

Village of Bellaire

PLANNING COMMISSION

Commissioners: Dan Bennett, Butch Dewey, Bill Drollinger, Fred Harris, and Don Seman

PLANNING COMMISSION PUBLIC HEARING MINUTES

May 24, 2016

5:00 p.m.

1. **Call to Order:** Chairman Drollinger called the meeting to order at 5:02 p.m.
2. **Roll Call Attendance:**
 - Present:** Chairman Drollinger, Dan Bennett, Butch Dewey, Fred Harris, and Don Seman
 - Absent:** None.
 - Staff Present:** Lori Luckett, Zoning Administrator
 - Also Present:** Mary Campbell, M.C. Planning & Design; Donna Gundle-Kreig; Judy White, David Ramage, Dee Lynch, Dale Snook, and Gordon Schafer
3. **Welcome to the Public:** Chairman Drollinger welcomed the members of the public in attendance and explained that the purpose of the second Public Hearing was to address the attorneys' comments and other additional public comments.
4. **Opening of Public Hearing:** The second Public Hearing was opened at 5:04 p.m.
5. **Determination of Time Limit for Addressing the Planning Commission:** Chairman Drollinger stated that he would not be establishing a time limit for individual comments however, if someone rambled on, he reserved the right to stop that individual. He assured the public that they would be given an opportunity to speak.
6. **Public Comment Period:** Donna Gundle-Kreig asked what the changes were from the last time. Mary Campbell stated that she could run through the changes, however the changes Mrs. Gundle-Krieg was likely most interested in, Article 8, Section 8.11.B.1. went through pretty much as proposed. Ms. Campbell read, "In the Commercial and Mixed Use Zoning Districts (VC, C, and CBD) additional institutional and commercial uses may also be permitted on a site specific basis upon the Planning Commission determining the proposed uses are compatible with the character of the PUD and the surrounding area". She explained that the attorney had recommended additional language, "as documented in the findings of fact", be added. Chairman Drollinger asked Ms. Campbell if there was concern with the request made in the past for living quarters and the businesses. Ms. Campbell explained that the request would go through the Planned Unit Development process and pointed out that in Article 4, Planned Unit Developments in the Village Commons District are allowed by special use permit.

David Ramage introduced himself as the chairperson of the Bellaire Youth Initiative which operates the Bellaire Youth Center. They are very excited about the potential to purchase a home, the old pump house, from Violet Zimmerman. Their hope would be to pursue a special use permit to operate their center at that location. According to Mr. Ramage the Bellaire Youth Center is a 501(c)(3) offering tutoring, music classes, and other educational

and social activities to help students. The location of this property and proximity to the schools and park result in more students coming into the center. The schools currently allow the Bellaire Youth Center to use the “home ec” kitchen facilities. The pump house is the perfect location to have kids stop in and to offer the classes. Ms. Campbell noted that the proposed land use would fit in under “Public and Private Educational Facilities” and the property is in the R-1 District. As currently proposed this is not an allowed use in the R-1 District. Commissioner Harris asked whether there was an exception process or special permitting process for this project? Ms. Campbell explained that this was the time to consider whether the proposed use should be allowed by special use. She stated the Planning Commission would have to look at is a potential use not just for this property, but throughout the R-1 District. Chairman Drollinger provided a synopsis of the history of surrounding properties. He asked Mr. Ramage about the potential traffic load. Mr. Ramage said that, in their heyday, they would have 25 kids indoors and some out. The vehicular traffic is when the children are picked up at 5:00 or 6:00 p.m. High school students may drive so they are currently pursuing the use of adjacent parking facilities. Dee Lynch added that many of the students go home to an empty house. The Bellaire Youth Center provides a home away from home where the students are secure and loved. They help the students with their educational needs. As they get to know the students they learn about their concerns in life. She noted that currently there are five families in counseling because of the Bellaire Youth Center involvement. Chairman Drollinger asked whether the commissioners had any concerns about making the use available in the R-1 District by special use. Ms. Campbell explained that if the zoning ordinance is approved with this proposed use, the Bellaire Youth Center would then have to apply for special use; there would be a public hearing with notification to property owners within 300 feet of the proposed site; and, the appropriate sections under the zoning ordinance, site plan review and special use, would be addressed. Mrs. Lynch added that the Bellaire Youth Center has been operating since 2008. Many know of their success rate; grades have gone up and discipline brought back to a minimum. The feedback from local law enforcement has been very, very positive. The Bellaire Youth Center is meeting the needs of our children. She encouraged the Planning Commissioners to keep in mind that the future of Bellaire are our children. Commissioner Harris said that no one disputes the programmatic basis of what was being discussed; the most important factor will be the input from your neighbors.

Dale Snook entered the meeting and introduced himself as the person who wanted to operate a boat livery on the property he just purchased in January. He noted that he had talked to a couple of attorneys said that it was zoned marina why did he need a permit? Zoning Administrator (ZA) Luckett indicated that the property is zoned Village Commons and that there is a lawful non-conforming marina in that district. Ms. Campbell noted that in the proposed zoning ordinance, “marina” is a use proposed by right in the Village Commons District. Mr. Snook indicated that he would just operate as a marina. Ms. Campbell thought that the definition of a marina would cause him some problems. The question in her mind is, because “marina” does not require a special use permit whether there was good reason to require a special use permit for a canoe and/or boat livery in that district? Or conversely should a marina require a special use permit as well? Ms. Campbell looked through the definitions in the zoning ordinance and noted there is no definition for marina. The current zoning ordinance does not have a definition either. While the language was being reviewed, Commissioner Harris expressed his concern about the traffic flow on the river. Mr. Snook indicated that he had been speaking with a couple of guys about the EIS, Environmental Impact Study, who said the impact would be small because he was not going to be operating

a full blown marina and because of the depth of the river there. Commissioner Harris said that when water levels are low, the far western channel is the only way to make it under the bridge; boats along the full length of that property would impede the travel under the bridge. Mr. Snook stated that he had a site plan survey done to add parking spots at the top, he can still present that to the village. Chairman Drollinger asked if he intended to pursue a marina? Mr. Snook responded that if he pursued a marina, it would not have be done as a special use permit because it is a permitted use. Chairman Drollinger suggested that he contact the Zoning Administrator to see what can be worked out. Ms. Campbell indicated that the request would still have to follow a site plan review. ZA Lockett left the room to get the zoning ordinance. Discussion occurred about the lack of definition of marina in the zoning ordinance. When ZA Lockett returned to the meeting she noted that the existing ordinance does not provide for marina as a use in the Village Commons District. The current marina in the district existed prior to the adoption of the zoning ordinance and is lawfully nonconforming. Chairman Drollinger asked how it could be lawfully nonconforming if there was no definition in the ordinance? How do you set a standard if not listed? Ms. Campbell explained that if it existed prior to the ordinance it is a lawful use and that if a term is not defined in the zoning ordinance, then it goes to the common definition. Often times marinas are defined in ordinances to give guidelines. Mr. Snook thought the DEQ would be the governing force on a marina. Chairman Drollinger agreed. Mr. Snook indicated that he has been working with someone help fill out the DEQ application because there are wetlands on the property; publicly you can't just go tromping through the wetlands. Mr. Snook stated that he had applied for a permit to put a dock and boardwalk in the grassy area. Ms. Campbell said that in the existing ordinance the only place marinas are listed is in the Commercial District. Right now the Marina use is not allowed in the Village Commons District either by right or by special use. The proposed zoning ordinance allows for marinas. Once passed the zoning ordinance gives him the option. The question for the Planning Commission is whether it wants to consider a change to the boat and/or canoe livery use to be allowed by right instead of by special use; or to allow a marina by special use permit. She thought that marinas would have a greater impact. Ms. Campbell thought that what Mr. Snook was proposing fit the definition of boat and/or canoe livery, "a place where boats and/or canoes are stored, rented, sold, and docked." Mr. Snook asked what if he wanted to start doing this before the new ordinance goes into effect? He was informed that he would be in violation of the existing ordinance; wherein the use would not be allowed. Chairman Drollinger asked why the ordinance did not allow for marina in the Manufacturing District? There is currently a large marina in that district. There is also a marine repair on Willow Drive. There was discussion about the proposed marine uses; dry dock storage, repair, and rental and the districts in which the uses be allowed. ZA Lockett indicated that she had received a public comment on the proposed boat and/or canoe livery. ZA Lockett proceeded to read the email received May 24, 2016 from Monica Hale.

I was wondering if tonight's zoning meeting would deal with the parcel of land on the corner of Bellaire Highway and North Genessee that wants to have a boat rental on it? If so what exactly would it deal with? Thank you for you (sic) time."

ZA Lockett read her response:

We will be reviewing the attorney comments and additional public comments on the proposed zoning ordinance. If you would like to address a particular use that is being considered for a

zoning district i.e. a boat and/or canoe livery by special use in the Village Commons and Central Business Districts, please attend or get written comments to me by 4:00 p.m. today.”

Ms. Hale responded via email at 8:44 a.m.

Thank you. Would a concern be that I believe a boat/and or canoe livery by special use on a village commons parcel that is surrounded by and next to residential will violat (sic) the following from Section 9.4 part A.

- 2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area.*
- 3. Will not be hazardous or disturbing to existing or future nearby uses.*
- 4. Will be compatible with adjacent uses of land and will promote the use of land in a socially and economically desirable manner.*
- 6. Will not create excessive additional public costs and will not significantly decrease property values of surround properties.*
- 8. Shall provide a pedestrian circulation system, which is insulated as completely as reasonably possible from the vehicular circulation system.*

*Thank you again for your help.
Monica*

Chairman Drollinger stated that the comments were noted for the record.

Mr. Snook asked whether he would be operating under the marina clause or a boat and/or canoe livery by special use permit. ZA Lockett indicated that right now there should be nothing happening on site without a land use permit or application. She stated that he may park his own boats that he uses for personal use, not that he is renting out. Mr. Snook stated that his clients from his resort are renting boats from the resort and using the dock, he is not renting his boats from the site.

Ms. Campbell asked if the Planning Commission wished to see any change in the proposed uses. Chairman Drollinger and Commissioner Dewey each thought that a marina would have more impact than a boat and/or canoe livery. Chairman Drollinger thought that each use should be permitted by right. Commissioner Harris thought it should be permitted, but with option for public comment. Ms. Campbell indicated that to ensure that the public was notified, the use would be by special use permit. A permitted use would be at a public meeting, that would include site plan review; but that does not specifically notify the neighbors.

Gordon Schafer entered the meeting and asked if this applied to both sides of the river? There was discussion that the district involved was the Village Commons District. Commissioner Dewey stated that he agreed and would like to see the uses as permitted. Chairman Drollinger said that Village Commons District is a business district. Ms. Campbell read the purpose of the district into the record.

The intent of this zoning district is to recognize the fact that central portions of the Village are not separated into homogeneous land uses. The Village developed with

various land uses adjacent to one another out of necessity and prevailing development patterns at their time of development. This district recognizes this 'mixed-use' characteristic of the Village Commons and is designed to authorize land uses, in combination with associated accessory building and uses, that insure compatibility between residential and more intensive land uses.

Chairman Drollinger noted that there are no homes abutting this property and that one residence, two houses to the east, was recently turned into a business. Ms. Campbell asked whether the Planning Commission wanted to see boat and/or canoe livery as a permitted use by right in the Village Commons District? Chairman Drollinger, Commissioner Dewey, Commissioner Harris and Commissioner Bennett indicated "yes". Commissioner Seman stated that the special permit would allow the neighbors to comment on it which would be more public relations; it may be more work for the applicant. Mr. Snook indicated that he had done special use permits and that by the time you are completed there are \$5000 to \$6000 in costs including the environmental impact study and a special meeting. There was discussion about whether an environmental impact study was or would be required. Chairman Drollinger indicated that he did not recall an environmental impact study being required. Ms. Campbell read the requirements and suggested that it was a matter of how Mr. Snook was interpreting the language. ZA Lockett indicated that the forms for the new ordinance were not yet developed. Mr. Snook indicated that his proposed use would be for 8 to 10 weeks per year, not year round. There was further discussion about providing notice to neighbors. Again Ms. Campbell explained the notice under special use compared to site plan review. There was further discussion about including a definition of marina to distinguish between the two uses.

David Ramage asked about the timeline for approval of the new zoning ordinance and additional time for public input. Ms. Campbell explained the process; that if the Planning Commission made a recommendation to the village council, the village council would vote on it at a public meeting. When and if approved by the village council, the notice of adoption has to be published in the newspaper within 15 days of adoption; the zoning ordinance becomes effective 8 days after the notice is published. This is all spelled out in the state statute.

There was brief discussion about whether the village attorney would review the proposed changes. ZA Lockett asked for Ms. Campbell's recommendation considering that the proposed ordinance with the changes from the last meeting had not been available for comment. Ms. Campbell suggested that the proposed zoning ordinance, with changes, could be published on the website before the Village Council meeting and that the Village Council may decide to adopt it, or depending on public comment, send it back to the Planning Commission. Chairman Drollinger thought that the matter had been discussed for a long time and that the Planning Commission would be ready to go forward. He added that members of the public will have the opportunity to bring their comments to the village council. He indicated that he was surprised that only five members of the public were in attendance. Ms. Gundle-Krieg suggested that business owners who had shown up at the previous public hearing were in favor of the ordinance. Mr. Snook complimented the Planning Commission. Chairman Drollinger suggested that this had been long process and despite the attorney review there still may be something missed. He was surprised that the missed item had been the definition of marina and that there was no issue with signs. The definition of marina will be added and the question of marina use in the Manufacturing

District addressed. Commissioner Dewey said that it was included in the schedule. Ms. Campbell suggested that the definition of marina would reference water. Chairman Drollinger suggested that “wet” or “dry” marina be used. There was discussion about the definition of marina and language change. Chairman Drollinger suggested that a wet marina for docking of boats may need to be by special use. Chairman Drollinger asked if there was additional public comment. Gordon Schafer indicated that he currently operates a marina, The Dockside, and that the re-permitting in the 1990s was extensive. The DNR has an lengthy process and standards. A marina has to be permitted by the state and it is quite a process.

The members of the public left the meeting. Chairman Drollinger asked about going into deliberations. Ms. Campbell indicated that the attorney’s comments needed to be discussed during the public comment portion of the meeting.

With the attorney’s comments provided May 5, 2016, Ms. Campbell proceeded to review the proposed ordinance page by page. She noted that the yellow highlighted comments were changes; those lined out were to be removed. Ms. Campbell explained the changes to certain definitions including, accessory buildings, major and minor, and building height. The definition of excavating was corrected to remove the word excavating and to provide, “the act of moving, filling or removal of earth, sand, stone, gravel, or dirt”. A definition for Hazardous Substances was added and there was rewording of non-confirming structures, etc. Permission for the sign graphic was obtained and noted. Article 3 corrections were pointed out including the correction of sections referenced and items stricken. There was discussion about fence height in Section 3.09 and whether the Planning Commission wanted to address fence height on through lots. ZA Lockett noted that currently the maximum height on a through lot is 4 feet. There was discussion about certain properties within the Village that had 6 foot privacy fences even though they are through lots. After lengthy discussion, the Planning Commission agreed to the fence height as proposed; “Fences in the Residential District shall not exceed six (6) feet in height in the side and rear yards and shall not exceed four (4) feet in height in the front yard and in the yard between the principle building and the lot line that abuts the shore of the lake or river”. Discussion continued and Ms. Campbell identified new language added to Section 3.12 based on changes to the Michigan Zoning Enabling Act. The Outdoor Display of Merchandise provision now incorporates requirements for motor vehicle sales. A new section, Section 3.25 Residential Development, has been added to incorporate condominiums and other residential developments. Additions and corrections to the Section 4.02 Table of Land Uses were identified; including the listing of State Licensed Residential Facilities being permitted in Residential Districts and the addition of Public and Private Educational Facilities being to the R-1 District as permitted by special use. Chairman Drollinger asked about the definition of Food Processing Services and whether it included jam making. Ms. Campbell indicated that if the person lived on site it could be considered a home occupation or cottage industry. Review of the Table of Land Uses continued with Ms. Campbell stating that based on the discussion tonight, Boat and/or Canoe Livery would be a permitted use by right. She asked about distinguishing between “wet” and “dry” marinas. After discussion the Planning Commission agreed that “Marina, Commercial” would be a permitted use by right in the Village Commons and Commercial Districts; that items 20 and 21 in the Table of Land Uses would be incorporated into one use for “Boat, motor or related marine repair establishment, and/or storage”; and that the use would be permitted in the Commercial and Manufacturing

Districts. There was agreement that development of definitions would clarify the uses. Review of the remaining sections continued with Ms. Campbell pointing out minor changes to the Site Plan Review Section including the ability of the ZA to reduce the number of required copies. Minor corrections and deletions were addressed in the Special Use Permit and Supplemental Site Development Standards sections abased on the attorney and committee recommendations. Public Notice Requirements were added to Section 9.05 Procedures, I Article 9: Zoning Board of Appeals. Additions to Article 10: Administration & Enforcement were identified. Redundant provisions were stricken. Once adopted the Enactment and Enforcement dates will be added to Article 11. The Planning Commission then reviewed the attorney comments pertaining to the Resource Mining and Extraction Operations in Section 8.13. After review and discussion of the attorney's recommendations, the Planning Commission agreed to incorporate the *Silva v Ada Township* standards into the ordinance.

7. **Closing of the Public Hearing:** The Public Hearing was closed at 6:53 p.m.
8. **Deliberation by Members:** Commissioner Dewey acknowledged the work done by the subcommittee on the proposed ordinance. Commissioner Harris added that effort was made to simplify the ordinance and make it more user friendly.
9. **Decision on Zoning Ordinance:** Commissioner Dewey suggested and made a motion for decision on the ordinance.

Motion by Commissioner Dewey, seconded by Commissioner Seman, to recommend to village council approval of the proposed zoning ordinance as revised tonight, including the addition of the definition of marina and the changes proposed.

Roll call vote was taken:

Ayes: Harris, Dewey, Seman, Bennett and Drollinger

Nays: None.

10. Closing Member and/or Public Comment:

- a) Zoning Administrator Luckett thanked Chairman Drollinger and Commissioner Harris for agreeing to be part of the zoning review subcommittee; they did so without compensation. She also thanked Mary Campbell for her help and guidance in working with the Planning Commission on the proposed ordinance.

11. Adjournment: Public Hearing adjourned at 6:56 p.m.

Minutes compiled by:

Lori Luckett, Zoning Administrator & Recording Secretary

Minutes are subject to approval.

Approved: _____
William Drollinger, Chairman

Date: _____