



**CITY OF WALLED LAKE  
PLANNING COMMISSION  
AUGUST 12, 2014**

The Meeting was called to order at 7:30 p.m.

Pledge of Allegiance to the flag.

**ROLL CALL:** Present: Ankrom, Cheney, Gersten, Malone, Mendelsohn, Novak,  
Palmer, Robertson, Wolfson  
Attorney: Vanerian  
Absent:  
Planner: Jackson

There being a quorum present, the meeting was declared in session.

**REQUESTS FOR AGENDA CHANGES:** None

**APPROVAL OF MINUTES:**

**PCM 08-01-14 MOTION TO APPROVE THE JULY 8, 2014 MINUTES WITH  
CORRECTIONS**

Motion by Gersten, supported by Novak: CARRIED UNANIMOUSLY: To approve the July 8, 2014 minutes with correction.

**VOTE: UNANIMOUSLY CARRIED**

**COMMUNICATIONS:**

Gerald Anderson provided hand out from the Lakes Area Homeowners Association (LAHA).

**AUDIENCE PARTICIPATION:** None

**UNFINISHED BUSINESS:** None

**NEW BUSINESS:**

**Public Hearing**

Open Public Hearing 7:36 p.m.

- 1. Penny Lake Market - Special Land Use Amendment Request  
1270 S. Commerce  
PC Case #238**

City Planning Consultant Jackson referenced his review letter dated August 6, 2014. He said the applicant reported to him the outdoor sales have been very popular and successful, however, the City staff has spoken with the applicant numerous times about his non-compliance with his outdoor site plan

area. This new proposal will relocate the outdoor sale area to the center of the parking lot and they will continue to use racks for flowers and seasonal item sales.

He explained the previous conditions that were approved by the Planning Commission on August 14, 2012 included:

- Maintain 5 foot pedestrian safe walk path
- Submit tent material and colors for administrative review
- Move portion of outdoor sales to location behind Marathon Gas Station
- Obtain outdoor display license as required by City
- Mark and maintain the hose trip hazard as discussed
- May 1<sup>st</sup> through July 15<sup>th</sup> for summer seasonal sales
- September 10<sup>th</sup> through October 31<sup>st</sup> for fall seasonal sales

He said the applicant expressed he is requesting an amendment to his Special Land Use approval due to the tremendous success and increasing demand for more products. He said the applicant has proposed relocating the outdoor sale area to the center of the parking lot, and placing an 800 foot tent area and up to 6 racks that will consist of shelves and racks for hanging baskets and other decorative items. With the new proposal the applicant is still within his required number of parking spaces.

The applicant proposes to display the following items:

|                           |          |
|---------------------------|----------|
| Produce                   | Flowers  |
| Miracle Grow              | Plants   |
| Outdoor Wild Bird Feeders | Mulch    |
| Outdoor Wild Bird Seed    | Top Soil |
| Cow manure                |          |

Decorative Halloween and Christmas items such as:

|              |                         |
|--------------|-------------------------|
| Pumpkins     | Hay                     |
| Cornstalks   | Indian Corn             |
| Pine Wreaths | Grave Blankets          |
| Pine Cones   | Evergreen Potted Plants |
| Firewood     |                         |

McKenna Associates recommends approval subject to the following conditions

- The area must be maintained in a neat and orderly manner.
- Maintain 5 foot strip for pedestrian walkway along the edge of the proposed outdoor sale area.
- No items may be located on sidewalk or front of store.
- Storage racks used for delivery must be stored behind the building.
- Bagged material stored on pallets must be screened by similar material they use to support the racks.
- Watering will take place prior to hours of operation. Applicant installed a hose bib on the side of building.
- Revise outdoor display license with the City as applicable.
- Outdoor sales limited March 15<sup>th</sup> through January 7<sup>th</sup>.
- Outdoor display items will be limited to items listed on application. Major changes in display items will require Planning Commission approval.

AUDIENCE PARTICIPATION – None

Close Public Hearing 7:45 p.m.

## DISCUSSION

Commissioner Robertson asked about the applicant, Mr. Kouza, why he requested extension to January 7<sup>th</sup>. What was applicant intending to sell. He also stressed no firework sales. Mr. Kouza replied items will be plotted evergreen plants and wreaths and agreed no firework sale.

Commissioner Gersten asked for clarification on item #10 of the McKenna Associates review letter dated August 7, 2014, he asked who would be the “staff” to review additional items. Mr. Jackson replied City Administrative Staff. He asked if the racks will remain in place during the winter months or will they be removed and if they were permanent structures. Mr. Kouza said the wooden racks and tent will be stored inside the building during the winter. The racks will be removed as the season winds down and the display is consolidated.

Commissioner Wolfson asked once sale season is over for tent use, will more racks be going in its place. Mr. Kouza replied, no the racks will be removed and consolidated to free up parking area.

Commissioner Wolfson asked about parking for existing stores. Mr. Kouza said they own the parking lot and the main area he is proposing to use is currently used by employees of the suites for parking not the customers.

Commissioner Ankrom said Penny Lake is a business the Commission has been struggling with for some time. He said he was pleased with the proposed list because it is more definitive than in the past. He said he does agree with the conditions as outlined in McKenna Associates review letter, but requested a few items be clarified. He said he is, overall, in favor, of the applicants request and recommendation from McKenna Associates.

- Item #3, *no items located on the sidewalk in front of store, to include nothing on the side of store sidewalk as well.*
- Item #10, strike the word “*major*” and state “*any*” changes in display items to be sold will require Planning Commission approval.

Commissioner Mendelsohn said she reviewed the Special Land Use amendment request and she said she is concerned with applicant’s comment of struggling with a number of requirements of the original approval. She asked the applicant if he is going to continue to do what he wants to do or abide by the conditions as proposed. She said there were items for sale such as top soil that were not part of the original approval. She said she does not wish to see additional items come in that are not part of the approval.

Mr. Kouza replied the top soil and mulch were in demand from his patrons and it was hugely successful. He agreed if an item were to be added, he will bring back before the Planning Commission as required.

Commissioner Palmer requested an additional condition that no firework sales would be permitted.

Commissioner Mendelsohn asked about deliveries from larger trucks such a Budweiser. Mr. Kouza said a lot of the deliveries come in early. If it does get cluttered they can use the back door for larger deliveries. If they are only dropping 5 to 10 cases, the drivers prefer to go to the back and they come through the front entrance of the store.



City Attorney Vanerian explained that East Bay Homeowners Association want to add to their deed and amend the Planned Unit Development (PUD) agreement with the City to allow motorized watercraft use by the residents. He explained the amendment to a PUD is processed the same way the original PUD was issued. The first step is to bring it before the Planning Commission to review and make recommendation to City Council, who has the final authority to approve or not.

He said the first step is to have a pre-plan review, which is to have applicant present what they wish to do and obtain feedback from the Commission.

Chairman Cheney asked if there was any audience participation.

Gerald Anderson, 127 S. Pontiac Trail and president of Lakes Area Homeowners Association (LAHA) – said the original contract and items including non-motorized watercraft was agreed upon by the City and the developer in order for the developer to have further units added to complex.

He said there are two police officers that are extremely busy on the lake during the weekends to keep people from running into to each other from overcrowding. He said the potential issues for safety hazards are scary. He said he and the members of LAHA, which include 150 members, do not want this. He said individuals who buy into East Bay buy with the understanding of non-motorized watercraft.

Mary Beth Novitsky is a member of East Bay Homeowner's Association. She said understands the concerns of Mr. Anderson. She said they are a huge tax base for Walled Lake-210 units. Their property values have gone down and she said she feels it is because motorized watercraft is not permitted. She stated there are undeveloped vacant areas and the owner of those units has a new builder involved to finish the construction. She said the Association would like to take these unfinished areas and create a common area for the current residents. They do not wish to have the unfinished buildings completed.

Commissioner Robertson explained the non-motorized watercraft stipulation was a trade off because the builder wanted higher buildings and bigger density.

Commissioner Mendelsohn asked if the East Bay Homeowners Association approved of the boat docking and who will be responsible for repair and maintenance of the dock. Ms. Novitsky replied the Association.

Commissioner Ankrom said he agreed with Mr. Anderson that a contract is a contract. There is nothing that can happen to take back the density that is in existence. He said he is sympathetic; he himself is a condominium owner. This is a significant issue, a contract in a contract. He said he felt Mr. Anderson came across that he was trying to make Walled Lake a private lake.

Mary Beth Novitsky asked if their homeowners association could obtain the foreclosed units to be created as common areas.

Commissioner Palmer said the original PUD must be reviewed if the increased density has not come to pass and it was not built out to original plan. He said he is not comfortable with taking any action.

City Attorney Vanerian said if East Bay wishes to pursue the PUD amendment, the homeowners association should meet with the City Planning Consultant to discuss the PUD amendment process. There is no action for the Commission to take on this tonight; this is for preliminary review.

#### **4. Text Amendments to Zoning Ordinance**

**Section 10.02 and 10.03: Permitted and Special Uses in the C-2 General Commercial District  
General Provisions, Section 21.29**

City Planning Consultant said the Planning Commission's recommendation for the C-3, Central Business District was recommended to City Council. There is a draft ordinance for the C-2 district to create a Special Land Use requirement as opposed to the permitted use they are now.

He provided a set of criteria the Planning Commission would use to review the Special Land Use applications. The list was developed by what other communities do to when they review liquor licenses. The review process was created to allow review of those establishments who wish to have a liquor license.

He reviewed the August 7, 2014 McKenna Associates letter and draft ordinance Article 10.00 (appendix A). After discussions he suggested eliminating:

- Section i.- General Information regarding applicant.
- Section ii.- Remove(1) and (2) and keep items (3-8).
- Section iii. - Number (8).

Commissioner Robertson said the text amendments for the C-3district were discussed at the last Council meeting and Council requested further information on the applicants applying for a liquor license. He said the City Council has to pass a resolution approving the applicants to apply for the liquor license. The applicants then submit the resolution and application to the State. He said he has concerns with the C-2 district: if a liquor license is transferred in, currently, the Council does not have the opportunity to review with. City Attorney replied yes.

City Manager Whitt explained Council sent it back to City staff department heads in order to establish the precedent that department head review is required the other issue deals with creating an ordinance to address liquor licenses and transfer liquor licenses.

Commissioner Ankrom agreed with Mr. Jackson of striking items he mentioned. He said he also agreed with letting the department head staff review the qualifications of the applicant.

City Planning Consultant Jackson said he understood that the Commission wanted to establish the zoning standards for any establishment serving alcohol requires Special Land Use approval. Currently, there is no standard on the books. The non-zoning standards would be created to review both new and transferred liquor licenses.

**PCM 08-04-14**

**MOTION TO REFER ORDINANCE BACK TO THE CITY PLANNER FOR REVISIONS BASED ON THIS EVENINGS DISCUSSION**

Motion by Ankrom, supported by Robertson: CARRIED UNANIMOUSLY: To refer ordinance back to the City Planner for revisions based on this evening's discussion.

**VOTE:**

**UNANIMOUSLY CARRIED**

**ADMINISTRATIVE REPORT:**

## 1. Code Enforcement Report

Commissioner Ankrom asked about the required screening wall for the establishment at the corner of Maple and Decker. Code Enforcement Rondeau reported he and Mr. Jackson visited the site and was told by the owner told wall was to be placed. He will follow up and issue citation.

Commissioner Palmer stated he went to Magpie Oil Change to get his oil changed and had difficulty getting in and out of the parking lot due to vacant cars sitting on the lot for five months plus.

### DISCUSSION:

Mr. Anderson said enforcement of the Dock Ordinance C-287-10 has been good. He said he felt the ordinance does what it needs to do. He said there is a business, Michigan Wet n Wild, they rent space inside Barrels of Wine. He said they don't own property in the City and they are using Walled Lake as a commercial lake. There is also a paddle board shop that is operating in Walled Lake. There are 40 or 50 paddle boards on the lake at any time. He said there are commercial operations on the lake that have gotten out of control and it is an issue. He said if enforcement of the Dock Ordinance is to really work, there should be language in there to prevent commercial use of the lake.

Code Enforcement Officer Rondeau said he spoke with owners of the Corner Car Hop about their commercial use of the lake. He stated owners of Barrels of Wine have been issued a citation and he had a court appearance today; the owner requested a postponement.

### COMMISSIONER COMMENTS:

Commissioner Mendelsohn said she has been very vocal about Penny Lake and the applicant has now agreed to do what was passed this evening. She said the term "seasonal" is too broad, the time frame is too long and she said she felt applicant will do whatever he wants to do. She said she was part of the pre-site planning meeting. She said this applicant will find ways to bring things in. She said we have opened Pandora's Box.

Commissioner Gersten - none

Commissioner Novak thanked the staff, Mayor and Council Members for their efforts.

Vice Chairman Malone asked about the liquor license applications brought before Council at their last meeting. He asked if Purple Haze was issued a liquor license. He said discussions took place regarding the Maple Ridge area at Beck and Maple Road and mentioned dedicating area for a trail way. He said he felt that was a selling point for the trail.

Commissioner Palmer - none

Commissioner Ankrom thanked the audience for their participation.

Commissioner Wolfson said we have a nice community and thanked the staff.

Chairman Cheney - none

**PCM 08-05-14 Motion to adjourn**

Motion by Ankrom, seconded by Palmer to adjourn.

**VOTE:**

**UNANIMOUSLY CARRIED**

Meeting adjourned at 9:45 p.m.

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Jennifer Stuart  
Planning Secretary

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Reuben Cheney, Chairman