

CITY OF DELAFIELD PLAN COMMISSION MINUTES

CALL MEETING TO ORDER

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

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

ROLL CALL

Present

Absent

Mayor Phil Schuman
Larry Chapman
Michael Frede
Dan Jashinsky
Ron Miskelley
Chrys Mursky
Keith Strege
Roger Dupler
Tom Maney
Matt Carlson

1. APPROVE PLAN COMMISSION MEETING MINUTES OF OCTOBER 31, 2007 MEETING

R. MISKELLEY MOTIONED TO APPROVE THE MINUTES FROM THE OCTOBER 31, 2007 PLAN COMMISSION MEETING. D. JASHINSKY SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

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

Ed McAleer, 3413 Lake Drive – Commented regarding Item 4a on the agenda. Paragraph 44 in the Settlement Agreement stated that the terms, conditions, and provisions of the Settlement Agreement are contractual and not merely recitals. The Settlement Agreement is a contract between the developer and the City. Paragraph 9 in the Settlement Agreement stated “no fast food restaurants, gas or convenience stores or drive-thru restaurants shall be allowed.” Recitals from the Developer’s Agreement stated that “the applications of the applicant, sub-paragraph a, the Applicant agrees that the development of the project upon the property shall be in strict conformance with the Settlement Agreement.” He felt that the Settlement Agreement is the governing document and it was the hierarchy in the chain of documentation. This is about contractual agreements. The Settlement Agreement stated no drive-thru restaurants. The Developer’s Agreement refers back to the Settlement Agreement for authority. He stated that this was not about drive-thru

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restaurants, but about contractual agreements. There are ramifications if you forgive any elements of a contract. If it is done often enough, sometime there will be an expectation that you will exempt other areas of other contracts. If a developer is exempted from a contractual obligation, it puts the City's credibility in jeopardy in regards to holding all developers to agreements that they have reached with the City of Delafield. Contract issues such as what is before the Plan Commission should be forwarded to the Common Council for review and final determination. He felt there were inconsistencies in the way the Plan Commission fined a car wash for having the wrong colors, but they were not holding a developer to a contract that was agreed to by the developer and the City.

Mayor Schuman asked three times if there were any other comments. There were none.

M. FREDE MOTIONED TO CLOSE CITIZEN'S COMMENTS. L. CHAPMAN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

3. CONSENT AGENDA (RECOMMENDED APPROVALS IN ACCORDANCE WITH THE STAFF REPORT)

M. FREDE MOTIONED TO APPROVE THE CONSENT AGENDA. R. MISKELLEY SECONDED THE MOTION. C. MURSKY NOTED THAT THE MOTION INCLUDED THE RECOMMENDATIONS IN THE STAFF REPORT. ALL WERE IN FAVOR. MOTION CARRIED.

- a. **TAX KEY 793.054, 403 GENESEE STREET, DELAFIELD.** OWNER: LANG INVESTMENTS. APPLICANT: MICHELLE A. RIEGLEMEN. APPLICANT SEEKS APPROVAL OF A BUSINESS PLAN OF OPERATION FOR DELAFIELD CHIROPRACTIC, A CHIROPRACTIC BUSINESS. HOURS OF OPERATION ARE WEEKDAYS, 8:00 A.M. – 12:00 P.M. AND 2:00 – 6:00 P.M. WITH 1 FULL-TIME EMPLOYEE.

Approved. See above.

- b. **TAX KEY 793.020.003, 524 MILWAUKEE STREET, #100, DELAFIELD.** OWNER: LANG INVESTMENTS. APPLICANT: PAULA HORNBECK. APPLICANT SEEKS APPROVAL OF A BUSINESS PLAN OF OPERATION AND SIGNAGE FOR EYE CANDY, A RETAIL OPTICAL BOUTIQUE. HOURS OF OPERATION ARE WEEKDAYS, 10:00 A.M. – 6:00 P.M., SATURDAY AND SUNDAY, 11:00 A.M. – 4:00 P.M., WITH 1 FULL-TIME AND 1 PART-TIME EMPLOYEE.

Approved. See above.

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- c. **TAX KEY 803.006, 20 CROSSROADS COURT, DELAFIELD.**
APPLICANT: DAWN PENNALA. APPLICANT SEEKS APPROVAL OF SIGNAGE FOR SALON COMFORT, LLC, A HAIR SALON AND SPA.

Approved. See above.

4. FINAL CONSIDERATION, APPROVALS, PREVIOUS APPROVAL

- a. **TAX KEY 733.990.003, 3100-3158 VILLAGE SQUARE DRIVE, SOUTH RETAIL BUILDING.** OWNER: UNITED PROPERTIES. APPLICANT: R. WILLIAMS, DUNN BROS. COFFEE. APPLICANT SEEKS APPROVAL OF A BUSINESS PLAN OF OPERATION FOR A COFFEE SHOP WITH DRIVE-THRU AND SIDEWALK PATIO AREA. HOURS OF OPERATION ARE WEEKDAYS AND SATURDAY, 6:00 A.M. – 10:00 P.M.; SUNDAY, 6:00 A.M. – 9:00 P.M., WITH 15 PART-TIME EMPLOYEES.

R. Dupler informed the Plan Commission that information was received to amend the petition to allow a drive-thru as well as a sidewalk patio. These are modifications to the paperwork. The difference from last month was that last month it was recommended that this was a coffee shop, no different than Starbucks. However, a copy of the Dunn Bros. menu was given to the Plan Commission members and R. Dupler felt that the variety of offerings on the menu constituted a meal. Therefore, he felt that Dunn Bros. were regularly offering meals for compensation and in his opinion he felt that this was a restaurant. The Petitioner has the option to move off of the end space and not use the drive-thru, and/or alter the menu to not produce meals. The outside dining was accommodated in the GDP. The SIP was approved with a patio, but is smaller than what is being requested.

K. Ulstad of United Properties, Todd Williams of Dunn Bros., and Drew Johnson of United Properties were present. K. Ulstad stated that he would like to get this resolved. He reviewed the history of the Starbucks project. He asked that this case be considered. He discussed the determination and interpretation of restaurant or coffee shop and stated that this business would be good use for the center. They are trying to be a good commercial citizen.

Todd Williams stated that Dunn Bros. offers soup and sandwiches and Starbucks does not. He operates a Dunn Bros. shop in Pewaukee for which during the last three years 9-10% of his sales are from food. This project is contingent upon having the drive-thru. Peak hours are 6-10 a.m. The Pewaukee store conducts 90% of its business through the drive-thru. With the exception of the coffee, food is not prepared on site; however the soups are warmed up with a microwave.

Mayor Schuman referenced the no drive-thru in the Settlement Agreement. He stated that the Starbucks at 83 and 94 did not have a

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drive-thru and they are able to “survive”. T. Williams said that the menu could be modified to not include the soups and sandwiches. R. Dupler asked if only beverages could be sold through the drive-thru. T. Williams stated that this could be done.

M. Frede asked what the intent of the Settlement Agreement was. Mayor Schuman stated that fast food would be like a standalone restaurant similar to McDonald’s. In previous meetings, Alderman Krickhahn had expressed concern about fast food restaurants, noise, and pollution. K. Ulstad related that he contacted the seller’s attorney who stated to him that the Settlement Agreement’s meaning of “fast food” was in reference to Burger King and McDonald type restaurants.

If sandwiches and soup were eliminated, and if Dunn Bros. agreed to open at 6 a.m., C. Mursky thought that this could be resolved.

M. Frede asked how menu changes would be monitored. It was stated that the Plan Commission was asking Dunn Bros. not to sell food. R. Miskelley felt that the Plan Commission was not treating Dunn Bros. like Starbucks since Starbucks served 75% coffee and Dunn Bros. served 90% coffee. He felt that the intent of the original agreement was to keep out the known drive-thru’s like McDonald’s, Taco Bell, etc., not this type of operation. Mayor Schuman stated that Ald. Krickhahn brought up the menu at the Common Council. R. Dupler stated that the definition of a restaurant is “an establishment that regularly offers meals for compensation”. T. Maney stated that Dunn Bros. was a restaurant. If the sandwiches and soups were taken away, he could serve orders through the drive-thru. M. Carlson suggested that if the signage for the drive-thru listed only beverages, if he could serve through the drive-thru. By modifying the menu, he would not fall under the definition of restaurant. T. Williams suggested if soup and sandwiches were not approved, he would decide where to go from there.

C. MURSKY MOTIONED TO APPROVE THE BUSINESS PLAN OF OPERATION FOR DUNN BROS. PROVIDED THAT NO SOUPS, SANDWICHES, OR OTHER ITEMS THAT COULD BE CONSTRUED AS MEALS BE INCLUDED ON THE MENU. M. FREDE SECONDED THE MOTION. C. MURSKY AMENDED THE MOTION TO INCLUDE THAT ANY PATIO ELEMENTS (UMBRELLA TABLES, FENCING, ETC.) BE APPROVED BY STAFF. M. FREDE AGREED WITH AMENDMENT. SEVEN WERE IN FAVOR. MAYOR SCHUMAN OPPOSED. MOTION CARRIED.

5. PLANS OF OPERATION, SIGNAGE AND SITE PLAN

- a. **TAX KEY 807.983.002, 3586 HILLSIDE DRIVE, DELAFIELD.**
APPLICANT: ARCHITECTURAL ASSOCIATES, INC. AND MIKE LANDRY.
APPLICANTS SEEK APPROVAL OF A SITE PLAN, LANDSCAPE PLAN AND

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LIGHTING PLAN FOR AREA RENTAL FOR AN ADDITION TO THE CURRENT BUILDING.

The color renderings of the proposed building addition were available for viewing. This is in a M1 zoning district. The City recently approved a change to the Master Plan to allow mixed uses as well as changing the zoning district permitted uses to allow and business uses within that district. The proposal to date respects the existing building and expands it to the west respecting the front setback line, the floor area is within the allowable district standards, and the produced parking ratio on the site plan is within the allowable parking ratio. The site plan is well organized. Public Works, City Engineer, and Plan Staff asked the Petitioners to come to the Public Works Committee for approval of a rain garden. The main issue on the site plan is that the Area Rental will continue to operate. Area Rental relies upon outdoor storage for much of their equipment. The proposal shows a combination of one inclusive parking lot to service both the existing rental business as well as the potential new tenants. The parking lot would be bisected with a security fence to allow the outdoor storage to be maintained in a secure fashion during non-business hours. The intent is that fence will be gated to allow traffic movement during the day but at night would be closed. A potential tenant has been found who is a furniture retailer. A furniture retailer will have a much lower parking demand than retail. Staff has reviewed all issues and feels that if the potential leaser can verify the parking count and illustrate that parking can be outdoor storage and a fenced area that the Plan Commission may wish to consider this combination of services. However, if a different tenant other than the furniture retailer, that it the parking ratio will need to be illustrated to secure a business plan to operate in that building. Landscape plans meet requirements. The lighting that is proposed needs minor modifications which can be worked out with staff. He recommended approval contingent upon revised lighting photometrics to staff and to recommend to the Public Works Committee for review of the stormwater treatment and utility links.

David Brust, Architectural Associates, Inc. and Sam Mokie owner of the furniture store looking at this facility. S. Mokie discussed parking concepts. Furniture stores need size and volume to house furniture. He stated that having 10-15 cars in the parking lot is the most that is ever expected. His store is staffed for sales, volume, and success. It is staffed for a level only to support 10-15 vehicles. Considering staff vehicles, the parking needs are very minimal. They have attempted to give the Plan Commission a solid plan.

R. Dupler discussed the Colder's site plan development where 20% of their parking is in a land bank. The ordinance takes into consideration different business uses when determining parking.

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C. Mursky questioned how the operations would overlap, when the gates will be closed, when parking will not be available, and how much storage will take place in the parking areas. It was stated that the last hour of the day during the week and the last hour on Sunday would overlap.

M. FREDE MOTIONED TO APPROVE. R. MISKELLEY SECONDED THE MOTION. A FRIENDLY AMENDMENT WAS MADE THAT THIS BE CONTINGENT UPON REVISED LIGHTING PHOTOMETRICS TO STAFF, INCORPORATION OF A RAIN GARDEN TO FACILITATE STORMWATER, AND REFERRAL TO THE PUBLIC WORKS COMMITTEE. M. FREDE AND R. MISKELLEY AGREED WITH THE AMENDMENT. PETITIONER WAS AWARE OF THE REQUESTS. C. MURSKY DISCUSSED SCREENING OF OUTDOOR STORAGE MATERIAL. A PHOTO OF THE FENCE SHOWING SCREENING WAS DISTRIBUTED. C. MURSKY MADE A FRIENDLY AMENDMENT THAT STAFF LOOKS AT THE LANDSCAPING ON THE WEST ELEVATION AND BY THE FENCING. M. FREDE AND R. MISKELLEY AGREED WITH THE AMENDMENT. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- b. **TAX KEY 788.014, 1325 MILWAUKEE STREET, DELAFIELD.**
APPLICANT: ROBERT AULIK. APPLICANT SEEKS APPROVAL OF THE SITE PLAN FOR A BOAT HOUSE.

Robert Aulik was present at the meeting. R. Dupler stated that the elevations are 32' and will be modified to 30'. A landscape plan was presented which incorporated rain gardens. T. Maney reviewed the history and R. Dupler recommended approval.

R. MISKELLEY MOTIONED TO APPROVE WITH REFERRAL TO LAKE WELFARE COMMITTEE FOR THEIR COMMENTS ON THE LANDSCAPING PLAN CONTINGENT UPON A 30' BUILDING DEPTH, APPROVAL OF THE LANDSCAPING PLAN, AND A SIDE YARD MINIMUM SETBACK OF 6'. M. FREDE SECONDED THE MOTION. DISCUSSION TOOK PLACE ON THE LAKE WELFARE COMMITTEE'S ROLL. R. MISKELLEY CLARIFIED THAT HIS MOTION WAS FOR THE LAKE WELFARE COMMITTEE'S COMMENTS ON THE LANDSCAPING PLAN. ALL WERE IN FAVOR. MOTION CARRIED.

- c. **TAX KEY 794.017.004, 258 ENTERPRISE ROAD, DELAFIELD.**
APPLICANT: CRICKET WIRELESS. APPLICANT SEEKS DETERMINATION OF A MINOR CHANGE TO THE CONDITIONAL USE PERMIT FOR AN ADDITIONAL UTILITY BUILDING.

This is an existing cell tower located in the Cushing Business Park. R. Dupler stated that this is an existing cell tower. Jerry Lyons is the developer of the business park and has authority over architectural review for all operations within the development. There is an existing

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conditional use on this site which identifies that any modification to the site, the addition of users, will not require a conditional use. Therefore what is being considered is nothing more than a minor change and to recommend to Council as such. The history of the Plan Commission's decisions on other similar cases has been to request one building as opposed to buildings and to produce ample screening for quality development. The property has adequate space, the petitioner has submitted information for review. It is lacking a structural analysis, but could be deferred to staff after discussion of the issue. R. Dupler received a call from J. Lyons who originally supported this project and is now reconsidering it and is no longer endorsing the proposal. The Petitioner has proposed an additional building yet making it look like an extension of the other building. He recommended that no action be taken tonight until next month so that J. Lyons could be comfortable with it. M. Carlson stated that the City of Delafield has never enforced the deeds, covenants, and restrictions – even if approved, the business park owner needs to approve.

Keith Nyman from Cricket Wireless was present at the meeting and explained his proposal in detail. He has architecturally created an attached buffer to make it look like one building. Photos were distributed. The A1 drawing had the final revisions dated 10/26/07 with the other A1 drawing revision date being 10/18/07. The 10/26/07 A1 drawing would be the drawing that needs to be approved.

Structural analysis is needed by Staff.

L. CHAPMAN MOTIONED TO APPROVE. D. JASHINSKY SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

6. PRELIMINARY

None.

7. ZONING AND ORDINANCE REVISION.

None.

8. HEARING DATES

None.

9. ADMINISTRATOR'S REPORT

a. DISCUSSION REGARDING THE DOWNTOWN DEVELOPMENT PLAN

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The packets included the City's 1993 Downtown Development Plan. This is an addition to the Comprehensive Plan.

R. Dupler stated that a table of itemized issues had been prepared. Mayor Schuman stated that this is a budget item and could be included in future budgets.

Discussion took place regarding Genesee Street/Highway C jurisdiction. M. Carlson stated that when the Genesee Street reconstruction took place it was determined not to have four lanes on this road. The major advantage of acquiring Highway C from the County is that the City of Delafield would have control of the road. R. Miskelley thought that the four lane Highway C should be revised in the Plan.

C. Mursky commented that she was interested in whether the Plan was still applicable. It extends into the SE quadrant – it is important to look and see if the vision in this area still applies.

D. Jashinsky felt that the City has done a very good job over the years following the Plan.

C. Mursky discussed the Sign Committee and how they are trying to keep the image of the City in mind during their deliberations.

This item will be put on the next agenda.

b. DISCUSSION REGARDING DEVELOPMENT APPROVAL PROCESS
ARTICLE TO BE INCLUDED IN THE CITY OF DELAFIELD
COMMUNICATOR

An article written by Roger Dupler was distributed to the Commissioners prior to the meeting. He stated that preliminary consideration is a test of the Plan Commission's attitudes to the Petitioner's plans. This is the time to offer up opinions to the Petitioner as to its expectations. Mayor Schuman asked for an update on the special provisions for churches. M. Frede clarified that the Master Plan does not plan for churches. He was unclear as to how a church could be denied. Mayor Schuman stated that legal counsel would be available at a future meeting. M. Carlson stated that an open mind must be maintained and to provide due process to every petitioner and to listen to what is being said.

R. Miskelley stated that he thought that the article looked very good. M. Carlson stated that it is important to communicate to the residents and the petitioners in order to manage their expectations. T. Maney stated that the procedures are very clearly communicated to petitioners by Plan Staff.

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Enforcement of a completed project is through the release of their bond. A bond release inspection is done when the project is complete.

Discussion took place on various processes.

10. BUILDING INSPECTOR'S REPORT

Total number of permits to date are 40, plus six occupancy permits, the new permits include three new single family homes this month.

11. BOARD OF ZONING APPEALS

a. BOARD OF ZONING VARIANCE GRANTED ON NOVEMBER 8, 2007.

12. CORRESPONDENCE

None.

13. ADJOURNMENT

K. STREGE MOTIONED TO ADJOURN FROM THE MEETING. D. JASHINSKY SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED. THE MEETING ADJOURNED AT 9:05 P.M.

Minutes prepared by:

Accurate Business Communications, Inc.