19-35: An application for a Site Plan Review for a proposed change of use from a bank to a restaurant, a patio addition, and associated site improvements located at 21 North Beacon Boulevard (parcel #70-03-21-357-023) and 726 Columbus Avenue (parcel #70-03-21-357-029).

Howland explained this was a proposal to convert a former bank and single family home into a new restaurant called Morning Belle. The bank parcel was zoned C and the parcel with the home was zoned NMU.

Jeff Brinks, of Venture Engineering, stated the proposal was to repurpose the old bank into a restaurant and add some additional parking. The "entrance only" driveway on Beacon Blvd would be removed and a new drive would be created that met the approval of MDOT and the Fire Marshall. They were still working through fire suppression issues with the Fire Marshall.

Deiters stated he felt the site plan was compliant, the proposal looked great, and he was comfortable with the change of use.

Skelly agreed the plan was organized and presented well.

Westbrook agreed with Deiters and was happy to see the vacant building being repurposed. He was a bit disappointed that the house was going to be torn down as it was a beautiful house.

Runschke asked about the cross access shared parking agreements and Howland clarified that she wanted those in place in case one parcel ever got sold.

Brinks stated the number of parking spaces they were proposing exceeded what was required and that calculation even included the number of people that were going to be sitting on the patio which was only seasonal so there should be plenty of room for snow storage.

Doug Poland, Vice President of real estate for the applicant, explained that normally they developed the property and got it up and running then sold it to investors. In regards to the cross access requirement, he felt that only needed to be in place if they didn't combine the parcels.

Howland pointed out that the house either needed to be torn down or be moved because that space was needed to create the required parking for the restaurant.

Chair Ellingboe stated that he was in favor of this project, but he pointed out that once again a residential home was being eliminated from the available housing stock. He wanted to stress that affordable housing was a hot button topic in the city so the Commission really needed to start looking at more creative ways to have affordable housing throughout the city.

Motion by Grimes, seconded by Runschke, to approve the site plan for a proposed change of use from a bank to a restaurant, a patio addition, and associated site improvements located at 21 North Beacon Boulevard (parcel #70-03-21-357-023) and 726 Columbus Avenue (parcel #70-03-21-357-029), subject to the following conditions:

1. Requirements for fire suppression will be determined at a later date by the Fire Marshal.
2. The dumpster enclosure must have masonry exterior.
3. A cross-access and shared parking agreement is required between the two parcels if they are not combined.
4. Because the two parcels are separately zoned, if the applicant wishes to combine the parcels in the future, the 726 Columbus Avenue parcel should be rezoned to Neighborhood Mixed Use District, which is supported by the Future Land Use Map.

The motion passed on the following roll call vote: Ayes: Deiters, McLaughlin, Skelly, Westbrook, Runschke, Grimes, Chair Ellingboe. Nays: None.

B. ZBA Liaison Report –There was no meeting last month.

Howland stated she was expecting to have a draft zoning ordinance from the consultant in January and was hoping it might be finished by April or May.

Adjournment:

Motion by Runschke, seconded by McLaughlin, to adjourn was unanimously approved by voice vote. The meeting adjourned at 9:40 p.m.



MaryAnn Poel
Administrative Assistant
Community Development Department