

MINUTES
City of Alpena Planning Commission
Regular Meeting (Council Chambers and Virtual)
August 8, 2023 Alpena, Michigan

CALL TO ORDER:

The regular meeting of the Planning Commission was called to order at 6:00 p.m. by Randy Boboltz, Planning Commission Chairman.

ROLL CALL: PLANNING COMMISSION

PRESENT: Wojda, Sundin, Boboltz, VanWagoner, Gilmore, Moses, Kostelic

ABSENT: Peterson

STAFF: Montiel Birmingham (Planning, Development, and Zoning Director), Kathleen Sauve (Recording Secretary)

PLEDGE OF ALLEGIANCE: Pledge of Allegiance was recited.

APPROVAL OF AGENDA: Agenda was approved as printed.

APPROVAL OF MINUTES: Meeting July 9, 2023, minutes were approved as printed.

Boboltz explained the order of procedures for the public hearing.

PUBLIC HEARING AND COMMISSION ACTION: **Case # SU23-03** – Brett Mutter, applicant, and Sherman Hubbard, property owner, request to allow outdoor trailers sales in the parking lot of 307 South Third Avenue. Applicant was made aware of the special land use requirement on 6/12/2023 by City staff and an enforcement was entered on the property. Applicant requested to apply for a SLU permit.

Birmingham presented the Finding of Fact and Approval Standards as provided in the meeting packet (see Appendix A). She explained that some of the pictures may look a little different because the property is in the process of being cleaned up. She also explained that the Special Land Use variance issued in 2018 is not subject to discussion as it is not under the PC's review at this time, however, it does have an impact on the consideration for this Special Land Use request; they are not here to resolve the concerns related to the recent fire. Wojda asked if they could treat it like a blight situation and put conditions on the approval. Birmingham said

yes. Gilmore asked what it is zoned currently, after the change in 2018. Birmingham said that it is Central Business District in the Downtown Overlay District; property is within the DDA. She also explained that a Use Variance is not used very often, but they are reviewed by the Zoning Board of Appeals; this meeting could give a Special Use Variance to allow this one activity in this location. [The City] uses Conditional rezoning as a better tool now but it was not available in 2018. Gilmore asked if the Special Use request would cover both businesses, or just the trailer business. Birmingham said it would not have anything to do with the Use Variance that was granted in 2018. Gilmore asked if it was all the same property. Birmingham said yes, it is three separate parcels, but from a zoning standpoint, it is treated as one zoning lot. Moses asked who would be responsible for the maintenance of the proposed trailer lot. Birmingham said that the property owner would be, and whatever his agreement is with Mutter.

FAVOR: Brett Mutter, trailer sales owner, said that Hubbard is his neighbor and offered to allow him to use it for his trailer sales to help him get started. He said that he bought the trailers and put them on the lot without knowing if they could or could not do it.

Kostelic asked if he had a business name or if it was solely in his name. He said it was only in his name. She also asked Mutter if they had a signed or verbal lease. Hubbard said there is not a signed lease, and he is just trying to help [Mutter out].

Sherman Hubbard, property owner and owner of Speedy Blaze, said that up until last Thursday, the [Speedy Blaze] business was growing and having a cool thing going on and then they had a little disaster which was contained, and they have addressed some things with Montiel, the Fire Marshal and Building Official and they have some code enforcement things that they want brought forward which they intend to do. He said he is waiting to hear from his insurance company. The exterior stuff was due to their growth; finding a way in and out and getting this stuff handled, they got overwhelmed. He stated that he did agree to have everything outside taken care of by [August] 31st. He said his intention is to continue to operate there and he currently has 17 employees who are mostly at-risk individuals that now have better jobs and better pay to help them become productive citizens. He said that they try to be good neighbors and they fully intend to bring everything up to compliance since the fire and he hoped that it would not affect Brett [Mutter] at all. He said that Mutter has taken better care of the property than he has and cleaned up a lot around there.

OPPOSITION: Alicia Manning, neighboring property owner, said that there haven't been that many issues other than quite a bit of blight like crates and totes and a lot of ugly things. She said her main issue is the trailers blocking the traffic. She said that because of some of the trailers raised at the corner of Tawas and Third, there have been a lot of really close calls with people not stopping at the corner thinking it is still a yield sign and not a stop sign. She requested that the trailers be moved back from the sidewalk and that the raised trailers not be on the corner.

Public hearing closed at 6:25 pm for deliberations.

Moses said a concern of his is that there has been a lot of money put into the Downtown District and there is not a lot of room in the district now, and Section 6.12 of the Special Land Use approval standards, Item B is compatibility and then Item H is Consistency with the Zoning Ordinance and Comprehensive Plan. He asked if they all felt that it is consistent with what they are trying to do with the downtown development. He said he walks that path 4 or 5 times per week, and he feels that it kills the buzz when you see all the beautiful streetlights and then around the corner, there's a big lot with trailers in it. He said he would not have the same concerns if it were located outside of the Central Business District. Boboltz said that the requested Special Use is permitted under the current zoning laws, so whether or not he has an opinion that selling trailers on that site may not be the best use, it is still a permitted use. Birmingham said that it is permitted but subject to interpretation because a Special Land Use has discretionary standards; they could put as many conditions on the use as they want if they chose to approve it.

Hubbard said he feels that his business downtown will draw more people from different areas although it may not be in the perfect place, but it is the perfect place for his employees to be able to get to work by bike.

Wojda suggested adding a small green strip around the perimeter of the lot. He said the reason he brought that up is because he also sits on the DDA board and he does believe that that area is the front door to the DDA from one direction; driving by it every day it does not look terrible, but it could look better. An additional green strip could make it look more welcoming and palatable.

Moses said just for the record, his concerns were about the [trailer] lot, not Speedy Blaze.

Kostelic said that it makes sense to not have the raised trailers blocking the traffic view and sights around. She said that she would like to find some common ground to make it look better and move some things around so we can have a business and bring people into the community.

Mutter said he tried to make it look nice and uniform along the sidewalk and that there is a lot more work to be done, but he was waiting for the Planning Commission decision. He said that he will move the dump trailers or have them not raised in the air. He thought it looked good around the corner and would catch people's eye but did not take into consideration that it would be a sight issue coming around the corner; he has no problem moving them as he only has two of them there. Mutter went on to say that he has had people from Gaylord, West Branch, and all over and they tell him that he has a great setup. He said that he is just trying to clean it up so that it looks good and he will have a gentleman who will come every week to mow the grass and edge along the sidewalks and was open to any other suggestions the Planning Commission may have to make it look better.

Gilmore asked Mutter how many units he planned to have in the parking lot. Mutter said that this past spring, he had 37 total, that was a good variety of steel and aluminum, but primarily utility trailers, and the maximum would be 40. He said currently he only has 17 trailers sitting there because he did not know which way this was going to go.

VanWagoner asked Birmingham what the setback requirement is for field of view for Commercial properties. Birmingham said that the minimum setback is zero but the maximum is 15 feet or consistent with what is around the area.

Sundin said that although they are not dealing with the previously granted Use Variance, there were violations, in which they have been given a deadline of August 31st to make corrections. They could, in essence, have this one not go into effect until those violations have been corrected. Birmingham said that the zoning violations were specific to exterior effects. Sundin said that in his many years of planning, too often people will get a property or business that have certain requirements, and as time goes on the business changes and the requirements get ignored. In this case, he should have come to the City and asked for permission, but instead it simply wasn't done. He said that it seems to be a pattern with them. What any good business should do if you own a property, is find out what you can do or not do; do your due diligence. He said he did not have a problem with the use and the way Birmingham has interpreted it as being grouped under Outdoor Car Sales since trailer sales are not specifically listed in the use matrix. Sundin said he did not feel that their banners were considered permanent signage and in the Downtown, you want a certain type of look; a permanent sign should be required within a certain period of time. Hubbard said that the previous application [for Use Variance] was filled out by the previous property owner, Jack McCoy and he was unaware of what was in the application. He said that he will take care of the current violations. He said he does not want anything stored outside because he loses product; there is no excuse, but he will deal with it and get it taken care of. Sundin said that even though [the trailers] meet the setback technically, they should have a condition that the trailers be pulled back further for visibility. One other concern Sundin had was regarding access to the site for trucks and deliveries. He asked if the trailers would be in the way. Hubbard said that there is a clear space behind the building and the alleyway, and they will not block the alleyway.

Moses said that it is their duty to try to approve these whenever they can and he knows that the special land use is allowed in the CBD; given that there is no written and signed lease between the owner and leasee, he wondered if there becomes a problem with the lot, who would ultimately be responsible for the property. Sundin said that the owner would be responsible. Hubbard said that he is comfortable assuming full responsibility for his good conduct or negligent conduct.

Birmingham had one more comment to make sure she is being very clear with the Use Variance, if something was approved and there was a timeline, by the end of August, only certain things would be able to be addressed, meaning the external things. She said she wanted to be sure that the motion made is not all encompassing of everything going on inside

the building. Moses asked if the Special Land Use permit is indefinite and runs with the property. Birmingham said yes it is, unless they rescinded the use or it was abandoned for a certain amount of time.

Sundin ***motioned*** to approve the Special Land Use request for trailer sales at 307 South Third Avenue with the following conditions:

1. All exterior violations be completely resolved by August 31, 2023, or the special land use will become null and void.
2. The temporary signage will be allowed for a period not longer than 90 days, at which time a permanent sign will need to be installed in accordance with our Zoning Ordinance, or no sign at all.
3. Must work with City staff to work out access to the building as it relates to the placement of trailers.

Boboltz restated the motion made by Sundin.

Wojda ***seconded*** the motion.

VanWagoner asked if they were going to make a provision for the placement of the trailers in relation to the right-of-way.

Sundin suggested that they extend the setback along Third Avenue around to Washington Avenue for a more visible setback. Kostelic and Wojda both agreed.

Wojda ***motioned*** to amend the previous motion to include a condition that the setback that occurs along Third Avenue could be extended to Washington Avenue.

Kostelic ***seconded*** the motion to amend the original motion.

Motion ***approved*** by vote of 7-1.

Yea – Wojda, Boboltz, VanWagoner, Gilmore, Sundin, Kostelic

Nay - Moses

UNFINISHED BUSINESS: Zoning Ordinance Articles 8 (Zoning Board of Appeals) and 10 (Adoptions and Amendments) Updates – Birmingham presented some updates on proposed changes to the Ordinance and answered any questions about clarification. Members had some interpretive issues with Item number 2 on page 10-3 and gave some input and suggestions on wording that was confusing to them.

In Article 6, Birmingham explained that the table on page 6-2 is new. She said the process does not change, they just put it in a grid format.

Birmingham explained that on page 6-12 B, Public Welfare and Adjoining Properties, in the Site Plan Review Standards section, was eliminated because generally these are non-discretionary, but they felt this was a very hard non-discretionary standard because it *is* more discretionary. Boboltz said that people's perceptions of their welfare do not necessarily match up with the specific criteria that they are dealing with. He said it would be difficult to make iron-clad language to make it clearer. Birmingham suggested that Public Welfare specifically, should be in the Special Land Use application section. Sundin said that public health, safety, and welfare is what the Zoning Enabling and Planning Acts are all about. Boboltz agreed and said that the art of it is to find things, as well you can, to make the decision, based on objective criteria and not too much subjectivity. He said that it is interesting because they are trying, to some extent, make things relatively close to being more black and white to the best of their ability. Sundin asked why they eliminated the word 'Air' in the following paragraph. Birmingham said that they questioned 'what would block air?' Sundin said that buildings can affect air flow.

Birmingham said that the Emergency Vehicle Access paragraph on page 6-13 was moved to a different place in the Ordinance. She explained that in the following paragraph, Vehicular and Pedestrian Circulation was reorganized a little differently and clarified the language and then Fire and Safety on page 6-14 was changed to Public Safety and Infrastructure.

On page 6-20, Birmingham explained that the first paragraph was rewritten. Sundin questioned why the Site Plan approval period was changed to three years. Birmingham explained that is how long the Site Plan would last before having to be rereviewed again. Boboltz also said that confused him as well.

In Section 6.12, Birmingham explained that there are some repetitive items like public services and traffic; the reason for that is because not all Special Land Uses require a Site Plan review, so it is added to the Special Land Use standards. This is where more of the discretionary standards come into play so there were quite a few changes and areas reorganized. She asked for some input and said that this is a tough one because they are discretionary items, but we can make changes to whatever they feel is more appropriate. Boboltz said that when he read through it, nothing really jumped out at him. He asked if they could think about this section more before the next meeting and Birmingham agreed to that.

Page 6-26, Kostelic asked if the word Abandoned is defined [in the Zoning Ordinance]. Birmingham said that it is defined in a couple areas of the Ordinance.

Page 6-27, Birmingham stated that the whole section on Condominiums will be moved to Article 7.

Birmingham stated that in Article 9, Administration, Section 9-1 on page 9-2 was changed to include all the different staff that could be responsible. She said Section 9.1 was clarified to better explain the order of things. Next, she said Section 9.2 and 9.3, Permits and Inspections, were pulled out and replaced entirely due to how many changes were needed. It was a lot of reorganization because they found some things that were confusing and needed clarification.

Then in Section 9.6, Public Communication, language was cleaned up, including how things are mailed; nothing changed in terms of the process, they just ordered it more efficiently. Birmingham said that the same thing went for page 9-14, Section 9.8, Planning Commission and City Council.

On page 9-16, Section 9.10, Rehearing Process, Birmingham said that the City's attorney will be reviewing this section; also, will be having discussion with the attorney about whether this section needs to even be included because ultimately, they go back to Robert's Rules of Order. She said that they then added the table on page 9-19 to be used as a quick reference.

Sundin asked for clarification on page 9-11, regarding the requirement for mailings when it pertains to 11 or more properties – when 11 individual properties are being rezoned, or that is within the 300 feet. Birmingham said that when there are 11 or more properties that are impacted by being rezoned, you don't have to notice them all by sending out letters, but you do have to notice it in the newspaper. Wojda mentioned the DDA expansion as an example. Boboltz mentioned that Wojda is also on the DDA board and Kostelic is the member of the Planning Commission who is also on the Zoning Board of Appeals which is required by the Ordinances.

Gilmore asked Birmingham to ask the City Attorney to review Section 9.10, Rehearing Process. Birmingham agreed.

NEW BUSINESS: None.

COMMUNICATIONS OR REPORTS: None.

CONTINUING EDUCATION: None.

PUBLIC COMMENT: None.

MEMBERS' COMMENTS: None.

ADJOURNMENT: There being no further business, the meeting was adjourned at 7:49 p.m., by Boboltz, Planning Commission Chairman.

Clayton C. VanWagoner, Secretary