



Planning Commission Meeting Minutes

The Planning Commission met for a Regular Committee Meeting, October 19, 2023, at
7:00 p.m. at City Hall
102 Butler St., Saugatuck, MI 49453.

1. Call to Order/Attendance:

The meeting was called to order by Chair Manns at 7:05 p.m.

Present: Chairman Manns, Commission members: Anderson, Bagierek, Broeker, Gardner, Gaunt, LaChey.

Absent: None.

Others Present: Director of Planning, Zoning, and Project Management Ryan Cummins (online), Deputy Clerk Sara Williams, City Attorney Jacob Witte.

2. Approval of Agenda:

Motion by Anderson, second by LaChey, to approve the agenda as presented for October 19, 2023. Upon voice vote, motion carried unanimously.

3. Approval of Minutes:

Motion by Gaunt, second by Bagierek, to approve the minutes as presented for regular meeting September 21, 2023. Upon voice vote, motion carried unanimously.

4. Public Comment on Agenda Items:

- Mark Klungle (747 Water) – Not in favor of changing zoning for Waterfront Development. They purchased property 20 years ago and these changes will drastically change the zoning for the properties that they own. He does not understand why they are now considered “Waterfront” property when they aren’t on the waterfront. He asked that they consider property owners before they make any changes.
- Patti Beery (331 Grand – residence, 318 Butler - business) – She comes as a lifelong resident of Saugatuck and a permanent business owner and the issue of pop-up patios. She is not opposed to pop-up-patios. After speaking with other residents, citizens, and business owners, they have some questions, concerns, and suggestions. The day after Labor Day, they see a significant increase in the age of the people that are coming to Saugatuck and shopping in their stores. They are no longer seeing the strollers with the families and the college kids Monday through Friday. They do see those customers on weekends but during the week people are shopping

with a purpose. As the age of the shoppers increases, they have concerns over the age of these customers. There is limited parking, and it is difficult for them to find parking. Most of them are not physically able to go many blocks distance and there isn't a parking shuttle any longer on the hill. The school spaces are occupied by students and faculty. The day trippers come to town expecting it to be less busy and be able to find parking. Their concern is that the leases for the pop-up-patios run from April 1 through November 30. They are wondering if that could change to May 1 through September 30 due to the weather in April, October, and November. In addition to the inclement weather, there is nobody eating in the pop-up patios, so those parking spots sit empty. People come to town to shop & eat and there is still nowhere to park. The other concern she has is that many of the places that lease the parking spaces are not open at lunchtime. This leaves more empty parking spaces that could be used. One of the questions that she gets when she talks to residents and business owners is that they are concerned, "where does the money go that is generated from the funds that they get from the businesses that have pop-up patios and how does it benefit the taxpayers?"

- Laura Durham (747 Water) – Echoes what Mark Klungle said. The new rezoning of three of her parcels that she owns is affecting her. On the agenda for this meeting Item D "Waterfront Development – Review draft zoning ordinance language. She asked, "Why would the nine owners plus the condominiums ever think that this would affect them?" None of them are waterfront owners. She is asking that the nine owners plus the condominium owners be removed from the rezoning as they are not waterfront owners, and they had no idea this was going on. She thinks that this is extremely misleading to property owners and asks the Commission to reconsider.

5. **Old Business:** None.

6. **New Business:**

A. 118 Hoffman – Public Hearing and Site Plan Review for a Restaurant with Expanded Outdoor Dining. (Roll Call Vote)

Public Hearing Information

A. Hearing is called to order by Chair Manns at 7:20 pm.

B. Summary by the Zoning Administrator:

The applicant requests retroactive approval for establishing the Siena Café restaurant, installing an outdoor seating area, constructing a shed, and placing an outdoor freezer on the subject property.

The lot is approximately 41 feet wide and 66 feet deep (2,702 square feet). The applicant previously established the restaurant use, installed a covered outdoor seating area, constructed a wood accessory storage building, and installed an outdoor freezer to

accommodate business operations. A special land use permit was not received for the restaurant's use, and no permits were secured for the shed and freezer. The structures also require multiple variances to remain in their current location. The Historic District Commission also reviewed the plans and tabled consideration until screening details can be improved.

C. Presentation by the Applicant:

The applicant, Erhan Kara presented his application for the property at 118 Hoffman. He operates his business, Siena Café, at this location. He has lived in Saugatuck for 20 years and the building was in shambles most of the time. It has been changing hands as rentals and the owner never took care of it. The property had been on the market for roughly 10 years. Eventually Mr. Kara gathered enough money to buy the property. He spoke to the former Zoning Administrator, Cindy Osman in late 2020 when he had the intention to buy. Osman told the applicant that he could make it a business. He stated that Allegan County required him to change the use of the building to the code as Michigan states, which he did. The outdoor seating was approved by Saugatuck City, and he was able to use the patio area. He updated the patio area, and it was approved by the Historic District Commission. That is the reason that he was not aware there were any other permits needed, and the business had been operating successfully for the last 2 years. He purchased the building thinking he could run a business and earn extra money for the short-term rental, but he really wanted to renovate the building and make it a nicer place. To do that, he needed income. He assumed that opening his own business would bring in more money than just the rental income and invested approximately \$250,000 to create the restaurant in order to sustain the building. It is a non-alcoholic place, and he hires in the summer, mostly younger students to help run the business. He also runs two other businesses on the block, so he oversees everything.

D. Public comment regarding the application:

1. Participants shall identify themselves by name and address.
2. Comments/Questions shall be addressed to the Chair.
3. Comments/Questions shall be limited to three minutes.
 1. Supporting Comments (audience & letters): None.
 2. Opposing Comments (audience & letters): None.
 3. General Comments (audience & letters): None.
 4. Repeat Comment opportunity (Supporting, Opposing, General): None.

E. Public comment portion closed by the Chair at 7:26 pm.

F. Commission deliberation:

The board went into deliberation and discussed the standards for the retroactive approval for establishing the Siena Café restaurant, installing an outdoor seating area, constructing a shed, and placing an outdoor freezer on the subject property.

G. Commission action:

Motion by Gardner, second by Gaunt to approve the application for 118 Hoffman for site plan for restaurant with expanded outdoor dining with the following conditions:

- *That the applicant clarifies outdoor seating locations and demonstrates compliance with the five-foot clear area requirements which we've discussed.*
- *That the applicant shall demonstrate that seating along the curb does not interfere with pedestrian travel or the opening of parked car doors.*

If the applicant has demonstrated he understands the requirements and the Planning Commission is open to approving the project, approval shall be contingent upon the applicant screening all necessary variances for the project, Historic District Commission approval, and City Council approval for use of the right of way, and to allow the Zoning Administrator the authority to work with the applicant to get those items completed. Upon roll call vote, motion carried unanimously.

B. 120 Mary – Public Hearing for Rezoning from C-2 Water Street East to R-4 City Center Residential. (Roll Call Vote)

Public Hearing Information

A. Hearing is called to order by Chair Manns at 7:42 pm.

B. Summary by the Zoning Administrator:

The applicant requests the rezoning of the subject lot from C-2 Water Street East to R-4 City Center Transitional Residential District. The applicant proposes to use the entire single-family dwelling as a short-term rental and eventually convert the building to a bed and breakfast establishment.

The landowner was previously using the entire dwelling as a short-term rental and was cited because short-term rentals are only permitted on upper floors in the C-2 Water Street East zoning district. The rezoning was requested so that short-term rental of the entire dwelling can continue and for the longer-term plan of establishing additional accommodation that would be affiliated with the Wickwood Inn.

C. Presentation by the Applicant: None, applicant not in attendance.

D. Public comment regarding the application:

1. Participants shall identify themselves by name and address.
2. Comments/Questions shall be addressed to the Chair.
3. Comments/Questions shall be limited to three minutes.
 1. Supporting Comments (audience & letters): Mark Klungle (747 Water).
 2. Opposing Comments (audience & letters): None.
 3. General Comments (audience & letters): None.
 4. Repeat Comment opportunity (Supporting, Opposing, General): None.

E. Public comment portion closed by the Chair at 7:48 pm.

F. Commission deliberation:

The board went into deliberation and discussed the standards for the requested rezoning of the subject lot from C-2 Water Street East to R-4 City Center Transitional Residential District. The applicant proposes to use the entire single-family dwelling as a short-term rental and eventually convert the building to a bed and breakfast establishment.

G. Commission action:

Motion by Gardner, second by Gaunt to table the application until the next Planning Commission meeting with an invitation for the applicant to be in attendance for discussion. Upon roll call vote, motion carried unanimously.

C. Proposed Zoning Ordinance Text Amendment to 154.092(O) – Restaurants with Outdoor Seating and expanded Outdoor Dining Areas. (Roll Call Vote)

Public Hearing Information

A. Hearing is called to order by Chair Manns at 8:17 pm.

B. Summary by the Zoning Administrator:

During the course of the COVID-19 pandemic, the City and many other local governments declared emergencies which allowed measures, including suspending specific ordinance requirements, to reduce the risk and spread of the virus. This included creating flexibility to expand dining outdoors. Part of this flexibility allowed restaurants to expand dining onto sidewalks and into the street.

Following the emergency measures and during a time of unknowns as it related to what would happen with the viral spread, the City Council continued to offer flexibility by adopting an expanded outdoor dining ordinance and policy in February 2022. This allowed for a licensee to temporarily occupy City streets.

The Zoning Ordinance considers expansion of restaurant seating into the right of way (which would include streets) as a special land use. A special land use requires a public hearing and site plan review by the Planning Commission. During the pandemic, because of the emergency and continued need for flexibility, zoning approvals were not required.

In March, staff discussed the following with the City Council:

- Three summers of licensing approvals and expanded outdoor use by establishments downtown has created a hybrid of approvals, as well as likely some confusion on the necessary approvals for outdoor dining.
- Some establishments obtained prior special use permit approval for expanded dining on the sidewalks, received additional expanded dining on sidewalks under temporary licenses issued during 2020-2022, and additionally received licenses for the use of City streets or parking spaces under temporary approvals.
- Others may only have first started expanded outdoor dining areas based on the temporary licenses authorized during 2020-2022 and have no zoning approval.
- As COVID-19 is no longer at high levels of transmission, many communities are now working on how to bring restaurants with expanded outdoor dining into compliance with zoning code requirements.

On March 27, City Council approved continued flexibility and staff discretion for temporary expanded outdoor dining during the 2023 spring/summer/fall tourist season. This included following the same application process for temporary expanded outdoor dining licensing that occurred in 2022. After November 1, 2023, all city codes, including zoning, will have to be followed.

Staff worked with legal counsel over the summer to draft proposed changes to the zoning and other code requirements for outdoor dining, so they are aligned.

The following is a summary of the proposed amendments:

- Require every expanded outdoor dining area obtain: 1) a special use permit; 2) site plan review; and 3) a revocable license agreement from the City, regardless of whether the expanded outdoor dining area occupies a sidewalk, right-of-way, or other public property.
- Omits the prior restrictions on signage in expanded outdoor dining areas, but otherwise it incorporates substantially all of the requirements for expanded outdoor dining areas that would have been required by the planning commission's review via existing SUP process, administrative review via the emergency policy, or as part of Council's review in issuing a revocable license pursuant to Section 96.33.

o Note that the amended SUP section still contains a subsection of outdoor dining areas on restaurant premises, rather than on public property, and

these regulations are very basic and largely unchanged from what was previously in the code.

- Allow the expanded outdoor dining area to operate between April 1 and November 1 (consistent with existing regulations) and require all items to be removed no later than November 10 and allow items to be reinstalled no earlier than March 20.
- Require payment of an annual fee for the privilege of using public property (previously a component of the revocable license agreement), which is established by resolution of the Council.
- Allow the SUP to be revoked by the City for failing to comply with the requirements of the zoning ordinance, maintain a valid revocable license agreement, or pay the annual fee. It also notes that it can be terminated as necessary to accommodate public work, the City's use of its public places, or otherwise at the City's discretion.
- Added language noting that if the SUP was terminated for reasons outside the applicant's control, the annual fee would be prorated and refunded.

As the proposed zoning ordinance amendments would now require a revocable license agreement with the City as a prerequisite to obtaining an SUP for an expanded outdoor dining area, Section 96.33 of the City Code is no longer necessary. If the zoning ordinance is amended, City Council will be asked to amend the City Code to delete that section.

The Planning Commission reviewed and discussed the proposed changes at its September 21 meeting and set a public hearing. The Planning Commission will conduct a public hearing, discuss the proposed changes, and make a recommendation to City Council.

C. Presentation by the Applicant: None.

D. Public comment regarding the application:

1. Participants shall identify themselves by name and address.
2. Comments/Questions shall be addressed to the Chair.
3. Comments/Questions shall be limited to three minutes.
 1. Supporting Comments (audience & letters):
 - Lyndsey Tibbles (449 Water).
 - Christine Pierce (449 Water).
 2. Opposing Comments (audience & letters): None.
 3. General Comments (audience & letters): None.
 4. Repeat Comment opportunity (Supporting, Opposing, General): None.

E. Public comment portion closed by the Chair at 8:28 pm.

F. Commission deliberation:

The board went into deliberation and discussed the proposed amendment to the Zoning Ordinance for Outdoor Dining.

G. Commission action:

Motion by LaChey, second by Anderson to recommend the adoption of the amendments to Section 150.092(O) of the zoning ordinance to provide expanded regulations pertaining to restaurants with outdoor seating and expanded outdoor dining areas occupying public right of way, or public sidewalks as submitted with the changes of the date to be from May 1 through October 31, which includes the removal of a period for any tear-down or set-up. Upon roll call vote, motion carried unanimously.

D. Waterfront Development – Review Draft Zoning Ordinance Language.

David Jirousek presented an overview of proposed amendments for the Waterfront Regulation draft language. The Commission agreed to have a public hearing at the November 16th, 2023, meeting.

7. Communications: None.

8. Reports of Officers and Committees:

A. Zoning Administrator Activity Report: Director of Planning, Zoning, and Project Management Cummins gave brief update on his report.

9. Public Comments:

- Christine Pierce (449 Water) – Apologized to the Commission for going off agenda and not following the rules. There were a lot of big changes and she felt blindsided as a business owner. She said that everyone in Chicago takes their spring break in April. Everyone that has a home here and has kids visits during that time. During that time, she has a boost in business. She feels like if the business wants to set up their outdoor expanded dining areas in April, they should be able to pay the money to do so.

10. Commission Comments: None.

11. Adjournment:

Motion by Anderson, second by Gaunt, to approve adjournment of the meeting. Upon voice vote, motion carried unanimously. Chair Manns adjourned at 9:43 pm.

Respectfully Submitted,

Sara Williams, City Deputy Clerk & DPW Administrative Assistant