

FARMINGTON PLANNING COMMISSION PROCEEDINGS  
Monday, July 28, 2008

Chairperson Gronbach called the meeting to order at 7:00 p.m. in the Farmington City Council Chambers, 23600 Liberty Street, Farmington, Michigan.

**Roll Call**

Present: Bowman, Buck, Christiansen, Crutcher, Gronbach, Ingalls, Kuiken, Scott, Sutton.

Absent: None.

A quorum of the Commission was present.

Chairperson Gronbach introduced and welcomed Kenneth Crutcher as a new Planning Commission member.

**OTHER OFFICIALS PRESENT:** Building Inspector Koncsol, City Manager Pastue, Recording Secretary Schmidt.

**APPROVAL OF AGENDA**

MOTION by Sutton, seconded by Christiansen, to approve the agenda. Motion carried, all ayes.

**APPROVAL OF ITEMS ON CONSENT AGENDA**

Commissioner Buck noted his name was not listed as being present or absent on the Roll call vote of the Regular Meeting Minutes of June 9, 2008. He stated he was present at the meeting.

MOTION by Buck, seconded by Sutton, to approve the following items on the consent agenda with the correction that Buck was present at the Regular Planning Commission meeting of June 9, 2008:

- A. Approve Regular Meeting Minutes of June 9, 2008, as amended.
- B. Acceptance of Farmington Building Department 4<sup>th</sup> Quarter Report – April 1, 2008 through June 30, 2008.

Motion carried, all ayes.

**CONSIDERATION TO APPROVE OUTDOOR SEATING REQUESTS AT BEL AIR SHOPPING CENTER, NORTHWEST CORNER OF ORCHARD LAKE ROAD AND LEE LANE.**

Ars Atisha, owner of Bricks Pizza Café, was present to review his request for outdoor seating patio on the south side of the building facing Lee Lane. He noted they would

replace part of the grass with a patio for patrons of his Pizza Café, patrons of the Coney Island and as a point of relaxation for others in the area. He noted it would be about 30 ft. in length and 18 ft. in width and would be constructed of high quality materials of concrete, pavers, or stamped concrete with black wrought iron around the patio and the furniture would also be made of wrought iron. He commented they might include heat lamps for the comfort of the customers.

Chairperson Gronbach noted there are two separate issues to be approved and the Commission would deal with each issue starting with Brick's Pizza Café outdoor seating.

The proponent stated they are proposing to have up to 3 tables with 2 chairs each in front of the storefront. He stated there would be no service to the patio area since the customers would be picking up their food in the store and taking it to the patio seating area.

Gronbach verified there would be no liquor.

City Manager Pastue stated the outdoor seating is appropriate for a restaurant in the C-2 District and he and Building Inspector Koncsol had looked at the clearance to maintain a minimum pathway width of five ft. along the sidewalk so as not to interfere with pedestrian traffic. Pastue noted the site plan shows a 6'8" clearance from the edge of the building to the existing brick columns and in order to maintain the 5 ft. clearance required the width of the table couldn't exceed 1'8". He commented there would be indoor seating as well as outdoor seating. He stated right-of-way approval is not applicable since the outdoor seating would be located on private property. He commented it is not necessary for the applicant to provide a metal railing since they do not serve alcohol. Pastue recommended if the Planning Commission is inclined to approve this outdoor seating request, the motion should specify that the wait staff should be responsible for clearing the tables and maintaining the outdoor seating area.

Commissioner Sutton asked the proponent if he has been able to find tables that are 1'8" or less. Mr. Atisha replied he is having the tables constructed to meet the requirements. Sutton asked for clarification from Mr. Atisha regarding the photos submitted regarding landscaping. Mr. Atisha noted the photos depicted a sample of landscaping he may use around the patio. Mr. Atisha responded to a question by Sutton that the bench in front of Brick's Pizza would be moved wherever appropriate for the customers. Sutton verified there would be a trash receptacle.

Commissioner Crutcher asked if there were other trash receptacles located in the other parts of the strip mall. Mr. Atisha noted the placement of other trash receptacles in that location and stated he would check with Building Inspector Koncsol to check on placement of another receptacle. In response to a question by Crutcher, the proponent replied Orchard 10 has a contractor who cleans the trash receptacles.

MOTION by Sutton, seconded by Kuiken, to approve the outdoor seating request in front of Bricks Pizza Café located at 24063 Orchard Lake Road, with the provision that the proponent work with City staff regarding the placement of a waste receptacle. Motion carried, all ayes.

Mr. Atisha reviewed the request to put a patio at the south side of the shopping center for the use of patrons. He stated the patio would be 18 ft. wide and 30 ft. deep and they would use high quality materials along with wrought iron furniture and reviewed the photo of the landscaping.

Gronbach verified trash receptacles would be available since they were not noted on the site plan. Responding to a question by Gronbach, Mr. Atisha stated his employees would be maintaining the area.

Kuiken asked how he would make sure the area would be maintained. Mr. Atisha replied he would check the area at different time periods.

Commissioner Christiansen verified the location would be a central gathering area that is common for the entire development. Christiansen confirmed there would not be a gate, but the area would be open.

Gronbach asked administration if there were any issues that needed to be addressed in order to comply with the ordinance. Pastue replied the ordinance is not specific to allow for it, but felt there should be a responsible person for the maintenance of the area. He noted if Bricks Pizza closed, the outdoor seating would be revoked upon their closing.

Christiansen stated the seating area is for the center as a whole.

Gronbach asked what the Coney Island restaurant envisioned regarding serving food in the seating area. The proponent stated he was looking for guidance from the Planning Commission regarding this issue. He commented the Coney Island should appear before the Commission if they want to serve food in the seating area. Pastue stated administration would prefer to have one party responsible for the maintenance. Mr. Atisha commented he would have an agreement with the Coney Island, but he would be responsible for the maintenance.

Gronbach noted the Commission would be looking to Mr. Atisha to take care of any problems associated with the area.

Commissioner Ingalls reviewed the photos of chairs in the request with Mr. Atisha. Mr. Atisha stated they were just samples and not necessarily what would be used.

Commissioner Scott verified the landscaping would be on three sides and he asked the proponent where the furniture would be stored in the winter months. Mr. Atisha replied the furniture would be stored in the alley behind the Bricks Pizza Café without

obstructing egress and ingress of that area. Scott asked if there were setback and landscape requirements. Pastue replied the building is within the setback requirement. Christiansen commented it would not meet the definition of a structure, but what is applicable are the provisions of the outdoor seating area and he discussed other issues. Pastue stated there are setback requirements for residential areas and noted the area is sort of removed from that.

Scott voiced concern regarding the responsibility of the maintenance. He noted it was more of a landlord improvement and not tenant specific. Discussion followed regarding responsibility of the landlord or tenant. Sutton concurred and felt the landlord should be responsible and he can delegate the responsibility of maintenance to someone of his choice. Christiansen concurred with Sutton and noted it was for the entire center and not to a specific tenant. He was concerned about approving the request for the entire center, but if the Coney Island wanted to serve food it would take away the whole center use. He stated he did not know how the Health Dept. would be involved with Coney Island serving food in the seating area. He noted the Coney Island should appear before the Planning Commission with their intentions.

Commissioner Bowman verified the location of the patio and that the walkway would still remain.

Discussion followed regarding hours of operation and if signage would be in place. Atisha replied they would place signs if needed.

Sutton asked what authority there is if the Coney Island came before the Commission requesting service of customers in the seating area. Pastue replied if it is approved for the center then the Commission would have to revisit the authorization that would be granted and change its use and go through a series of questions regarding wait staff, and cleanup. He noted the landlord would need to initiate the request with the Planning Commission. Discussion followed regarding authority.

Christiansen commented as the applicant has proposed an outdoor seating area for the center, and if a motion to approve is formulated, and is conditioned upon use for the center, with no specific use, and no outdoor service, is the condition for the outdoor seating area. He noted if they want to modify those conditions it must be specific to a user and/or have service in that area that would change the condition of approval and that would have to come back to the Commission.

The proponent stated he would rather have the restricted use to him. Christiansen replied the Health Dept. would have to be involved and there would be license requirements. Christiansen stated the nature of the business would be changed if the customer were served outside. Discussion followed regarding delivering the food to the seating area. Scott suggested using the area for non-restrictive use for the entire center.

Crutcher asked the proponent how he would address customers who should not be in the seating area. The proponent stated there would be plenty of seating for people who just want to read or relax. He stated they would address any nuisance issues. He stated large groups of people loitering, fighting, and skateboarding would be taken care of.

MOTION by Christiansen, seconded by Buck, to approve the amended motion for the outdoor seating request at the Bel Aire Shopping Center, for the South side of the shopping center building, as shown on the submitted plans and materials, on the condition that the petitioner work with the City and that the landlord be responsible for maintenance of this outdoor seating area and that it be useable for the entire center on the condition that no wait staff, open service, menu service be permitted at this time for that area; enclose waste receptacles for the enclosure and landscaping around the west side of the back side of the area. Motion carried, all ayes.

**CONSIDERATION TO APPROVE OUTDOOR SEATING REQUEST, MR SHAWARMA, 23631 FARMINGTON ROAD**

Mr. Shawarma was not present. Pasture stated Administration would recommend tabling the item until the applicant would be able to attend. Koncsol stated he had talked to Mr. Shawarma in regards to the meeting tonight.

MOTION by Kuiken, seconded by Sutton, to table the consideration to approve the outdoor seating request for Mr. Shawarma, located at 23631 Farmington Road, until the next meeting of September 9, 2008.

Buck noted the September meeting would make it late in the season for the request. He suggested moving to item 6 on the agenda and that the applicant be contacted by phone so that he could appear at tonight's meeting. Mr. Koncsol stated he would walk over to the business and see if the proponent was there and ask him to come to tonight's meeting.

Gronbach suggested amending the motion.

MOTION by Kuiken, seconded by Sutton, to amend the motion for consideration to approve the outdoor seating request for Mr. Shawarma, to move it further down the agenda for tonight's meeting. Motion carried, all ayes.

**REVIEW OF SITE PLAN FOR CELL TOWER RECONSTRUCTION AND CONSIDERTION TO SCHEDULE SPECIAL LAND USE PUBLIC HEARING – VERIZON WIRELESS, 33720 W. NINE MILE ROAD**

Pastue stated LSL Planning prepared an analysis for the special land use application the City received from Verizon Wireless to reconstruct the cell tower located at 33720

Nine Mile Road. He suggested the Planning Commission schedule a public hearing for Monday, September 8 at 7:00 p.m.

Sherrin S. Hood, AICP, Senior Planner, LSL Planning, Inc., reviewed their report regarding the tower. She stated the current tower is not tall enough to accommodate another user.

Ms. Hood stated LSL Planning recommended approval of the special land use request and site plan to permit the reconstruction of the wireless communication tower (not-to-exceed 120 feet in height) to be located in the rear of the City's maintenance facility, at 33760 Nine Mile Road, with the following conditions:

1. The applicant must verify the proposed building height for the record. Accessory structures may not exceed 15 feet in height.
2. The applicant must include any required aviation hazard lights on the plan.

Kuiken verified the 120 feet in height included the tower and antenna.

Christiansen asked Ms. Hood the height of the existing pole and she replied 100 ft.

Gronbach verified the existing buildings would stay.

Buck asked if the construction would interfere with the function of the Public Works Dept. Pastue replied it would not create any problems.

MOTION by Buck, seconded by Christiansen, to schedule a public hearing for Monday, September 8, 2008 at 7:00 p.m. to accept comments regarding the special land use application. Motion carried, all ayes.

**CONSIDERATION TO APPROVE OUTDOOR SEATING REQUEST, MR. SHAWARMA, 23631 FARMINGTON ROAD**

Mr. Shawarma was present to review his request for outdoor seating and to answer questions from the Commissioners. He stated he is requesting to place three tables along the front of the building and there would be two chairs with each table.

Pastue stated outdoor seating for a restaurant is a permitted use in the Central Business District. He noted the site plan shows a 7'9" clearance from the edge of the table to the existing curb along Farmington Road. He commented the exception is the northern most table, which has 5'8" clearance from the table to the tree trunk, which require pedestrians to cross a tree grate. Pastue stated the Planning Commission might consider approving only two of the tables.

Pastue stated the applicant has contacted the Road Commission for Oakland County and City Administration does not anticipate any problems with their approval. He noted

the applicant has provided the City with a certificate of insurance naming the City and Oakland County as additional insured. He stated it would be necessary for the City Attorney to prepare a license agreement if approved by the Planning Commission. He referred to the recently approved Gala Restaurant outdoor seating application.

Kuiken was concerned about the northern most table since it is near the tree grate and an exterior door that opens outward to the sidewalk. The proponent replied the table would be small. Christiansen noted it looked like the door opened inward.

Bowman verified wait staff would take orders from customers at the table. Bowman was concerned about smoking.

Scott voiced concern regarding wheelchair access with the metal grate around the tree.

Kuiken stated there was a lot around the northern table, which could cause a problem with walking.

Christiansen verified there would be 3 tables with 6 chairs.

Sutton stated she would agree to have 2 tables for the rest of the summer and then review the issue and the proponent could appear before the Commission next spring to see how the 2 tables worked.

Christiansen noted the proponent had about 14 ft. to put in 3 tables and 6 chairs, which would make the area very tight.

Buck commented he was glad the petitioner was open to only have 2 tables, but hoped there could be 3 tables. He noted the tree could be monitored and maybe moved.

MOTION by Bowman, seconded by Scott, to approve the amended motion for the outdoor seating in front of Mr. Shawarma, at 23631 Farmington Road, with the changes at this time that it incorporates two tables with four chairs, leaving the applicant open to return in the spring to revisit adding a third and two additional chairs, and based on the fact that it is a waiter service outdoor seating that the property owner is responsible for clearing the tables and maintaining the outdoor seating area. The applicant must provide the City with any required approval from the City and Oakland County. Motion carried, all ayes.

### **INTRODUCE FIVE-YEAR CAPITAL IMPROVEMENTS PROGRAM**

Pastue reviewed the Five-year Capital Improvements Program which included streetscape projects, road projects, water system projects, park improvement projects and sidewalk replacement program. He stated the sanitary sewer system is up to date. He noted they would be evaluating road and infrastructure projects.

Sutton asked if the buildings included in another report were not going to be included in the Capital Improvement Program. Pastue noted he could provide that information. Discussion followed regarding purchasing a wood chipper.

Christiansen referred to page 8 of the report and asked if there was line item for the Shiawassee Park Pavilion. Pastue stated they would correct that item.

Gronbach verified Administration would return with a revised report in September.

### **PUBLIC COMMENT**

There were no public comments.

### **COMMISSION COMMENTS AND ANNOUNCEMENTS**

Buck reminded everyone of the election on August 5<sup>th</sup> and to encourage neighbors to vote.

Ingalls requested a plaque on the back wall in memory of Nancy Leonard.

Gronbach stated there would not be an August meeting.

Bowman noted she had signed up for Michigan Citizens Planner Classroom in September and she would be glad to carpool. She stated she would take notes and report back to the Commission.

### **ADJOURNMENT**

MOTION by Ingalls, seconded by Christiansen, to adjourn the meeting. Motion carried, all ayes.

The meeting adjourned at 8:20 p.m.

Respectfully submitted,

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Secretary

