

CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

ROLL CALL

Present

Mayor Ed McAleer
Kent Attwell
Larry Chapman
Dirilee Curtis Costa
Michele DeYoe
Kevin Fitzgerald
Chris Smith
Roger Dupler, Planner
Gina Gresch, Clerk-Treasurer
Tom Maney, Building Inspector

Absent

Michael Frede

1. APPROVE PLAN COMMISSION MEETING MINUTES OF APRIL 29, 2009

L. CHAPMAN MOTIONED TO APPROVE THE APRIL 29, 2009 PLAN COMMISSION MEETING MINUTES. C. SMITH SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. FOUR WERE IN FAVOR. D. CURTIS COSTA AND K. FITZGERALD ABSTAINED DUE TO ABSENCE AT THAT MEETING. MOTION CARRIED.

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

John Plotz, 703 Milwaukee Street was present to speak to Item 3B on the agenda. He was concerned about the noise from the proposed mariachi trio near his residence. He reviewed several restaurants in the downtown area that had requested music in the past and resulted in noise levels that were a nuisance to surrounding neighbors. He noted with the onset of summer and nicer weather, windows were more likely to be open and the noise would increase as result of doors being left open in establishments hosting the music. He also noted a bar and grill in the past that had been allowed acoustical music only for a limited number of hours on a one year basis. He had no issues with music being played without amplification; however, he was concerned about the use of a trumpet in a mariachi band. He suggested approval of the proposed trio without a trumpet until 9:00 p.m. with the music moving inside after that if needed and without amplification.

CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES

M. DEYOE MOTIONED TO CLOSE CITIZEN'S COMMENTS AT 7:05 P.M. D. CURTIS COSTA SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

3. CONSENT AGENDA

G. Gresch read the items on the Consent Agenda. C. Smith stated Item C should be removed for further discussion and consideration. M. DeYoe also requested Item B be removed for clarification as well.

K. ATTWELL MOTIONED TO APPROVE ITEMS A, D, AND E ON THE CONSENT AGENDA AS PRESENTED. D. CURTIS COSTA SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- a. **DELCO 0798.013.001, 700 A GENESEE STREET, DELAFIELD.**
OWNER: RICKY LIEBLANG & JAY LIEBLANG. APPLICANT: ANDY CHAU. APPLICANT SEEKS APPROVAL OF BUSINESS PLAN OF OPERATION FOR A NAIL SALON, K NAILS. HOURS OF OPERATION ARE SUNDAY THROUGH SATURDAY 8:00 A.M. TO 8:00 P.M. WITH 4 PART-TIME AND 2 FULL-TIME EMPLOYEES.

Approved. See above.

- b. **DELCO 0787.076, 601 MILWAUKEE STREET, DELAFIELD, WI 53018.**
OWNER: CORNERSTONE INVESTMENTS, LLC, C/O TOM AUL.
APPLICANT: GAMA ENTERPRISES, LLC, C/O SERGIO GAMA.
APPLICANT SEEKS APPROVAL OF A BUSINESS PLAN OF OPERATION AMENDMENT FOR A MEXICAN BAR AND RESTAURANT, MAZATLAN. HOURS OF OPERATION ARE TUESDAY THROUGH FRIDAY 11:00 A.M. TO 10:00 P.M., SATURDAY 11:00 A.M. TO 11:00 P.M., SUNDAY 11:00 A.M. TO 10:00 P.M., WITH OUTDOOR REAR PATIO BAR AND RESTAURANT SEATING FROM MAY 5 TO OCTOBER 15 EACH YEAR, AND TO ALLOW A 3 PIECE MARIACHI TRIO.

Anna Avalon, for Jorge Flores of Mazatlan, clarified, in response to various questions from Commissioners, there would be three guitars only with singing as part of the mariachi trio proposal. Music was being requested only once a week on either Friday or Saturday for indoor and outdoor strolling from 5:00 p.m. to 8:00 p.m. There would be no trombones or trumpets in the trio and the trio would not have amplification.

K. ATTWELL MOTIONED TO APPROVE A BUSINESS PLAN OF OPERATION AMENDMENT FOR A MEXICAN BAR AND RESTAURANT, MAZATLAN. HOURS OF OPERATION ARE TUESDAY THROUGH FRIDAY 11:00 A.M. TO 10:00 P.M., SATURDAY 11:00 A.M. TO 11:00

CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES

P.M., SUNDAY 11:00 A.M. TO 10:00 P.M., WITH OUTDOOR REAR PATIO BAR AND RESTAURANT SEATING FROM MAY 5 TO OCTOBER 15 EACH YEAR, AND TO ALLOW A 3 PIECE MARIACHI TRIO FOR DELC 0787.076, 601 MILWAUKEE STREET, DELAFIELD, WI 53018. OWNER: CORNERSTONE INVESTMENTS, LLC, C/O TOM AUL. APPLICANT: GAMA ENTERPRISES, LLC, C/O SERGIO GAMA, CONTINGENT ON MUSIC BEING PERFORMED FROM 5:00 P.M. UNTIL 8:00 P.M. WITH STRING INSTRUMENTS ONLY, ON EITHER FRIDAY OR SATURDAY, WITH NO AMPLIFICATION. D. CURTIS COSTA SECONDED THE MOTION. D. CURTIS COSTA QUESTIONED WHEN A BUSINESS PLAN OF OPERATION COULD BE REVIEWED. T. MANEY STATED A BUSINESS PLAN OF OPERATION COULD BE REVIEWED ANY TIME A COMPLAINT WAS RECEIVED. **THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

- c. OWNER/APPLICANTS: LAKE COUNTRY SLALOM SKI CLUB (WILL NOURSE, PETER BUTZER AND TONY DRAKE). OWNER/APPLICANTS SEEK APPROVAL OF A BUSINESS PLAN OF OPERATION TO ALLOW THE LAKE COUNTRY SLALOM SKI CLUB ON LAKE NAGAWICKA. COURSE WILL RUN FROM APRIL TO OCTOBER. HOURS OF OPERATION ARE MONDAY THROUGH FRIDAY TO MATCH EXISTING BOATING REGULATIONS AND SATURDAY AND SUNDAY TO MATCH EXISTING BOATING REGULATIONS, SUBJECT TO LAKE WELFARE COMMITTEE RECOMMENDATION.

Will Nourse, of 418 Genessee Street and President of the Lake Country Slalom Ski Club (LCSSC), and Peter Butzer of 1211 Milwaukee Street, and Vice President of the LCSSC, Tony Drake, of 2110 West Shore Drive, and Secretary/Treasurer of the LCSSC, were present to address concerns from the Commission regarding the requested approval of a business plan of operation to allow the LCSSC to place a slalom ski course on Lake Nagawicka.

T. Drake explained the request had been altered as a result of the Lake Welfare Committee recommendations to allowing course use three hours post sunrise and three hours pre-sunset seven days a week. This restriction was in addition to any ordinances governing the lake.

Mayor McAleer stated a memo had been received from the City Attorney regarding clarification of liability insurance related to the request. T. Drake stated the LCSSC remained "open" to working with the City regarding liability issues and to satisfy the requests made by the Attorney. In addition, W. Nourse explained that maximum speeds of operation for the course would be 34 mph and during the hours of 10:00 a.m. to 4:00 p.m. only 25 mph was allowed as specified in boating regulations.

CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES

Mayor McAleer questioned the buoy system utilized in the course. W. Nourse stated the buoys would remain up at all times if possible. K. Attwell stated with the type of buoy system being utilized there would be no damage to boats or buoys should someone traverse the course incorrectly. L. Chapman stated it was common practice to leave the buoys intact as they were not placed close together. W. Nourse noted there were more elaborate systems that could be utilized at a much greater expense and the desire of the LCSSC was to have the less elaborate system as outlined because it would provide the least obstruction. He then provided a detailed description of the anchoring for the buoy system.

C. Smith stated the Park and Recreation Committee had reviewed the request. Concerns were heard regarding the close proximity of the proposed course to the No Wake Zone and the temptation for other boats to utilize the course when the Club was not using it. Also, a concern was raised regarding balancing the club use with other lake users and possible disputes that could arise.

T. Drake explained the Club was willing to remove the buoys if necessary when not in operation to reduce temptation to other boaters. While the location of the course was near to popular swimming areas, he noted he had not yet seen anyone swimming in that area during the early morning hours that the course was utilized. If others were in the course area, he further explained, boating etiquette dictated that the slalom boat stop for safety reasons. The Club was interested in promoting safety on the lake and would like to offer clinics on safety and boating etiquette if the request were approved. Club members were very interested in abiding by the rules and setting a positive example for other lake users overall.

Discussion ensued regarding the noise that would be associated with water skiing such a course. L. Chapman noted that water skiing currently took place in the hours requested in the areas requested and the course would provide some structure to the area.

In response to a question, W. Nourse explained the Club consisted of only three members at this time and use of the course required three people in a boat to run the course, thus, the course would be utilized by one boat. If others were interested in joining the club, access to the lake could be gained by the public boat launches for use; however, the Club infrastructure would only allow for a small number of people to be in the Club so it was not anticipated there would be a large queue of people waiting to use the course. Should others desire utilization of the course; however, proper boating etiquette required waiting boaters to move a safe distance away with motors off until it was time to run the course upon which time they would be signaled to begin.

CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES

L. Chapman noted people currently were required to wait to take turns to ski the lake and he anticipated the Club would serve to educate other boaters if they were not knowledgeable.

D. Curtis Costa noted the average distance from shore to be approximately 390 feet. T. Drake confirmed this distance, noting there would not be any navigation problems in that area of the lake, and the wake was well dissipated by the time it arrived at the island shoreline so erosion was not anticipated to be problematic in that area as a result of the course placement. Signatures of support had been gathered from the island property owners as well.

K. ATTWELL MOTIONED TO APPROVE A BUSINESS PLAN OF OPERATION TO ALLOW THE LAKE COUNTRY SLALOM SKI CLUB ON LAKE NAGAWICKA. COURSE WILL RUN FROM APRIL TO OCTOBER. HOURS OF OPERATION ARE MONDAY THROUGH FRIDAY TO MATCH EXISTING BOATING REGULATIONS AND SATURDAY AND SUNDAY TO MATCH EXISTING BOATING REGULATIONS, SUBJECT TO LAKE WELFARE COMMITTEE RECOMMENDATION FOR OWNER/APPLICANTS: LAKE COUNTRY SLALOM SKI CLUB (WILL NOURSE, PETER BUTZER AND TONY DRAKE) CONTINGENT UPON THE CITY ATTORNEY REVIEWING AND APPROVING THE INSURANCE SUBMITTED AND WITH THE COURSE PLACEMENT TO OCCUR FOR A THIRTY DAY TRIAL PERIOD BASED ON THE AMENDED HOURS STATED OF THREE HOURS POST SUNRISE AND THREE HOURS PRE-SUNSET. K. FITZGERALD SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- d. **DELCO 0793.001.005, 528 WELLS STREET, DELAFIELD.** OWNER: ACE DELAFIELD PROPERTIES, LLC. APPLICANT: BARTELT, INC. APPLICANT SEEKS APPROVAL OF A BUSINESS PLAN OF OPERATION TO ALLOW A REMODELING BUSINESS, BARTELT, THE REMODELING RESOURCE. HOURS OF OPERATION ARE WEEKDAYS 8:00 A.M. TO 5:00 P.M. WITH 9 FULL-TIME EMPLOYEES.

Approved. See above.

- e. **DELCO 0798.966, 410 GENESEE STREET, DELAFIELD.** OWNER: 416 BUILDING / TOM AUL. APPLICANT: DAVID S. HOFFMAN. APPLICANT SEEKS APPROVAL OF A BUSINESS PLAN OF OPERATION FOR A DESIGN REMODELING OFFICE, ARCHITECTURAL XPRESSIONS. HOURS OF OPERATION ARE WEEKDAYS 9:00 A.M. TO 5:00 P.M. AND SATURDAY 9:00 A.M. TO 2:00 P.M., WITH 1 PART-TIME AND 1 FULL-TIME EMPLOYEE.

Approved. See above.

CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES

4. FINAL CONSIDERATION, APPROVALS, PREVIOUS APPROVAL

- a. **DEL C 0793.014.008, 637 GENESEE STREET, DELAFIELD.** OWNER: ACE DELAFIELD PROPERTIES, LLC. APPLICANT: CERIELLO FINE FOODS. APPLICANT SEEKS APPROVAL OF A MINOR CHANGE TO THE CONDITIONAL USE TO ALLOW OUTDOOR GRILLING. HOURS OF OPERATION ARE WEEKDAYS 11:00 A.M. TO 6:00 P.M., SATURDAY 11:00 A.M. TO 6:00 P.M. AND SUNDAY 10:00 A.M. TO 5:00 P.M.

R. Dupler explained the applicant desired use of an outdoor grill during the hours requested. The Commission needed to decide if the request constituted a major or minor change to the Conditional Use for the property. Staff suggested a recommendation of a minor change with the need to submit a site plan for the grill location and approval by the City of Delafield Fire Chief.

C. Smith questioned whether the owners of the condominiums located above the store area had been contacted regarding support of this matter. R. Dupler stated the owner of the building was in support, but individual condominium owners had not been contacted.

Ethan Lopez, Assistant Store Manager, stated the grill would be placed on the eastern side of the building near the northern corner and would not be placed beneath the store canopy on the front porch.

Discussion ensued regarding the relationship of the proposed grill to the balconies of the condominium owners in the building. It was noted the grill being utilized was a standard size "Weber style" grill and would take place during the hours proposed. Should neighbors complain about the grilling, the matter could be reviewed at a later date.

K. ATTWELL MOTIONED TO RECOMMEND APPROVAL TO THE COMMON COUNCIL OF A MINOR CHANGE TO THE CONDITIONAL USE TO ALLOW OUTDOOR GRILLING. HOURS OF OPERATION ARE WEEKDAYS 11:00 A.M. TO 6:00 P.M., SATURDAY 11:00 A.M. TO 6:00 P.M. AND SUNDAY 10:00 A.M. TO 5:00 P.M. FOR DEL C 0793.014.008, 637 GENESEE STREET, DELAFIELD. OWNER: ACE DELAFIELD PROPERTIES, LLC. APPLICANT: CERIELLO FINE FOODS AS A MINOR CHANGE, CONTINGENT UPON SITE PLAN REVIEW AND APPROVAL BY THE CITY OF DELAFIELD FIRE CHIEF AND APPROVAL BY THE CONDOMINIUM OWNERS ON THE NORTH SIDE OF THE BUILDING. L. CHAPMAN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES

5. PLANS OF OPERATION, SIGNAGE AND SITE PLAN

None.

6. PRELIMINARY

There were no preliminary items for consideration this evening.

7. ZONING AND ORDINANCE REVISION

a. DISCUSSION OF PROPOSED LANGUAGE TO INCORPORATE PRIMARY ENVIRONMENTAL CORRIDOR INTO CITY OF DELAFIELD ZONING CODE.

R. Dupler explained language had been proposed to incorporate the primary environmental corridor into the City of Delafield Zoning Code as a result of analysis from the Smart Growth process. The proposed ordinance included enforcement issues and density calculations that had been utilized in the past nine years as policy and were reflective of a variety of standards. He then explained the process for review of such an ordinance.

Discussion ensued regarding various clarifications of the ordinance proposed. K. Fitzgerald clarified that the ordinance proposed included a reference to five acres that referred to density and not to the lot size. R. Dupler explained conservancy land was similar to primary environmental corridor land, but had no developmental ability.

Several corrections were noted as part of the review of the proposed language and were noted as followed:

17.35 Establishment

(4) Environmental Corridor Boundary

(a) Purpose and Intent

Environmental Corridor Boundary, as mapped or intended to be mapped, includes; primary or secondary environmental corridors ~~as defined herein~~, (as defined in the City of Delafield Comprehensive Plan) and is intended to be used to preserve, protect, enhance, and restore significant woodlands, upland wildlife habitat areas, scenic overlooks, slopes exceeding 12%, and upland wooded areas....

(b) Density & Lot size

1. Minimum area: the density of parcels lying entirely within the Environmental Corridor Boundary shall not be ~~less~~ (more) than one dwelling unit per five (5) acres of corridor area, with no lot area being less than the standard lot area permitted in the underlying zoning district....

CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES

A clarification of the public hearing process took place. Discussion ensued regarding the timing of the public hearing process.

R. Dupler stated he would revise the proposed ordinance and include it for informational purposes in the e-packet for the next Plan Commission meeting as having been revised.

8. HEARING DATES

G. Gresch noted no new hearing dates were scheduled at this time.

9. ADMINISTRATOR'S REPORT

a. REPORT ON MANDATORY RE-ZONE FOR THE NICKEL LANDFILL

R. Dupler explained that in researching issues that arose from zoning matters discussed in the Smart Growth process, it had come to Staff's attention that the conditional use governing the Nickel Landfill site specified the landfill would revert to RE-1 zoning. The landfill was no longer in operation, and the land was not inhabitable, so the zoning required a mandatory change to B-3 to be consistent with the mapping that had been utilized for many years. Efforts were underway to work with the landowner on this correction, and more information would be available at a later date.

b. DISCUSSION AND ACTION TO SET PUBLIC HEARING DATE TO REPEAL AND RECREATE ORDINANCE 194 TO CORRECT LEGAL DESCRIPTION ADOPTED IN PRIOR ORDINANCE FOR THE SOUTH SHORE HARBOR CONDOMINIUMS.

R. Dupler explained that when the City began to utilize tax key descriptions instead of legal descriptions for parcels of land within the City, portions of land parcels were inadvertently not included in some areas. This matter was one such case. As a result, a public hearing was required to correct the legal description adopted in prior ordinance for the South Shore Harbor Condominiums.

K. ATTWELL MOTIONED TO SET A PUBLIC HEARING TO REPEAL AND RECREATE ORDINANCE 194 TO CORRECT LEGAL DESCRIPTION ADOPTED IN PRIOR ORDINANCE FOR THE SOUTH SHORE HARBOR CONDOMINIUMS TO BE HELD ON JUNE 24, 2009. L. CHAPMAN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES

- c. DISCUSSION AND ACTION TO SET PUBLIC HEARING DATE FOR A RE-ZONING FOR MULTIPLE COMMERCIAL PARCELS TO RESOLVE OVERLAPS IN GAPS FROM THE ORIGINAL DESCRIBED BOUNDARIES.

R. Dupler explained a public hearing was needed for rezoning for multiple commercial parcels to resolve overlaps in gaps from the original described boundaries for four areas within the City. He noted this item was quite similar to the previous item on the Agenda in that parcels of land in the City were inadvertently misidentified as a result of historic action and discrepancies were found within the zoning maps for the same parcels. He then shared four area maps depicting areas requiring rezoning. The first issue included necessary rezoning from B-2 to B-6 for a section of the Shoppes of Nagawaukee. In addition, the legal description of the Wal-Mart Center and Leutzinger development stated that the entire area should have B-6 zoning; while only some were specified as such. Third, there was a discrepancy for certain parcels within the Shoppes of Nagawaukee and the boundaries needed specification. Finally, there was an area on the south side of the Village Square development where the B-6 rezoning overlapped onto the neighboring property to the west that required resolution.

T. Maney provided historical information on actions transpired with the development of Heritage Ridge and its zoning designations. While it was noted that once B-6 zoning designations were defined, much of these items would have been resolved, R. Dupler explained the correct action was to rezone the parcels at this time, and thus, a public hearing was required.

D. CURTIS COSTA MOTIONED TO SCHEDULE A PUBLIC HEARING FOR A RE-ZONING FOR MULTIPLE COMMERCIAL PARCELS TO RESOLVE OVERLAPS IN GAPS FROM THE ORIGINAL DESCRIBED BOUNDARIES ON JUNE 24, 2009. L. CHAPMAN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- d. DISCUSSION REGARDING EXTRATERRITORIAL JURISDICTION BOUNDARY AND EXTRATERRITORIAL PLANNING

R. Dupler explained that all municipalities were responsible for extraterritorial jurisdiction boundaries such as the one that currently allowed the City to work with neighboring municipalities within approximately 1.5 miles of the City border. He then shared a boundary map with the Commission noting the bounded areas and impacted municipalities. There were certain areas within the City, such as Jaekels Drive, that were bounded by multiple municipalities making planning efforts difficult in those areas. He noted a great deal of Staff time was spent reviewing issues that were not directly within the City borders as a

CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES

result of not having the boundaries formally recorded in map version with the County. In addition, appropriate land use planning could take place in various areas once the boundaries were established. City Staff could then enter into negotiations with other municipalities for planning purposes. More information would be provided regarding an extraterritorial jurisdiction boundary map at a later date.

10. BUILDING INSPECTOR'S REPORT

T. Maney stated the total number of permits to date were 22, plus 2 occupancy permits with 1 new single family home permit issued this month.

11. BOARD OF ZONING APPEALS

G. Gresch noted there were no hearings scheduled for the Board of Zoning Appeals.

12. CORRESPONDENCE

None.

13. ADJOURNMENT

M. DEYOE MOTIONED TO ADJOURN THE MAY 27, 2009, PLAN COMMISSION MEETING AT 8:27 P.M. D. CURTIS COSTA SECONDED THE MOTION. ALL WERE IN FAVOR. MOTION CARRIED.

Minutes prepared by:

Accurate Business Communications, Inc.