

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

DATE OF MEETING: Thursday, July 16, 2020
TIME OF MEETING: 4:00 p.m.
PLACE OF MEETING: Zoom/ City of Muskegon Government Facebook Page

AGENDA

- I. Roll Call
- II. Approval of Minutes from the special meeting of June 18, 2020.
- III. Public Hearings
 - A. Hearing, Case 2020-12: Staff-initiated request to amend section 2324 of the zoning ordinance to allow mobile food vending as a temporary use.
- IV. New Business
 - A. Marihuana district expansion discussion.
- V. Old Business
- VI. Other
- VII. Adjourn

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CITY COMMISSION AND ANY OF ITS COMMITTEES OR SUBCOMMITTEES

The City of Muskegon will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities who want to attend the meeting, upon twenty-four hour notice to the City of Muskegon. Individuals with disabilities requiring auxiliary aids or services should contact the City of Muskegon by

writing or calling the following:

Ann Meisch, City Clerk
933 Terrace Street

CITY OF MUSKEGON
PLANNING COMMISSION
SPECIAL MEETING
MINUTES

June 18, 2020

Chairperson T. Michalski called the meeting to order at 4:00 p.m. and roll was taken.

MEMBERS PRESENT: T. Michalski, J. Montgomery-Keast, J. Doyle, B. Mazade, F. Peterson, L. Spataro, B. Larson, S. Gawron

MEMBERS ABSENT: E. Hood

STAFF PRESENT: M. Franzak, H. Mitchell

OTHERS PRESENT: S. Musselman, Damfino Development, LLC.; P. Sartorius, 1575 Edgewater; J. Page, 1853 Cherry.

PUBLIC HEARINGS

Hearing, Case 2020-11: Request to amend the Planned Unit Development at 1875 Waterworks Rd; 1490 Edgewater St; and 3400, 3460, 3474 Wilcox Ave, by Damfino Development, LLC. M. Franzak gave the staff report. The Docks PUD was approved by the City Commission on June 25, 2019. The proposed changes in this plan are: a) The elimination of the boardwalk and platform in Muskegon Lake. b) The beach will be removed and be replaced with a buildable lot. c) Lot #70 (Now #71) is increased in size. d) A new beach would be placed where lots 114-116 were previously located. e) The south wall of the channel is being moved with a reduction in width from 140' to 120'. No parking spaces are proposed for the beach, nor were any proposed for the beach in the plan that was already approved. Street parking is currently not allowed on Edgewater St. Please see the enclosed PUD plan. Staff recommends approval of the PUD. The amended plan reduces the density and increases the open space. M. Franzak stated that he had received public comment from Chuck Bieszka of 1689 Edgewater who is in support of the development. Roger and Jeanne Knop of 3212 Windward who were pleased and hopeful of the development and that the developers have been great neighbors.

B. Mazade asked if the setbacks were changed due to the changes. M. Franzak stated that they were the same as the rest. S. Musselman added that the change was to add one lot. B. Mazade asked about the court hearing. S. Musselman described the process that had happened and that there is basically nothing to continue with. B. Mazade asked about the approvals from the Army Core of Engineers and Eagle. S. Musselman stated that they received the approvals from the Army Core of Engineers but they are waiting on approvals from Eagle. T. Michalski asked how the density of this development would compare with the Harbour Towne development. S. Musselman stated that the density would be very close. B. Mazade stated that the current units in Harbour Towne were 199 but the original approval was for 248. L. Spataro asked if there would be any changes to the Brownfield agreement for improvement to Edgewater if the roads change within the development from using Edgewater. F. Peterson stated that there is little or no connectivity with Edgewater and the development so it makes more sense to use the Brownfield money where it qualifies. P. Sartorius stated that he was pleased with the accommodations from the agreement with Damfino. The City has discretion to address the issues on Edgewater with Brownfield money because the development would still have an impact on Edgewater. There should be a study

performed to find out what is needed for the Edgewater area. T. Michalski asked if the lawsuit had been dropped. S. Musselman stated that Damfino had to sue the Edgewater area in order to amend the plat but the Edgewater area has stepped back. J. Page stated that there was no connection with Edgewater due to the changes in the development.

A motion to close the public hearing was made by B. Larson, supported by J. Montgomery-Keast and unanimously approved.

A motion that the request to amend the Planned Unit Development at 1875 Waterworks Rd; 1490 Edgewater St; and 3400, 3460, 3474 Wilcox Ave be recommended to the City Commission for approval was made by J. Montgomery-Keast, supported by B. Larson and unanimously approved with J. Montgomery-Keast, J. Doyle, S. Gawron, B. Mazade, F. Peterson, T. Michalski, L. Spataro, and B. Larson voting aye.

NEW BUSINESS

None

There being no further business, the meeting was adjourned at 4:21 p.m.

HM

STAFF REPORT

July 16, 2020

Hearing, Case 2020-12: Staff initiated request to amend section 2324 of the zoning ordinance to allow mobile food vending as a temporary use.

SUMMARY

1. Please see Section 2324 of the zoning ordinance (enclosed). This section allows for temporary buildings, structures and uses.
2. Mobile food vending is allowed by Sec. 50-301 thru 50-304 of the City Ordinances (enclosed). However, it was initially developed to allow food vendors in the City right-of-way. Since its inception, it has mainly been utilized by vendors on private property. The City Commission has asked the Planning Commission to develop an ordinance that dictates where they may locate, their placement on site and how long they may be permitted.

Proposed Addition to Section 2324.

I. Mobile Food Vending: Mobile food vending options permitted by City Ordinance Sec. 50-301 thru 50-304 may be temporarily located in B-2, B-4, LR, WM, I-1, I-2 districts and all Form Based Code context areas except Urban Residential and Lakeside Residential; under the following conditions:

- (1) Food trucks and trailers must be placed at least five feet away from any principal structure and at least three feet from any lot line. They may be placed on grass, pavement or in the parking lot, but may not impede proper vehicular flow on the site.
- (2) Trash receptacles must be located on site.
- (3) Permits for mobile food vending between 1 and 89 days will be reviewed administratively.
- (4) Permits for mobile food vending between 90 days and one year will require the notification of all properties within 300 feet. If no concerns are received within 15 days, the permit application will be reviewed administratively. If there are concerns, a public hearing at the Planning Commission will be required.

STAFF RECOMMENDATION

Staff recommends approval the proposed amendment

DELIBERATION

Motion for consideration:

I move that the request to amend Section 2324 of the zoning ordinance to allow mobile food vending as a temporary use be recommended the City Commission for (approval/denial).

SECTION 2324: TEMPORARY BUILDINGS, STRUCTURES AND USES [amended 11/10]

Temporary uses, buildings and structures, not used for dwelling purposes, may be placed on a lot or parcel and occupied only under the following conditions as authorized by the Zoning Administrator.

1. Only the following temporary uses, buildings or structure are permitted:
 - a. Fire Damage: A temporary building or structure may be constructed during renovation of a permanent building damaged by fire. The temporary building or structure shall be removed within fifteen (15) days after the repair of fire damage is complete. Permits issued under this section shall be for a one hundred and eighty (180) day duration.
 - b. New Construction: Temporary buildings and structures incidental to construction work, except those related to construction of single-family dwellings, may be placed on the developing tract or parcel during construction. No cooking accommodations shall be maintained. Said temporary buildings shall be removed within fifteen (15) days after construction is complete. The structure shall not be allowed more than twelve (12) months, unless expressly authorized after petition to the Zoning Administrator.
 - c. Erosion Control: Temporary fencing used for erosion control, silt screening and other conventional types of temporary erosion structures may only be used for the purpose of temporarily controlling the unwanted movement of top soil or sand on a parcel of land. These temporary structures must be removed within 15 days after conditions causing the soil erosion, or unwanted movement, are eliminated or have subsided. Bonafide public works projects may use temporary fencing and other control methods as required to accomplish the task at hand. [amended 11/10]
 - d. Temporary Classrooms: Up to four temporary classrooms may be permitted for private schools with expansion needs. Said classrooms shall meet local codes and ordinances. Said buildings shall be removed within fifteen (15) days after construction of any permanent structure intended for expansion purposes is complete. The temporary classrooms shall not be allowed more than eighteen (18) months, unless expressly authorized after petition to the Zoning Administrator.
 - e. Temporary Real Estate Offices: Temporary Real Estate Offices are permitted within approved development projects. No cooking accommodations shall be maintained. -The office shall be removed upon completion of the development of the subdivision. The office shall not be

- c. If the applicant removes the temporary structure as dictated by the permit the performance guarantee shall be returned when all the terms and conditions of the temporary zoning permit have been met and the temporary use or structure has been removed.
- 3. Temporary Zoning Permit: A temporary zoning permit may be required by the Zoning Administrator for any proposed temporary use, building or structure, except those already covered by the City's Special Events procedure, Fire Code, or Transient Merchants procedure. Any temporary zoning permit may be approved, modified, conditioned or denied by the Zoning Administrator. The Zoning Administrator may refer an application for a temporary zoning permit to the Planning Commission.
 - a. A written temporary zoning permit may be issued for any temporary use, except those already covered by the City's Special Events procedure, Fire Code, or Transient Merchants procedure, and shall contain the following information:
 - i The applicant's name
 - ii The location and effective dates of the temporary use
 - iii Conditions under which the permit was issued, included but not limited to:
 - (1) use and placement of signs
 - (2) provision for security and safety measures
 - (3) control of nuisance factors.
 - iv Submission of performance guarantee, if applicable
 - v Signature of the Zoning Administrator and owner and/or operator on the permit.
 - b. The zoning administrator may impose conditions with the issuance of a permit which are designed to ensure compliance with the requirements of this Ordinance. The Zoning Administrator may revoke a permit at any time for nonconformance with the requirements of this section and a permit issued thereunder.
 - c. Request for permit renewal shall be filed at least fifteen (15) days prior to the expiration date of the current permit. Applications for renewal or extension of a permit having a duration of fifteen (15) days or less shall be

5. Appeal: An appeal of a decision by the Zoning Administrator relative to denial of a temporary use, building or structure or of a temporary zoning permit or renewal thereof may be taken to the Zoning Board of Appeals pursuant to Section XXV of this Ordinance.
6. Habitation of Accessory Structures and Travel Trailers: No recreational vehicle or travel trailer, fixed or portable garage, barn, ~~or~~ accessory buildings, or cellar shall be used or occupied as a dwelling.

(b) All such required reports shall be submitted electronically using the services of an electronic reporting service company selected by the city. All such filings shall comply with all requirements regarding the specific information to be supplied and time frame for doing so, as outlined within the applicable state statute. Each transaction report shall include a digital photograph of the article attached to the electronic transfer. (Ord. No. 2311, § 50-202, 5-14-2013)

Sec. 50-203. Penalty.

If a pawn broker, secondhand or junk dealer, or a precious metal/gem dealer does not comply with this article and/or any applicable state law, their license may be revoked for a period of up to one year. In addition, violation of this article shall result in the imposition of a civil fine, pursuant to section 46-204. (Ord. No. 2311, § 50-203, 5-14-2013)

Secs. 50-204—50-300. Reserved.



ARTICLE VIII. MOBILE FOOD VENDING ORDINANCE

Sec. 50-301. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Mobile food stand means a stand which may upon issuance of a license by the city clerk and conformance with the regulations established by this article may temporarily park and engage in the service, sale, or distribution of ready to eat food for individual portion service to the general public directly from the stand.

Mobile food trailer means a vehicle which may upon issuance of a license by the city clerk and conformance with the regulations established by this article may temporarily park and engage in the service, sale, or distribution of ready to eat food for individual portion service to the general public directly from the trailer.

Mobile food vehicle means a motorized vehicle which may upon issuance of a license by the city

clerk and conformance with the regulations established by this article may temporarily park and engage in the service, sale, or distribution of ready to eat food for individual portion service to the general public directly from the vehicle.

Mobile food vehicle vendor means the registered owner of a mobile food vehicle or the owner's agent or employee; and referred to in this article as "vendor".

(Ord. No. 2321, § 50-301, 4-22-2014)

Sec. 50-302. Scope.

The provisions of this article apply to mobile food vehicles/trailers/stands engaged in the business of cooking, preparing and distributing food or beverage with or without charge upon or in public and private restricted spaces. This article does not apply to vehicles which dispense food and that move from place to place and are stationary in the same location for no more than 30 minutes at a time, such as ice cream trucks. (Ord. No. 2321, § 50-302, 4-22-2014; Ord. No. 2336, 3-24-2015)

Sec. 50-303. License required.

(a) It shall be unlawful for any person, including any religious, charitable or nonprofit organization, to operate within the city a mobile food vehicle/trailer/stand without having obtained from the city clerk a license for that purpose.

(b) A person desiring to operate a mobile food vehicle/trailer/stand shall make written application for such license to the city clerk. The application for a license shall be on forms provided by the city clerk.

(c) Proof of insurance in the amount of \$1,000,000.00 naming the city as additional insured must be provided.

(d) All vendors receiving a license under this article shall pay the monthly fee as set by the fee resolution.

(e) A license is valid for one vehicle/trailer/stand only and shall not be transferred between vehicles.

(Ord. No. 2321, § 50-303, 4-22-2014)

Sec. 50-304. Regulations.

(a) No operator of a mobile food vehicle/trailer/stand shall park, stand or move a vehicle and conduct business within areas of the city where the license holder has not been authorized to operate. The city commission shall by resolution identify those streets and public areas where parking by mobile food vehicles/trailers/stands is permitted.

(b) The customer service area for mobile food vehicles/trailers/stands shall be on the side of the truck that faces a curb, lawn or sidewalk when parked on a street or right-of-way. No food service shall be provided on the driving lane side of the vehicle/trailer/stand when parked on a street or right-of-way. No food shall be prepared, sold, or displayed outside of mobile food vehicles/trailers/stands when located on a city street or right-of-way.

(c) No mobile food stand may be larger than ten feet by ten feet nor more than 75 square feet in size. A five foot clearance must be maintained on all sides of the stand within the maximum space allotted.

(d) Customers shall be provided with single service articles such as plastic utensils and paper plates and a waste container for their disposal. All mobile food vehicle vendors shall offer a waste container for public use which the vendor shall empty at its own expense. All trash and garbage originating from the operation of mobile food vehicles/trailers/stands shall be collected and disposed of off-site by the operators each day. Spills of food or food by-products shall be cleaned up, and no dumping of gray water on the streets is allowed.

(e) No mobile food vehicle/trailer/stand shall make or cause to be made any unreasonable or excessive noise. The operation of all mobile food vehicles/trailers/stands shall meet the city noise ordinance, including generators. No loud music, other high-decibel sounds, horns, or amplified announcements are allowed.

(f) Signage is only allowed when placed on mobile food vehicles/trailers/stands. No separate freestanding signs are permitted on city streets, right-of-ways, or city-owned property.

(g) No flashing or blinking lights, or strobe lights are allowed on mobile food vehicles/trailers/stands or related signage when the vehicle/trailer/stand is parked and engaged in serving customers. All exterior lights with over 60 watts shall contain opaque, hood shields to direct the illumination downward.

(h) Mobile food vehicles/trailers/stands when parked on public streets shall be parked in conformance with all applicable parking restrictions, and shall not hinder the lawful parking or operation of other vehicles.

(i) A mobile food vehicle/trailer/stand shall not be parked on the street between the hours of 3:00 a.m. and 6:00 a.m. or left unattended and unsecured at any time. Any mobile food vehicle/trailer/stand found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.

(j) A vendor shall not operate within 1,000 feet of any city approved special event or leased park, unless the vendor has obtained permission from the event sponsor and or lessee. This license also does not allow for the sale of goods or services at any city-owned park/facility or farmer's market without a permit from the city.

(k) The issuance of a mobile food vehicle/trailer/stand license does not grant or entitle the vendor to the exclusive use of any service route or parking space to the license holder.

(l) A vendor shall not operate on private property without first obtaining written consent to operate from the affected private property owner. A private property owner shall not permit parking by a mobile food vehicle/trailer/stand until a license has been obtained to allow for such use.

(m) No mobile food vehicle/trailer/stand shall use external signage, bollards, seating or other equipment not contained within the vehicle when parked on city streets or right-of-ways. When extended, awnings for mobile food vehicles/trailer/stand shall have a minimum clearance of seven feet between the ground level and the lowest point of the awning or support structure.

(n) Any power required for the mobile food vehicle/trailer/stand located on a public way shall be self-contained and a mobile food vehicle/trailer/stand shall not use utilities drawn from the public right-of-way. Mobile food vehicles/trailers/stands on private property may use electrical power from the property being occupied or an adjacent property, but only when the property owner provides written consent to do so. All power sources must be self-contained. No power cable or equipment shall be extended at or across any city street, alley sidewalk, or right-of-way.

(o) Mobile food vehicles/trailers/stands shall not be parked within 50 feet of an existing brick and mortar restaurant during the hours when such restaurant is open to the public for business, or closer than 50 feet from another approved mobile food vehicle/trailer/stand unless the vendor has obtained permission from the restaurant. (Ord. No. 2321, § 50-304, 4-22-2014; Ord. No. 2336, 3-24-2015)