

# Village of Bellaire

## PLANNING COMMISSION

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

### PLANNING COMMISSION PUBLIC HEARING MINUTES

August 7, 2018

5:00 p.m.

1. **Call to Order:** Chairman Drollinger called the public hearing to order at 5:00 p.m.
2. **Roll Call Attendance:**
  - Present:** Dan Bennett, Butch Dewey, Fred Harris, Don Seman and Bill Drollinger
  - Absent:** None
  - Staff Present:** Lori Luckett, Zoning Administrator
  - Also Present:** Bryan Hardy, Area Seniors; Colette Stanish, Travis Lorenz, Tani Carl, and Rick Carl
3. **Welcome:** Chairman Drollinger welcomed the members of the public.
4. **Opening of the Public Hearing:** Chairman Drollinger opened the public hearing at 5:04 p.m. announcing the Village of Bellaire will hold a public hearing on Tuesday, August 7, 2018 in the village council chambers. The purpose of the hearing is to solicit comments and opinions regarding a Special Use Permit application request submitted by Areas Seniors Inc, to amend the PUD on Parcel Numbers 05-41-030-012-21 (102 S. Maple), 05-41-030-025-00 (306 Thayer Lane), 05-41-175-007-10 (312 Thayer Lane), and 05-41-175-031-10 to allow Mobile Food Vending on site(s).
5. **Determination of Time Limit for Addressing the Planning Commission:** Chairman Drollinger did not set a time limit but reserved the right to do so.
6. **Staff Report:** Zoning Administrator Luckett explained that the staff report contained the standards for approval and proposed findings of fact. The request is for a special use; the standards for site plan review must also be addressed. This is the second mobile food vending request before the Planning Commission. The Planning Commission will consider Section 7.03, Section 8.18 and Site Plan Review elements in Section 6. Applicant is applying for a special use permit to amend its PUD to allow mobile food vending. The parcels for the proposed use are located in the Village Commons district where this use is allowed by Special Use. Notice was published in The Antrim Review and letters to owners and occupants within 300 feet of all four parcels were sent. The packet filed on behalf of the Area Seniors contains the Application with attachments including a narrative, a Google Earth overview, a Conceptual Master Plan, a Certificate of Survey, and a warranty deed. ASI has requested that five mobile food vending units be allowed behind the buildings in the gravel lot next to the pickle ball courts. They would like up to seven in the grass area between the garage sale buildings and the walking path. ASI would like to have mobile food vending during the farmers market and for special events yet to be identified. Zoning Administrator Luckett noted that she had concerns about the number requested and the impact on traffic. If the members decide to approve the request they may wish to add the condition that there be a report from Public Safety regarding the impact on the traffic.
7. **Compilation of List of Exhibits:** Chairman Drollinger identified the exhibits, the Application with Attachments; the Village of Bellaire Zoning Ordinance, and the Village of Bellaire Master Plan.
8. **Presentation by the Applicant, Applicant's Attorney or Other Agents:** Bryan Hardy spoke on behalf of the Areas Seniors. He indicated that the mobile food vending would be during the farmers market and for special events. Mr. Hardy did not see up to 12 mobile food vending units ever happening. Zoning Administrator Luckett explained that this request is different from the prior mobile food vending request. In this case, the permit will be issued to the Area Seniors. Theirs is a planned unit development. This request is to amend the PUD to allow mobile food vending as another use. The Areas Seniors has its own application requirements for vendors in the farmers market in addition to the public health requirements. Zoning Administrator Luckett will work with them. As shown on the site plan, they meet the district setbacks requirements. The gravel lot is not as visible. The other location is close to the parking

around the buildings. Mr. Hardy acknowledged that parking during market is a challenge no matter what. Zoning Administrator Luckett asked how late the special events would go. Mr. Hardy stated that it would be 8:00 p.m., no later than 9:00 p.m. Chairman Drollinger asked if this would only be during the farmers market. Mr. Hardy said during the summer months and when the farmers market goes indoors. The back parking lot is not plowed in the winter. Yet to be identified special events would be in the evening. Commissioner Seman expressed concerns about the number of units proposed. Commissioner Harris thought Mr. Hardy had addressed the concern by stating that it would be much less, maybe four. There was brief discussion. Chairman Drollinger suggested no more than six. Mr. Hardy indicated that if 12 were lined up there would be no room for parking.

**9. Correspondence and/or Persons Speaking in Favor of the Application:** Travis Lorenz spoke in favor of allowing food trucks; they are great for a crowd of people.

Zoning Administrator Luckett read a letter from John Haggard, Haggard’s Plumbing and Heating, into the record.

*To Whom It May Concern:*

*Upon reviewing the above Notice, I would like to express my view with the above case’s requests. Haggard’s Plumbing & Heating is not at all opposed to the changes of the property and/or the request to the Zoning Board. If a property owner is fortunate enough to have the ability and the resources in this time of economical struggles to either build and/or improve their existing property, we would like to see their request granted. It would prove positive for the local, county, state and county (sic) to do all we can to improve and promote growth in any way possible.*

*Sincerely, John Haggard*

**10. Correspondence and/or Persons Speaking in Opposition to the Application:** None presented

**11. Rebuttal by the Applicant, Applicant’s Attorney or Other Agents:** None presented.

**12. Closing of the Public Hearing:** The public hearing was closed at 5:17 p.m.

**13. Deliberations:** Chairman Drollinger read the standards and proposed findings of fact into the record.

### **SECTION 7.03 STANDARDS FOR GRANTING A SPECIAL USE PERMIT**

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Approval of a Special Use Permit shall be based on the determination that the proposal will comply with all applicable requirements of this Ordinance, including site plan review criteria set forth in **Article 6** and applicable supplemental standards for the specific use set forth in **Article 8**. The Planning Commission shall approve, or approve with conditions an application for a Special Use Permit only upon finding that the proposed special land use complies with the following standards:

A. Allowed Special Land Use

The property subject to the application is located in a Zoning District in which the proposed special land use is allowed.

**The Planning Commission finds:**

1. The property is located in the Village Commons district. (Exhibit 2)
2. Mobile food vending is allowed by special use in this district. (Exhibit 2)

**Motion by Commissioner Dewey, seconded by Commissioner Seman that this standard has been met.  
Motion passed by unanimous voice vote.**

B. Compatibility with Adjacent Land Uses

- a. The proposed use subject to a Special Use Permit shall be designed, constructed, operated and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.

**The Planning Commission finds:**

1. The proposed use, mobile food vending is a temporary land use.
2. Up to 6 mobile food vending units will likely not increase traffic or diminish the opportunity for surrounding properties to be used and developed as zoned.

**Motion by Commissioner Dewey, seconded by Commissioner Bennett that this standard has been met. Motion passed by unanimous voice vote.**

- b. The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public street or seen from any adjacent land owned by another person.

**The Planning Commission finds:**

1. The proposed use is intended to complement the farmers market and yard sales on Fridays from 8:00 a.m. to 12:00 noon, Memorial Day through October. (Exhibit 1a)
2. There may be special events that will incorporate mobile food vending units as well. (Exhibit 1a)
3. Mobile food vending units shall be located on grass or within the gravel lot to reduce interference with traffic. (Exhibits 1a, 1b and 1c)

**Motion by Commissioner Harris, seconded by Commissioner Seman that this standard has been met. Motion passed by unanimous voice vote.**

- c. If deemed necessary by the Planning Commission, the hours of operation that the special use is allowed to operate, be open or otherwise occur, shall be imposed as a condition of approval to ensure compatibility with the surrounding land uses.

**The Planning Commission finds:**

1. The hours of operation are limited by Section 8.18, 8:00 a.m. to 9:00 p.m. when located adjacent to a residential district and 8:00 a.m. to 11:00 p.m. for all other districts. (Exhibit 2)
2. Applicant proposes to allow the operation from 8:00 a.m. until 12:00 noon during farmers market and yard sale. (Exhibit 1a)
3. Mobile food vending during special events may not extend beyond 9:00 p.m. (Exhibit 2)

**Motion by Commissioner Dewey, seconded by Chairman Drollinger that this standard has been met. Motion passed by unanimous voice vote.**

- d. The proposed use is compatible with the Village of Bellaire Master Plan.

**The Planning Commission finds:**

1. The Master Plan existing land use is Residential; future land use Village Commercial. The Master Plan is being updated and will likely reflect the Village Commons zoning district. (Exhibit 3)

**Motion by Commissioner Seman, seconded by Commissioner Harris that this standard has been met. Motion passed by unanimous voice vote.**

C. Public Services

- a. The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.

- b. The proposed special land uses will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.

**The Planning Commission finds:**

1. The proposed use is an addition to the farmers market and yard sale that occur on this already developed site.
2. The proposed use is on land that is already developed adjacent to Thayer Lane. (Exhibits 1b and 1c)
3. Applicant states that no additional sanitary facilities are anticipated. (Exhibit 1a)
4. Trash receptacles are available throughout the farmers market and will be located in the mobile food vending areas. (Exhibit 1a)
5. The proposed use will not be placing additional demands on water and sewer facilities or refuse collection and disposal services. (Exhibit 1a)

**Motion by Commissioner Dewey, seconded by Commissioner Harris that this standard has been met. Motion passed by unanimous voice vote.**

D. Economic Well-Being of the Community

The proposed special land use shall not be detrimental to the economic well-being of the surrounding residents, businesses, landowners, and the community as a whole.

**The Planning Commission finds:**

1. The proposed use is an alternative to brick and mortar eating establishments that are allowed within the Village Commons district by special use. (Exhibit 2)
2. Mobile food vending is offered as another vendor option for those visiting the farmers market and yard sales and is a dining option for special public events held on-site. (Exhibit 1)

**Motion by Commissioner Harris, seconded by Commissioner Bennett that this standard has been met. Motion passed by unanimous voice vote.**

E. Compatibility with Natural Environment

The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the Village or the natural environment as a whole.

**The Planning Commission finds:**

1. The proposed use is an alternative to brick and mortar eating establishments that are allowed within the Village Commons district by special use. (Exhibit 2)
2. The site with infrastructure is already developed. (Exhibit1)
3. The mobile food vending units are self-contained.

**Motion by Commissioner Seman, seconded by Commissioner Dewey that this standard has been met. Motion passed by unanimous voice vote.**

F. Compliance with Supplemental Development Standards

The proposed special land use complies with all applicable Supplemental Development Standards required under this Ordinance.

Section 8.18 provides Mobile food vending use shall be allowable in the Village Commons, Central Business District, Manufacturing and Commercial zoning districts, per **Section 4.02**. Mobile food vending shall be

permitted outside any street right-of way and only on private property (written consent of the property owner is required); except if specifically authorized by the Village of Bellaire as part of an approved special event.

A temporary land use permit shall be required for the location and use of a mobile food-vending unit. Such a temporary land use permit shall be issued for a period not to exceed 90 days.

Section 8.18 Mobile food-vending requirements:

- A. Provide appropriate waste receptacles at the site for public use, which the vendor shall empty at its own expense. All trash and garbage originating from the operation of the mobile food-vending units shall be collected and properly disposed of by the operator. Spills of food or food by-products shall be cleaned up and no dumping of gray water on the streets is allowed.
- B. No mobile food vendors shall make or cause to be made any unreasonable or excessive noise.
- C. Signage in compliance with **Section 3.11** is only allowed on the mobile food-vending unit. No separate freestanding signs are permitted. When extended, awnings for mobile food vending units shall have a minimum clearance of seven (7) feet between the ground and the lowest point of the awning or support structure.
- D. No flashing, blinking or strobe lights are allowed on mobile food vending unit or related signage when the unit is parked and engaged in serving customers. All lighting shall comply with **Section 3.10**.
- E. Mobile food vending units shall be located on the site to comply with the required zoning district setback requirements.
- F. No dining area shall be allowed within ten (10) feet of the mobile food-vending unit, including but not limited to tables, chairs, booths, stools, benches and stand up counters.
- G. Mobile food vending units may use electrical power from the property being occupied or an adjacent property, but only when the property owner has provided written consent.
- H. Mobile food vending hours of operation shall be confined to: 8am-9pm, when located adjacent to a residential district or use; and all other locations shall confine operations to the hours of 8am-11pm.

**The Planning Commission finds:**

1. The Applicant states that waste receptacles are available throughout the farmers market and will be located in the mobile food vending area. Gray water may not be disposed of on any streets. (Exhibit 1a)
2. Mobile food vending will be offered during the farmers market and yard sales on Fridays, 8:00 a.m. to 12:00 noon, Memorial Day through the end of October and for special events that will not extend beyond 9:00 p.m. The Applicant does not indicate the amount of noise that will be generating by the food-vending units. Excessive noise that may not be generated. (Exhibits 1a and 2)
3. Applicant has not requested additional signage. Signs on the mobile food-vending units must comply with Section 3.11. (Exhibits 1a and 2)
4. According to the Applicant, the area has adequate lighting. There is no additional lighting proposed.
5. The site plan shows the layout of the property and the proposed locations of the mobile food-vending units. The proposed locations meet the required setbacks. (Exhibits 1b and 1c)
6. Seating is available around the existing facilities. There will not be any seating by the mobile food-vending units. (Exhibit 1a)
7. Utility hook-up is available at the pavilions, pole barns and at the activity center. Mobile food vending units will be able to connect to power and water if needed. (Exhibit 1a)
8. Applicant's proposed hours of operation are 8:00 a.m. to 12:00 noon during the farmers market and yard sale and during special events but no later than 9:00 p.m. (Exhibit 1a)

**Motion by Commissioner Seman, seconded by Commissioner Dewey that this standard has been met. Motion passed by unanimous voice vote.**

G. Conditional Approvals

The Planning Commission may impose reasonable conditions with the approval of a Special Use Permit, pursuant to **Section 10.06** of this Ordinance.

**The Planning Commission finds:**

1. Applicant's request for up to six mobile food-vending units is subject to review at the end of each 90-day period.
2. The impact on traffic and parking is not yet known.
3. A traffic report from Public Safety will be required before the reissuance of a 90-day permit.

**Motion by Commissioner Dewey, seconded by Commissioner Harris that this standard has been met. Motion passed by unanimous voice vote.**

H. Meets the Site Plan review requirements of **Article 6** of this Ordinance.

***The Planning Commission finds:***

A. *The site plan shall comply with the Village of Bellaire Master Plan and any other applicable Village adopted planning documents.*

1. The Master Plan Existing Land Use Map identifies the property as Institutional and Wetlands/Lowland; 7-2 Future Land Use identifies the property as Village Commercial and Mixed Residential. The property is zoned Village Commons. (Exhibits 2 and 3)
2. The proposed location of mobile food-vending units is outside the minimum setbacks. (Exhibits 1b, 1c and 2)
3. The requested use, Mobile Food-Vending, is by special use permit in the Village Commons district. (Exhibit 2)

B. *All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.*

1. Applicant has identified two sites to use for mobile food vending or parking. (Exhibits 1a, 1b and 1c)
2. The site and surrounding properties are developed. (Exhibit 1b and 1c)

C. *The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree, other vegetative material, and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas. Landscape elements shall minimize negative impacts. Landscaping, buffering, and screening shall conform with the requirements of this Ordinance.*

1. The two sites identified are on property that has been developed. (Exhibits 1a, 1b and 1c)
2. There are no topographic modifications to the existing vegetation. (Exhibits 1b and 1c)

D. *Special attention shall be given to proper site drainage so that removal of storm waters will not increase off-site sedimentation or otherwise adversely affect neighboring properties.*

1. The property is developed with site drainage established. (Exhibits 1a, 1b and 1c)
2. The request to accommodate the mobile food vending will not increase run off to neighboring properties.

E. *The site plan shall provide reasonable, visual, and sound privacy for the proposed development, as well as the*

*adjacent properties. Fences, walks, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.*

1. The site is fully developed. (Exhibits 1a, 1b and 1c)

2. There is a landscaping between the site and adjacent residential parcels. (Exhibits 1b and 1c)

*F. A fire and safety preplan review shall be required and coordinated by the applicant with the Bellaire District Fire Department chief or his/her designee.*

1. The Applicant has coordinated the fire and safety preplan with Fire Chief Shumaker. (Exhibit 1c)

*G. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access.*

1. The mobile food-vending units will be located to allow emergency vehicle access off public road or private easement. (Exhibits 1a and 1c)

*H. Every building or dwelling unit shall have access to a public street, private road, walkway, or other area dedicated to common use.*

1. The proposed use is to allow mobile food-vending units that will be on site temporarily. (Exhibit 1)

2. The properties are adjacent to Thayer Lane. (Exhibits 1b and 1c)

*I. Walkways shall be provided, separate from the road system, where feasible.*

1. The site is adjacent to the walking path and established public access points. (Exhibits 1b and 1c)

*J. Exterior lighting shall be designed and arranged so that it is deflected away from adjacent streets and adjoining properties, and shall be directed downward so as not to unnecessarily illuminate the night sky. Flashing or intermittent lights shall not be permitted.*

1. Lighting is already around the sites. Applicant has not proposed additional lighting other than within the mobile food-vending units. (Exhibit 1a)

*K. The proposed arrangement of vehicular and pedestrian routes shall respect the pattern of existing or planned streets and nonmotorized pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way.*

1. Vehicular and pedestrian routes to this site are established. (Exhibit 2)

*L. All streets shall be developed in accordance with Village specifications.*

1. This standard is not applicable to the application under consideration.

*M. All parking areas shall be so designed to facilitate efficient and safe vehicular and pedestrian circulation, minimize congestion at access and egress points to intersecting streets, including the use of service drives as appropriate, and minimize the negative visual impact of such parking areas.*

1. Mobile food-vending units will vary in size. Per Section 3.14, one parking space, a minimum of 162 square feet, 9' x 18' for each 100 square feet of floor area is required. (Exhibit 2)

2. There are 71 spaces located around the existing farmers market/yard sale buildings. There are 20 spaces in the gravel parking lot. (Exhibits 1a and 1b)

*N. Residential and nonresidential development shall not include unnecessary curb cuts and shall use shared drives and/or service drives where the opportunity exists unless precluded by substantial practical difficulties.*

1. Streets and alleys are developed. Applicant is not proposing additional access points. (Exhibit 1)

*O. The site plan shall provide for the appropriate location of all necessary and proposed utilities. Locational requirements shall include underground facilities to the greatest extent feasible.*

1. Mobile food-vending units are self-contained. Applicant has power and water if needed. (Exhibit 1a)

*P. Site plans shall conform to all applicable requirements of state and federal statutes, and approval may be conditioned on the applicant receiving necessary state and federal permits before the Zoning Permit is issued.*

1. Applicant has an application process for farm market vendors.

2. Mobile food-vending units require health department licensure.

*Q. The applicant shall demonstrate that reasonable precautions will be made to prevent hazardous materials from entering the environment, including: 1. Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, ground water, lakes, streams, rivers, or wetlands. 2. General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to a public sewer system, an on-site closed holding tank (not a septic system), or regulated through a State of Michigan groundwater discharge permit. 3. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to ground water, including . . . . .*

1. Applicant’s use of the property does not involve storage or use of hazardous materials. (Exhibit 1)

**Motion by Commissioner Harris, seconded by Commissioner Bennett that this standard has been met. Motion passed by unanimous voice vote.**

**14. Motion for a Decision:**

**Motion by Commissioner Dewey seconded by Commissioner Bennett to approve based on the findings of fact, the site plan review standards, and the special use permit review standards Applicant’s request to allow up to six mobile food vending units on sites as identified in the application and on the site plan, during the farmers market and yard sale from 8:00 a.m. to 12:00 noon; and for special events. This temporary land use permit is for a 90-day period beginning August 8, 2018. A traffic report from Public Safety will be required before the reissuance of a 90-day permit. Motion passed by unanimous voice vote.**

Commissioner Harris asked whether they had to go through the same process next year. Chairman Drollinger explained that they did not. He added that Public Safety will deal with traffic issues. If there is a tremendous hindrance on the alley then they will review what needs to be done, perhaps reducing the number of food trucks. He cautioned that the report will be based on traffic generated by the food trucks. Mr. Hardy asked if they would always have to come back every 90 days. Zoning Administrator Lockett stated yes and explained that under the current zoning ordinance this is a temporary land use requiring reissuance of permits every 90 days. There would have to be a change to the zoning ordinance to do otherwise.

**15. Closing Member and/or Public Comment:** None presented.

**16. Adjourn:** The public hearing adjourned at 5:45 p.m.

Minutes compiled by Lori Lockett  
Minutes are subject to approval.

Approved: \_\_\_\_\_  
William Drollinger, Chairman

Date: \_\_\_\_\_