

CITY OF DELAFIELD PLAN COMMISSION MINUTES

CALL MEETING TO ORDER

Mayor Paul Craig called the meeting to order at 7:00 p.m.

ROLL CALL

Present

Mayor Paul Craig
Phil Schuman
Fred Welch
Marily Gardner
Diri Curtis Costa
Roger Dupler
Tom Maney
Matt Carlson

Absent

Robert Transon
Marilyn Czubkowski
Robert Trunzo

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

1. APPROVE MINUTES OF MARCH 27, 2002.

M. GARDNER MOTIONED TO APPROVE THE MINUTES OF THE MARCH 27, 2002 MEETING AS SUBMITTED. D. CURTIS COSTA SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. P. CRAIG, P. SCHUMAN, AND F. WELCH ABSTAINED. MOTION CARRIED.

2. DELAFIELD CITIZEN'S COMMENTS PERTAINING TO SUBJECTS ON THIS AGENDA.

Arlene Lutgen -- owns property on Devonshire and was not aware that they (1307 E. Devonshire) were trying to split the property. Thought that this was setting a precedent and she was not in favor of it. She read a letter from another neighbor who was unable to make the meeting and this person was not in favor of the division.

3. CONSENT AGENDA

- a. **Tax Key 807-978-006, 355 Austin Circle, Suite 300.**
Owner/Applicant: Bielinski Builders. Applicant seeks approval to modify a Business Plan of Operation for Bielinski Builders.

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- b. **Tax Key 803-988-001, 385 Williamstowne, Suite 4B.** Owner: William R. Toson, Applicant: Harris Marketing Group. Applicant seeks approval to operate of Business Plan of Operation and Signage for *Harris Marketing Group*. Hours of operation, 7:30 AM to 6PM Weekdays. One full-time employee and one part-time employee.
- c. **Tax Key 798-012, 603 Main Street.** Owner/Applicant: Tina Christy. Applicant seeks approval to operate of Business Plan of Operation for *Christines Fashion Boutique and Gifts*. Hours of operation, 10 AM to 10 PM Weekdays, Saturday 10 AM to 8 PM, Sunday Noon to 6 PM, and Special holiday or Events as applicable to event hours. Three full-time employees and one part-time employee.

T. Christy showed the sign for her business.

M. GARDNER MOVED TO APPROVE. P. SCHUMAN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

4. PLANS OF OPERATION, SIGNAGE AND SITE PLAN

- a. **Tax Key 798-026, 617 Wells St.** Owner: David Heubner, Applicant: Raul Perez. Applicant seeks approval of signage for the *Lumber Inn Restaurant*.

Mr. Raul Perez was present at the meeting. Pictures were included in the commissioner's packets. R. Dupler stated that the sign was reviewed and it complies with the existing code. The color of the sign was discussed.

P. SCHUMAN MOVED TO APPROVE. D. CURTIS COSTA SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- b. **Tax Key 804.989, 3215 Hillside Dr.** Owner/Applicant, Creative Restaurant Concepts, Inc. (Guy Brittain). Applicant seeks approval of Business Plan of Operation and signage for the *Gondola Grille*. Hours of operation, 8 AM to 10PM Weekdays, and Weekends 7AM to 11PM. Ten full-time employees and 40 part-time employees.

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A representative from the restaurant was present. R. Dupler reviewed. This is the former Stockade Restaurant. Plans were included in the commissioner's packets.

D. CURTIS COSTA MOTIONED TO APPROVE. M. GARDNER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- c. **Tax Key 803-998-001, 211 HWY 83.** Owner/Applicant: McDonald's (William Holz). Applicant seeks approval of Amended Business Plan of Operation. Hours of operation: 5 AM to 2 AM seven days per week from May 25, 2002 to September 1, 2002. Seven full-time employees and 70 part-time employees.

No representative was present. No action was taken.

5. PRELIMINARY CONSIDERATION

- a. **Tax Key 733-994 & 733-994-001, 31385 Hill St.** Owner/Applicant: Divine Redeemer Lutheran Church. Applicant seeks consideration of temporary classrooms, amended Business Plan of Operation and modified Conditional Use permit.

A representative from Divine Redeemer Lutheran Church was present. He explained that Lake Country Lutheran High School has been operating for a couple of years now and has been sharing space with Divine Redeemer Lutheran School. The expected enrollment for the high school next year is beyond the capacity that they have. The high school is planning on constructing a new campus this summer, but it will not be ready for the fall semester. There is a need for temporary classroom space. Alternatives have been considered, but none are feasible. The expected need of the temporary classrooms is a minimum of one school year, with a maximum of one and a half school years (depending on the construction schedule). They would like to use seven temporary mobile classrooms on the Divine Redeemer campus. He reviewed the reasoning for the proposed locations for these temporary classrooms. R. Dupler reviewed and stated that since they are willing to commit to such a limited time frame and temporary use, he would recommend consideration.

M. GARDNER MOTIONED TO APPROVE THAT THIS BE SCHEDULED FOR A PUBLIC HEARING TO MODIFY THE

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CONDITIONAL USE. P. SCHUMAN SECONDED THE MOTION. DISCUSSION TOOK PLACE REGARDING BATHROOM ACCESSIBILITY, FENCING, AND OTHER ALTERNATIVES. ALL WERE IN FAVOR. MOTION CARRIED.

6. FINAL CONSIDERATION, APPROVALS, PREVIOUS APPROVALS

- a. **Tax Key 797-974, 1307 E Devonshire Rd.** Owner/Applicant: Tom and Wanda Berner. Applicant seeks approval of Certified Survey Map.

Wanda Berner was present at the meeting. Mayor Craig addressed a letter that was circulated in his neighborhood. He clarified that he did not say anything about this issue during his campaign and expanded on it. Tom and Wanda Berner responded. M. Carlson stated that the question is whether it is appropriate to allow another buildable lot to be created within the envelope of an existing lot and would people like to see this set as a precedent in this neighborhood. The master plan specifically discourages additional duplex development. Wanda Berner stated that when they purchased the property they saw it as an investment. They would like to divide the lot and sell the newly created one as a lot. R. Dupler reviewed the properties in this specific area. Discussion took place on the history of this neighborhood and lot divisions. Photos of the lot were viewed. M. Carlson stated that if you permit lot by lot re-subdivision you will effectively double the impact of housing in that neighborhood without having the ability to give a comprehensive review on stormwater management, architecture, etc. It was stated that these lots are in the R3 district. R. Dupler stated that in regards to the subdivision regulations, it clearly identifies that the lots that are oversized with the potential for re-subdivision have to be properly sized so as to incorporate a proper architectural study and the second clause identifies those parcels to be developed into normal lots. Input from neighbors in the audience was received. Discussion took place. M. Carlson stated that the point of disagreement comes in the interpretation of the zoning code. The zoning code does not say that the R3 district entitles you to one-half acre zoning and duplexes on each of those lots. He clarified that this would be the maximum that are permitted and it can be anywhere less than that. The Berners stated that they were not required to tell their neighbors or get everyone's approval for this. R. Dupler recommended consideration of subdivision as originally intended regardless of the

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densities permitted in the zoning and the arguments that M. Carlson has made. The original intent of this subdivision was to house single-family developments and those lots are not planned for re-subdivision and do not comply. Discussion took place on placing a deed restriction on the CSM. Storm water management was discussed. M. Carlson stated that this should be looked at as how you would do this if it were a vacant lot subdivision. R. Dupler stated that the lot in consideration is a flag-shaped lot. The existing subdivision regulation discourages flag-lots. They are not able to achieve a proper architectural setting. F. Welch stated that the master plan needs to be amended and flag lots should be address and discouraged. The need for a grading plan was discussed. Stormwater management needs to be addressed.

P. SCHUMAN MOTIONED FOR DISAPPROVAL. D. CURTIS COSTA SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- b. **Tax Key 797-945, Ruff's Preserve**, Owner: Ray Ruff, Applicant: Wayne Foster. Applicant seeks approval of Declaration of Covenants, Conditions, and Restrictions of Ruff's Preserve.

R. Dupler stated that the Declaration of Covenants and Restrictions has been to Council. Atty. Chapman has reviewed. There are a number of issues with the largest being the dedication of land to the Waukesha Conservancy. The property has been transferred as of the 19th of this month. There is also a question of natural materials. It appears that materials could be switched out at a later date. The issues were identified and discussed. R. Dupler reviewed clause 3.05 that identifies that the Architectural Review Committee could make changes to materials, and he would like to add to that. In 3.06, driveways were discussed. As long as there is criteria established for the number of openings and the minimal/maximal width of the driveway is appropriate as stated in the agreement as 10' per driveway. There will not be shared driveways. 3.09 dealt with the parking of vehicles. R. Dupler would like to add "any recreational vehicle", not just RV's to be prohibited. 3.10 covered lampposts. R. Dupler felt it would be in everyone's best interest to have some markdowns. Discussion took place. F. Welch stated that these will be on the lot line and there is an ordinance that stated one-half foot candlelight on the lot line, but the City encourages spillage onto the road for safety reasons. There is a section that allows the City to grant this and this is the

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recommendation that they are allowed to exceed that only the street portion. In regards to drainage and storm water (covered under a separate agreement), 3.16 – fences, would like to add, “walls also require City approval”. Section 3.18 was discussed. Voting rights and obligations for the association were reviewed. One new issue is the landscapes in the center of the islands, and whether or not they need to be out lots. Staff’s thought is that they should be out lots in order to ensure that there is proper ownership should the City ever become responsible for them. With these amendments R. Dupler recommended that the Plan Commission approve the Deeds and Restrictions based on staff approval and subject to final approval of the City Attorney. T. Maney referred back to 3.05, in particular the first two sentences. He wanted clarification for the Architectural Control Committee for making exceptions and asked what those materials would be. W. Foster addressed. It was stated that masonry is a little too restrictive, and needs to say that 60% would be “natural material”. The sentence regarding exceptions would be struck. It needed to clarify what “maintenance-free” exterior was. A document should be made listing the materials.

M. GARDNER MOTIONED TO RECOMMEND APPROVAL ON THE CONDITION OF WHAT WAS DISCUSSED TONIGHT AND THAT THE EXTERIOR DESIGN MUST CONTAIN 60% OF NATURAL MATERIAL (BRICK, STONE, WOOD, OR OTHER NATURAL MATERIALS) AND TO SPECIFY THE MAINTENANCE-FREE MATERIAL (ALUMINUM, VINYL, HARDY PLANK, FACE BRICK). F. WELCH SECONDED THE MOTION. DISCUSSION TOOK PLACE ON THE PERCENTAGE OF NATURAL MATERIALS. ALL WERE IN FAVOR. MOTION CARRIED.

7. Zoning and Ordinance Revisions

- a. Zoning text discussion regarding medical, dental and other uses reviewed in Mr. Dick Lehmann’s Legal opinion. (See 12b below)

M. Carlson reviewed that this was in regard to the two pockets related to the intersection of Oakwood Road and Highway 83. An opinion was received and was provided to the commissioners in their packet of material. Mr. Lehmann basically said that in respect to the question of rezoning, the City of Delafield, the Plan Commission, and the Common Council has the right to initiate the rezoning process. The question of entitlement or vested rights is

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that they don't come into play until a valid zoning permit has been applied for. Until that point in time, there is the ability to change zoning of properties without incurring liability for compensation for violating vested rights. In regards to changing the zoning text, the language in the zoning code, these zoning text amendments would require a public hearing before the Plan Commission, Plan Commission recommendation, and then the City Council approval of that change in the ordinance. D. Lehmann's letter stated that with respect to changing a permitted use of a medical/dental nature in a district, he suggested that there are other uses in that P1 district that would cause you to think of the same analysis. If you are going to change it for medical/dental uses, you should probably change it for all P1 uses. The City Council wanted the opinion of the Plan Commission for changing the zoning text. The Commission was asked for their opinion. Extensive discussion took place.

M. GARDNER MOTIONED TO SCHEDULE A PUBLIC HEARING FOR THE PLANNING COMMISSION REGARDING THE P1 CONDITIONAL USE. P. SCHUMAN MADE A FRIENDLY AMENDMENT TO MAKE ANY USE IN P1 A CONDITIONAL USE. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

8. HEARING DATES

A public hearing for Divine Redeemer to amend the conditional use would be held on Wednesday, May 26 at 7 p.m.

9. ADMINISTRATOR'S REPORT

None.

10. BUILDING INSPECTOR REPORT

The total number of permits to date are 24 including two occupancy permits. New permits include three single-family homes.

11. BOARD OF ZONING APPEALS

None.

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12. CORRESPONDENCE

- a. Correspondence from Philip and Arlene Lutgen against the Berner's land division request.
- b. Correspondence from Matt Carlson on Dick Lehmann's Legal opinion on Zoning interpretation.
- c. Correspondence from Mark Moerti giving a progress report for *Boatgas Marine Refueling Service*.
- d. Correspondence from Ron Nickel rescinding permission granted for 407 Austin Circle.
- e. Correspondence from Bedtime withdrawing Sign Permit application.
- f. Correspondence from Tim Barbeau (Town of Delafield) to Village of Hartland regarding Rosati's Pizza
- g. Correspondence from Matt Carlson to Wallace Thiel regarding Rosati's Pizza.

13. ADJOURNMENT

M. GARDNER MOTIONED TO ADJOURN. P. SCHUMAN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED. THE MEETING ADJOURNED AT 9:14 P.M.

Respectfully submitted:

Minutes Prepared By:

Ellen O'Brien
City of Delafield

Accurate Business Communications