

**OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

MINUTES OF A MEETING HELD JUNE 9, 2016

Agenda

**PUBLIC HEARING: SPECIAL EXCEPTION USE – GOOD STUFF FIREWORKS
CORP.**

**CONSIDERATION OF THE APPLICATION FROM GOOD STUFF FIREWORKS
CORP., FOR A SPECIAL EXCEPTION USE FOR TEMPORARY TENT SALES OF
CONSUMERS' FIREWORKS AT 5034 WEST KL AVENUE, KALAMAZOO MI, FROM
JUNE 10 THROUGH JULY 7, 2016, PURSUANT TO SECTION 24.407 OF THE
TOWNSHIP'S ZONING ORDINANCE. PARCEL NO. 3905-24-430-050.**

PUBLIC HEARING: SPECIAL EXCEPTION USE – LATITUDE BREWING CO.

**CONSIDERATION OF THE APPLICATION FROM LATITUDE BREWING COMPANY
FOR A SPECIAL EXCEPTION USE FOR A BREWPUB/ RESTAURANT AT 6075 AND
6101 WEST MAIN STREET, KALAMAZOO MI, PURSUANT TO SECTION 50.302 OF
THE TOWNSHIP'S ZONING ORDINANCE. PARCEL NOS. 3905-14-430-071 AND
3905-14-430-062.**

A meeting of the Oshtemo Charter Township Planning Commission was held on
Thursday, June 9, 2016, commencing at approximately 7:00 p.m. at the Oshtemo
Charter Township Hall.

MEMBERS PRESENT: Millard Loy, Chair
Fred Antosz
Wiley Boulding Sr.
Dusty Farmer
Pam Jackson
Mary Smith

MEMBER ABSENT: Kimberly Avery

Also present were Julie Johnston, Planning Director, James Porter, Attorney, and
Martha Coash, Meeting Transcriptionist. Approximately 25 other persons were in
attendance.

Call to Order and Pledge of Allegiance

The meeting was called to order by Chairperson Loy at approximately 7:00 p.m.,
and the "Pledge of Allegiance" was recited.

Agenda

Chairperson Loy asked if there were any additions, deletions or corrections to the Agenda.

Hearing none, the Chairperson called for a motion to approve the Agenda as presented.

Ms. Jackson made a motion to approve the agenda as requested. Mr. Antosz supported the motion. The motion passed unanimously.

Public Comment on Non-Agenda Items

Chairperson Loy called for public comment on non-agenda items. Hearing none, he moved to the next item on the agenda.

Approval of the Minutes of May 26, 2016

The Chairperson asked if there were any additions, deletions or corrections to the minutes of May 26, 2016.

Hearing none, Chairperson Loy asked for a motion to approve the minutes as presented.

Ms. Smith made a motion to approve the minutes of May 26, 2016 as presented. Mr. Boulding, Sr. supported the motion. The motion was approved unanimously.

PUBLIC HEARING: SPECIAL EXCEPTION USE – GOOD STUFF FIREWORKS CORP. CONSIDERATION OF THE APPLICATION FROM GOOD STUFF FIREWORKS CORP., FOR A SPECIAL EXCEPTION USE FOR TEMPORARY TENT SALES OF CONSUMERS' FIREWORKS AT 5034 WEST KL AVENUE, KALAMAZOO MI, FROM JUNE 10 THROUGH JULY 7, 2016, PURSUANT TO SECTION 24.407 OF THE TOWNSHIP'S ZONING ORDINANCE. (PARCEL NO. 3905-24-430-050.)

Chairperson Loy moved to the next item on the agenda and asked Ms. Johnston to review the application for a Special Exception Use from Good Stuff Fireworks Corp.

Ms. Johnston said the applicant WSs seeking permission to locate a 1600 square foot fireworks sales tent in the parking lot of the multi-unit commercial building located at the northwest corner of Drake Road and KL Avenue from June 10th to July 7th, 2016. With the proposed outdoor event to last more than one day, Special Exception Use permission from the Planning Commission is necessary.

She said along with the tent, the applicant also intends to use a lockable steel container on the site to store products overnight, since the tent will only be staffed during business hours, which will be 10:00 am to 9:00 pm through the end of June, expanding to 9:00 am to 11:00 pm for the remainder of the event. The container will take up approximately one parking space.

Ms. Johnson explained although the subject property is zoned as R-4: Residence District, which doesn't typically allow commercial uses, this property is part of a larger planned unit development (PUD) that was established in 1989, then known as a *multiple use development* (MUD), and has been approved for business uses.

Oshtemo Township's Fire Marshal has reviewed the planned site layout for the fireworks sale and the proposed floorplan for inside of the tent. He has no issues at this time, but the site will be subject to his inspection once it is set up, per state law.

Ms. Johnston said the application generally meets criteria for "other considerations", but one aspect of the proposed event that may warrant extra scrutiny from the Planning Commission is the fact that the applicant is proposing to secure the fireworks overnight in a locked storage container rather than having security personnel on-site outside of business hours. The steel container will be of robust construction—akin to the sea crates that are used on cargo ships—but the Planning Commission would need to determine whether or not this is an acceptable substitute to having someone watch the location, as is done at the three other fireworks vendors that hold outdoor sales events in the Township.

Satisfied with the project as presented, Planning Department staff recommended the Planning Commission grant approval for The Good Stuff's outdoor fireworks tent sale, subject to the following conditions:

- The final layout of the site is to be inspected and approved by the Fire Marshal prior to the commencement of business unless the applicant has submitted the necessary signed affidavit to the State of Michigan, attesting compliance with any and all relevant regulations.
- The tent and storage container may be placed on-site no sooner than June 10th and must be removed by July 8th, 2016.
- A \$400 compliance deposit, required of all fireworks vendors by the Planning Commission as of May, 2015, is to be submitted to the Township prior to the commencement of business. The deposit shall be returned in full to the applicant after the event ends, provided the tent and storage container are removed from the site by July 8th. Any failure to meet this deadline to return the site to its previous condition will result in a fine of \$75 per day, to be drawn from the compliance deposit. If the deposit is exhausted then the Township is to initiate other enforcement actions.

- Fireworks sales will only be allowed between 10:00 am and 9:00 pm from June 10th to June 30th and 9:00 am to 11:00 pm from July 1st to July 7th.
- All products must be relocated to the storage container nightly at the end of business hours. The storage container is to remain locked when no employees of The Good Stuff Fireworks are not present on the site.

Ms. Johnston concluded by saying if the Planning Commission were so inclined, Staff requested that the body allow subsequent outdoor fireworks sales held by the applicant at this address to be administratively approved, provided the proposed layout for any future events does not deviate significantly from the request being presented at this time. This is consistent with how other fireworks vendors' sales events are handled.

The Chairperson asked if there were questions for Ms. Johnston from Commissioners.

Commissioners confirmed the sides on the tent would be left up overnight for safety and security. They were concerned by the close proximity of neighboring apartment complexes and how the fireworks would be stored overnight without a 24/7 security guard.

Ms. Johnston noted the steel container will be of robust construction, akin to the C-crates that are used on cargo ships.

After determining there were no further questions from Commissioners, Chairperson Loy asked if the applicant wished to speak.

Mr. Jason Lambrecht, 439 S. Westnedge Court, Kalamazoo, 49008, assured Commissioners the steel containers are 20 x 10' C-Crates, with access from one side and will be locked with disc locks that are difficult to break into. Good Stuff Fireworks operates two tents in the Grand Rapids area with the same setup and equipment and have experienced no problems.

The Chair asked if there were members of the public who wished to speak.

Mr. Jerry Carpenter, 1186 Mt. Royal Drive, said he manages the three apartment complexes comprising 1235 units close to the site and expressed his concern about possible vandalism and destruction.

Hearing no further comments from the public, Chairperson Loy moved to Board Deliberations.

Mr. Antosz expressed his concern that the apartment complexes were so near and that he would rather have a security guard present.

In response to a question from the Chair, the applicant noted the adjacent three businesses remain open until 2:00 a.m. and the Speedway across the street is open 24 hours.

Mr. Boulding, Sr. Ms. Jackson and Chairperson Loy felt the security described was sufficient and were comfortable approving the application.

Ms. Farmer was concerned that not requiring a security guard might set a precedent and that prior approvals with a guard have become the standard.

Ms. Johnston noted the other fireworks retailers provided security guards for their own purposes, that a guard was not required by the Township to secure product. She said the Fire Marshal reviewed the application and approved it. He will inspect the site when the setup is complete to be sure code is met and he has the ability to weigh in.

Attorney Porter said he had reviewed the application at the request of the Planning Department Staff and felt the storage facility was actually more secure than the others, especially with the lock as described.

Ms. Farmer said she was more comfortable knowing approval of the site in within the Fire Marshal's purview.

Ms. Jackson made a motion to approve the Special Exception Use as recommended with the stipulation that the Fire Marshal will inspect the site when it is set up, that the six Staff conditions are met, including removal of the tent and storage container by July 8, and that future requests by Good Stuff Fireworks may be handled through administrative approval. M. Smith supported the motion. The motion carried unanimously.

**PUBLIC HEARING: SPECIAL EXCEPTION USE – LATITUDE BREWING CO.
CONSIDERATION OF THE APPLICATION FROM LATITUDE BREWING COMPANY
FOR A SPECIAL EXCEPTION USE FOR A BREWPUB/ RESTAURANT AT 6075 AND
6101 WEST MAIN STREET, KALAMAZOO MI, PURSUANT TO SECTION 50.302 OF
THE TOWNSHIP'S ZONING ORDINANCE. PARCEL NOS. 3905-14-430-071 AND
3905-14-430-062.**

Chairperson Loy moved to the next item on the agenda, a Special Exception Use request from Latitude 42 Brewing Company and asked Ms. Johnston to review the application for Commissioners.

Ms. Johnston told the Board the applicant was seeking Special Exception Use approval to develop a brewpub at 6101 and 6075 West Main Street. The property is located on the south side of West Main Street, one lot west of Lodge Lane. The property is zoned R-2: Residence District, but is also zoned with the commercial portion

of the West Main Overlay Zone. The Overlay Zone allows brewpubs as a Special Exception Use, per Section 50:302.

She said at this time, the applicant is not requesting site plan approval. A concept plan provided to the Township is for visual purposes only and is not intended to reflect the final development of the site. A site plan will be required that complies with all of the requirements of the Zoning Ordinance, in particular the standards of the West Main Overlay Zone.

Ms. Johnston explained the applicant plans to develop a microbrewery/ brewpub that would function primarily as a restaurant. The intent is to utilize the proposed location as a test system for the main brewery production, which occurs at the restaurant in Portage, MI. The West Main Overlay Zone allows brewpubs as a Special Exception Use. No specific development requirements are indicated for this particular use beyond those generally required by the Overlay Zone.

She described the concept plan which proposes two buildings, one for the brewpub and an additional one for a use to be determined at a later date, but in compliance with the West Main Overlay Zone. The applicant indicates the buildings will include high grade construction materials, such as stone and cedar. The specific details of site development will need to be carefully considered when a final site plan is submitted to the Township.

Ms. Johnston noted there were no issues with criteria under Section 60.100 of the Zoning Ordinance. She also noted restaurants are a permitted use within the West Main Overlay, which is the predominant use type of the Latitude 42 project. However, because a small portion of the building will be dedicated to the brewery use, it requires some additional scrutiny by the Planning Commission as a Special Exception Use. Since the majority of this development is a permitted use in the district, staff finds no issues with compatibility.

In addition, the West Main Overlay Zone has some enhanced development requirements that help to promote compatibility between uses. *Section 50.400: Design Standards* will be reviewed closely when the site plan is submitted to ensure compliance with these regulations.

Ms. Johnson said since the proposed use is consistent with the intent of the West Main Overlay Zone, as well as Oshtemo's general desire to encourage commercial uses along West Main, east of 9th Street, Staff recommended the Planning Commission approve the Special Exception Use for a brewpub at 6101 and 6075 West Mani Street, conditioned on Planning Commission approval of a site plan that meets the requirements of the West Main Overlay Zone and all other Zoning Ordinance Regulations.

The Chair asked if Commissioners had questions for Ms. Johnston.

In answer to a question from Ms. Jackson, Ms. Johnston confirmed that the issue in front of the Commission at this meeting was only the use of the property, not roads, structures or anything else; there will be another meeting in the future to consider a site plan.

She also confirmed the second building proposed by the applicant is described as housing retail and offices. There will be no production of beer on the premises.

Hearing no further questions, Chairperson Loy asked if the applicant would like to speak.

Mr. Joe Stoddard, 8351 West Long Lake, Kalamazoo, 49048, said under Michigan law, their brewery on Portage Road is considered a microbrewery. It is the goal of Latitude 42 to bring great food and great beer to the west side of town.

Chairperson Loy asked if any member of the public wished to speak, reminding the audience the only item under consideration was the special exception use; the site plan will be considered at a later date.

Mr. Bruce Minsley, 229 West Ridge Circle, felt the restaurant/microbrewery would be better suited in the West Main/9th Street commercial corridor. There are traffic accidents now at 10th Street and West Main, with alcohol added they will likely increase. He did not feel this project reflects the vision promised when the Overlay Zone was created and pointed out the Commission said no to Costco in the same area.

Mr. Richard Mahoney, 181 West Ridge Circle, offered support for Mr. Minsley's comments regarding an expected increase in auto accidents with the addition of this project and said a better intersection was needed. There are no turning lights and it is already dangerous to turn left into the neighborhood; people run the light at 60 mph.

Ms. Diane Minsely, 229 West Ridge Circle, agreed with the concern about mixing liquor and traffic. She rarely sees people slow down now. She was also concerned with the light that would come from the parking lot and the infringement on the neighborhood that would affect the quality of life.

Ms. Judith Weddington, Bangor MI, property owner of 6193 and 6165 West Main Street and in her family since 1929 when it was rural farmland. She had no say when Country Club Village was approved and developed and moved from her property because of the negative impact the development had on her quality of life. She said she was tired of hearing why her property could not be developed and that there was no reason she could not do what she legally has the right to do with her property. The proposed use is permissible under the commercial zoning requirements and she felt the application should be approved.

Mr. Ken Bertolissi, 6312 Stadium Drive, Kalamazoo, 49009, said he owns the property adjacent to the furniture store and has been fighting for 25 years to be able to use it, that it is not good for residential development anymore and he hoped for justice in being able to develop it as proposed.

Ms. Margaret Phuong, said she had lived on Lodge Lane for 45 years and suggested that rather than developing the site as a brewpub that it be developed as a nature preserve or park. She was concerned about the smell of beer in the neighborhood, increased traffic and the possibility that traffic might be routed down Lodge Lane.

Mr. Mark Orbe, 527 Lodge Lane, noted he raised his concerns in a letter and spoke of lights, noise, increased traffic. He said Mr. Stoddard had prompted a meeting with residents and some of his concerns were relieved by verbal commitment from Mr. Stoddard. He referenced 50.100 and the six standards contained there as well as additional criteria in the Overlay Zone and said almost every one of them has an issue. He also spoke of the interconnectivity saying access would not be allowed only from West Main, based on traffic volume. He specifically addressed "low intensity" saying a restaurant with 250 seats and 153 parking spaces was not low intensity.

Attorney Porter said the Planning Commission could grant special exception uses, but that they do not have unlimited latitude. He noted the restaurant/brewpub would serve beer only, not liquor as mentioned by some speakers and said a restaurant with a Class C license, which would be permissible in this area, would be able to serve beer, wine and liquor. Although that could be injurious to the area, it would fit in the Overlay Zone in light of permitted uses.

Mr. Stoddard thanked everyone for their feedback and made the following points:

- The class C permitted use would mean a bar could offer shots which intoxicate more quickly than beer. Latitude 41 is a family establishment, has a children's area, and can only serve what they produce.
- He respected neighbors' drunk driving concerns
- Latitude 41 has been open in Portage almost three years and has never had to call the police, or had issues with drunk drivers. They gear toward the long-term crowd.
- It was important to meet with neighbors and to be good neighbors
- The natural land will be preserved as much as possible and a buffer with more vegetation will be considered.
- Latitude 41 is one of the most beautiful buildings in the area and the new building will also include glass, stone and cedar construction.
- Latitude 41 is the largest charitable donator in SW Michigan. People behind the company are doing good things. Grand Rapids and Lansing both would like this development in their communities, but the desire is to develop here.

- It takes a certain commitment and risk to create jobs. The Portage location has benefitted everyone around them and has had a positive impact on the community. 50 jobs are envisioned with 25 of them being full-time.
- They want to do everything possible to protect safety.
- The closing hours will be 11:00 p.m. weekends, 9:00 p.m. Sunday and 10:00 p.m. Monday - Friday.

Hearing no further comments, Chairperson Loy moved to Board Deliberations.

Mr. Antosz noted he was involved in the discussions leading up the establishment of the Overlay Zone in order to develop West Main and felt this would be a good fit. He was in favor of approving the application.

Ms. Jackson said she heard and respected what the residents said. She also felt the application fits the criteria and was in favor of it.

Mr. Boulding, Sr. understood the concerns of the public but said the proposed brewpub fits under 50.302, is a good fit and should go forward.

Ms. Farmer felt it was a good use based on the Overlay Zone. If the Overlay Zone had to be changed to approve it, she would have to think about that. She agreed it is not a good intersection and hoped residents will return when their issues of concern can be addressed at a future hearing.

Chairperson Loy noted communications were received and are on file regarding this issue from Mr. Wayne Powers and Ms. Karen Jansheski. He said he appreciated Mr. Stoddard speaking with neighbors, which does not often occur. He said many hours were spent developing the Overlay Zone, and that the Commission has pride in what they do and in the Township. He felt the proposed project is a good fit, will add to the community, bring jobs and was in favor of it.

Mr. Antosz made a motion to approve the Special Exception Use to develop a brewpub at 6101 and 6075 West Main Street as recommended, conditioned on Planning Commission approval of a site plan that meets the requirements of the West Main Overlay Zone and all other Zoning Ordinance regulations. Ms. Jackson supported the motion. The motion carried unanimously.

Any Other Business

There was no other business.

PLANNING COMMISSIONER COMMENTS

Ms. Jackson reminded everyone the first Music in the Park program, a family-friendly event, is scheduled for Sunday, June 12 at Flesher Field.

ADJOURNMENT

Having exhausted the agenda, and with there being no further business to discuss, Chairperson Loy adjourned the Planning Commission meeting.

The Planning Commission meeting was adjourned at approximately 8:00p.m.

Minutes prepared:
June 13, 2016

Minutes approved:
June 23, 2016