



PLANNING COMMISSION

September 6, 2023

A special Planning Commission meeting was held in the City Council Chambers, Petoskey, Michigan, on Wednesday, September 6, 2023. Roll was called at 6:00 P.M. and the following were:

Present: Cynthia Linn Robson, Chairperson
Betony Braddock
Doug Buck
Carolyn Dettmer
Matt McSweeney
Richard Mooradian
Rick Neumann
Ted Pall
Charles Willmott

Others: Julie Lowe, EGLE
Mac McClelland, Mac Consulting Service
Anna McGlashen, Tip of the Mitt Watershed Council
Elaine Pelc, EGLE
Wayne Seger, Mansfield Land Use Consultants
Chris Wickline, JB Donaldson Company

Staff: John Iacoangeli, City Planning Consultant
Lisa Denoyer, Zoning Administrator
Shane Horn, City Manager

Case #1-23 – Site Plan Approval for Maple Block Flats, 1420 Standish Avenue

John Iacoangeli, City Planning Consultant, informed the Commission that the site plan submittal was fairly complete and the applicant is proposing to use the PUD provisions of Article XXV to convert the former Michigan Maple Block factory site into a 204-apartment complex and a 5,000 square foot commercial building. This site is considered a Brownfield site and has implications of contamination. He then reviewed a list of proposed conditions of approval for their consideration.

Doug Mansfield, Mansfield Land Use Consultants, informed the Commission that their hope was for a site plan approval so they could go before City Council for a final PUD approval later this month and ultimately apply for grant funding by the September 30, 2023 deadline. He stated that he believes the site plan meets all of the requirements and that they are agreeable to the conditions of approval stated by Mr. Iacoangeli. He then shared samples of building materials with the Commission so they could see the colors and textures proposed for the project.

Mac McClelland, Mac Consulting Service, explained to the Commission that his primary role is Brownfield Consultant and his job is to manage, organize and acquire incentives for the project. He explained that once a property like this is acquired, the owner has 45 days to acquire exemption from liability from previous activities on the property. This includes sampling the property to create a

baseline environmental assessment and a due care obligation not to make the situation worse or expose anyone to it. The regulatory process for a Brownfield project involves evaluation of pathways on how contamination may reach people or expose people, as well as other activities so as to not exacerbate the contamination or make it worse. The process also includes compliance analysis which requires documentation of all due care measures that are taken. This project will have a much higher standard of evaluation as each step will be evaluated by the Michigan Department of Environment, Great Lakes and Energy (EGLE) due to being awarded a \$1M EGLE Brownfield grant and a \$1M EGLE loan. The MSHDA Grant for the Missing Middle requires specific approval of a Response Activity Plan that specifically states what will be done to insure the public is protected, human health is protected, that there is no exposure and the contamination is not being made worse. EGLE also reviews the Response Activity Plan. The primary concerns of the site are soil, soil management and vapors leaving the soil. A condition of the EGLE Grant is to remove contaminated soil, which may be over and above the normal due care obligation.

Commissioners asked why this site had more testing than usual, if there was a mitigation/containment strategy, and if changes to the site were possible due to required modifications for stormwater collection. They also voiced concerns about future issues like those that occurred at Bay Harbor.

Mr. McClelland responded that some of the testing that has been done to date is typically done after construction starts, the requirements for mitigation/containment are different for ground water, surface water, etc. and there are many factors that come into play, all of which will be followed. The City of Petoskey will have an active role in the process as they will be the grantee of EGLE grant funds and moving forward, any requests or changes needed to the site plan would come back before the Planning Commission for approval.

Commissioners asked if there were updated stormwater calculations for the site, if the proposed stormwater system could handle the estimated amounts, how much soil would be removed from the site, what the Planning Commission's role is in regards to regulating stormwater and contamination, why a PUD rezoning was requested over the current zoning and the purpose of a retaining wall near the river.

Wayne Seger, Mansfield Land Use Consultants, responded that the stormwater calculations do not change over time and they are looking at different options to insure the system will handle the stormwater from the site. He also stated that the retaining wall along a portion of the path on the river is a grade separator due to Public Safety requesting a wider path along the river.

Mr. McClelland responded that part of the soil removal and mitigation process will be to evaluate the levels of contaminants.

Mr. Iacoangeli responded that most zoning ordinances do not address contamination. It is typically regulated through Brownfield and EGLE. If major site changes are needed, the project would come back before the Planning Commission for review and approval as outlined in the zoning ordinance.

Mr. Mansfield responded that their desire for a PUD was based on their desire for mixed use of commercial and residential.

Anna McGlashen, Tip of the Mitt Watershed Council Policy Manager, commented that the Watershed Council is in support of the Commission offering contingent approval of the site plan, requiring additional testing of areas of the site that have not yet been explored and imposing a deadline for the developer to present sufficient information to address environmental and health impacts of the site plan to insure safe and appropriate development. She then referenced various projects within northern Michigan that later had issues with contamination after development as examples to support a contingent approval. She expressed the need for a complete map indicating the types and locations of contaminants and voiced concerns with the possibility of stormwater traveling from the east side of Standish Avenue through contaminated soil on the site without collection, monitoring or management. She then listed recommendations on a contingent plan, oversight of the project, soil

management practices and coordination with the Health Department of Northwest Michigan and EGLE to insure there is not an immediate impact on public health and to develop a monitoring plan to insure the redevelopment of the site does not create or exacerbate a public health risk.

Commissioners again voiced concerns with contamination issues at Bay Harbor even though they went through the correct permitting process, asked if a condition of approval could include additional testing of the site, and inquired as to how the stormwater system is closed when it discharges to the river. Commissioners also commented that the contamination already exists and site improvements would likely improve the contamination issues.

Ms. McGlashen responded that she believed the Commission could require additional testing as a condition of approval and stated that it is their general understanding that the existing development and remediation process would leave the site better off than it is currently, however, that does not preclude them from doing things right. She then reviewed a map that indicated the two ground water sample locations and hot spots within the site and explained that the southern portion of the property where stormwater is potentially going to pass through has not yet been sampled.

Mr. Iacoangeli responded that the stormwater would not run straight through a retention or detention pond and infiltrate the ground. It would go through a series of catch basins, pipes, and mechanical separators to get rid of oils and debris before being discharged to the river.

Commissioners asked staff if there was a way for the City to work with the Watershed Council, to which he responded that there was. The City could request water testing before and after construction to determine a baseline, however, EGLE will be monitoring the water quality and will also be approving the due care plan for the project and if things are uncovered, EGLE would be brought back in and any issues would be addressed.

Mr. McClelland clarified that the two ground water samples on the map that Ms. McGlashen referenced were part of a supplemental investigation and all of the other points and tables, 16 in total, were ground water samples. None of the samples along the river indicated contamination outside of EGLE standards.

Julie Lowe, Brownfield Coordinator for EGLE, emphasized the work plan approval process which will include involvement by the City of Petoskey as they are the recipient of the grant and loan funds. A work plan will be submitted by the developer to the City to review and approve before sending it to EGLE for their team to review and approve. She anticipates there will be several work plans throughout the project. The funds will cover due care activities that include removal and disposal of contaminated soils, engineering controls for when the soil is being dug out and dewatering.

Elaine Pelc, Remediation and Redevelopment Division for EGLE, stated that due to the longevity of Maple Block, there was not data or reports on release. Her recommendation was to remove the worst contaminants on the site to protect the groundwater from going into the river. Their decisions are based on data and testing which occurs quarterly or two times a year, depending on the site. If the developer does not do the testing, EGLE will.

Chairperson Robson asked if EGLE would conduct water testing of the river along the site. Ms. Pelc responded that at some point during the process, testing could be done by collecting ground water beneath the sediments. Ground water samples are more reliable than surface water samples due to the ever flowing water in the river.

Separately from the EGLE Maple Block grant or loan, Ms Pelc recommended that the City Council contact EGLE ASAP to request shoreline sediment testing on the Bear River along the Maple Block site which would be provided at little or no cost.

At 7:41 P.M., the meeting was opened for public comment.

Alex MacKenzie, Coldwell Banker, 522 East Front Street, Traverse City, stated that he understood the concerns of the Commission. He then informed the Commission that he is the realtor for the property and it has been under contract since June 2022. He believes that if this project does not work out, the property will likely remain as an industrial use or vacant.

There being no further comments, the meeting was closed for public comment.

Commissioners reviewed site plans submitted by the applicant, Section 1716 - Standards for Review and staff recommended conditions of approval.

At this time, Commissioner Willmott made a motion, seconded by Commissioner Braddock, that based on the documentation submitted by the Applicant, the public record and the recognition that the subject property is identified as a priority redevelopment site in the Livable Petoskey Plan, the Planning Commission recommend approval of the PUD Site Plan Case #1-23 for property located at 1420 Standish Avenue, property ID#52-19-07-200-012, pursuant to Section 1716, Site Plan Review of the City of Petoskey Zoning Ordinance with the following conditions:

1. A fire hydrant be added on the southeast corner of the proposed commercial lot;
2. Revise light fixtures (poles, brackets, luminaires, and wall packs) to black;
3. Address issues noted in EGLE's July 28, 2023 letter;
4. Revise the landscaping plan as noted in the review memo dated August 29, 2023, from Tim Knutsen, RLA, and submit the revised plan for administrative review and approval;
5. Install a double filter fabric fence adjacent to the two curb cuts;
6. Remove six (6) parking spaces that are adjacent to the two curb cuts;
7. Installation during and after construction of catch basin filters (EGLE S58);
8. Identify snow storage areas on Sheet C4.0, "Site and Dimension Plan" and locate snow storage areas where snow melt has access to the closed stormwater system;
9. Installation of heavy duty concrete pads in front of water-related dumpsters/compactors;
10. Prior to issuance of a Zoning Permit, subject to easement documents for review and approval from the City, a ten-foot easement along Standish Avenue for a ten-foot wide shared path and the area designated for pedestrian bridge connection to Riverbend Park; and
11. Removal of existing City walk along Standish Avenue.

Motion carried 9-0.

Public Comment

No public comments were received.

Commissioner Comments

Commissioner Dettmer asked if it would be possible for the City to request water testing of the Bear River at each bridge location.

Mr. Iacoangeli responded that they could and he believed it was a good idea.

Commissioner Pall asked if there was an update on the fence at Bay Street Urgent Care and the Lofts at Lumber Square project.

Staff responded that a fence permit application had been submitted for what appeared to be a solid vinyl privacy fence at Bay Street Urgent Care, however, the application had not yet been processed

and the Lofts at Lumber Square had submitted a building permit to Emmet County, however, no zoning permit had been received.

Staff Updates

Mr. Iacoangeli informed the Commission that staff had been in discussion with the owner of the former Chinese restaurant on West Mitchell Street regarding possible projects and has a meeting scheduled with a project developer on September 15, 2023 regarding the former Rite Aid building.

Commissioner Willmott asked if the Sign Committee had met regarding sign ordinance amendments.

Chairperson Robson responded that they had met and established formatting for the ordinance and will review a draft later this month.

Mr. Iacoangeli then informed the Commission that the subcommittee had completed its review and creation of Rental Inspection Ordinance Language and it will be presented to the Commission for informational purposes at their regular September meeting.

There being no further business to come before the Planning Commission, the meeting was adjourned at 8:36 P.M.