

Village of Bellaire

PLANNING COMMISSION

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

PLANNING COMMISSION PUBLIC HEARING MINUTES

June 12, 2018

5:00 p.m.

1. **Call to Order:** Chairman Drollinger called the public hearing meeting to order at 5:00 p.m.
2. **Roll Call Attendance:**
 - Present:** Dan Bennett, Fred Harris, Don Seman and Bill Drollinger
 - Absent:** Butch Dewey
 - Staff Present:** Lori Luckett, Zoning Administrator
 - Also Present:** Scott Udell, Jan Clark, Lori Fischer, Marcia Varble, Trish Fox, Doug Fox, Shelley Levigne (?), Andy Brady, Judy White, Jackie Stahl, Mr. and Mrs. Ramsey and Zach Piscopo
3. **Welcome:** Chairman Drollinger welcomed the members of the public.
4. **Opening of the Public Hearing:** Chairman Drollinger opened the public hearing at 5:02 p.m. announcing the Village of Bellaire Planning Commission will be reviewing a Special Use Permit application request submitted by Scott Udell dba Scotty's Bellaire BBQ, to allow Mobile Food Vending on vacant Parcel Number 05-41-010-119-00, adjacent to North Bridge Lane.
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:** A staff report on the application and proposed findings of fact was included in the meeting packet. Zoning Administrator Luckett explained that this was the first time the Planning Commission was considering a Mobile Food Vending special use request since the adoption of the 2016 zoning ordinance. The standards for the special use permit are outlined. Incorporated into those standards are the criteria for the mobile food vending ordinance and the site plan review standards are included at the end.

Chairman Drollinger identified the District Regulations: Minimum Lot Area = 6 (sic) square feet; minimum width 50'; front setback 25'; rear setback 25'; side setback 5'

Applicant is applying for a special use permit to locate and operate a mobile food-vending unit on a vacant parcel in the Village Commons district. Applicant proposes to barbecue fresh meats and to serve from approximately 11:00 a.m. until the food supply is gone, but no later than 9:00 p.m. Applicant has the property owner's permission to operate; to use the dumpster onsite; to use power and water if needed; and to grade, level, mulch and beautify the proposed area. The site plan identifies the operation from Thursday through Sunday, 11:00 a.m. to 9:00 p.m. with the possibility of adding Monday through Wednesday. If approved, a temporary land use permit shall be issued for a period not to exceed 90 days.

Chairman Drollinger explained that the renewal of the temporary permit after 90 days does not require another hearing. As long as nothing has changed, the temporary permit may be renewed for another 90 days.

Chairman Drollinger identified the exhibits: Exhibit 1 Special Use Application with attachments, Exhibit 2 Aerial map with property line overlay, Exhibit 3 Village of Bellaire Zoning Ordinance.

Chairman Drollinger read the standards and proposed findings of fact into the record.

SECTION 7.03 STANDARDS FOR GRANTING A SPECIAL USE PERMIT

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 3)
2. Mobile food vending is allowed by special use in this district. (Exhibit 3)

**Motion by Commissioner Seman, seconded by Commissioner Bennett, 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 that will not affect the use or development of surrounding parcels as zoned.

**Motion by Chairman Drollinger, seconded by Commissioner Harris, 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 an alternative to brick and mortar eating establishments that are allowed within the Village Commons district by special use and the adjacent Central Business District by right. (Exhibit 1)

**Motion by Commissioner Bennett, seconded by Chairman Drollinger, 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 3)

2. Applicant proposes to operate from 11:00 a.m. until the food supply is gone, not later than 9:00 p.m. (Exhibit 1)

**Motion by Commissioner Harris, seconded by Commissioner Bennett 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.

**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 provides an alternative dining venue that is a temporary use limited to a 90-day period. (Exhibit 3)

2. The proposed use is on a vacant land adjacent to N. Bridge Lane and will not be placing demands on water and sewer facilities. (Exhibit 1)

**Motion by Commissioner Harris, seconded by Commissioner Seman, 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 and the adjacent Central Business District by right. (Exhibit 1)

**Motion by Chairman Drollinger, 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 and the adjacent Central Business District by right. (Exhibit 1)

2. The only development proposed on this site is the grading, leveling, mulching and beautifying of the proposed area.

Motion by Commissioner Harris, seconded by Commissioner Seman, 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 site plan identifies waste receptacles that are privately owned and maintained. Gray water will be disposed of at an approved RV dumping station.
2. The Applicant does not indicate the noise that will be generated.
3. Applicant proposes a sign that is 8 square feet and a 2'x 3' sandwich board that will be attached to the unit. There is no awning on this unit.
4. No exterior lighting is proposed.
5. The site plan shows setbacks for the district. The mobile food-vending unit is beyond required setbacks.
6. The site plan shows three picnic tables that are located at least 10 feet from the mobile food-vending unit.

7. Applicant has the property owners' permission to connect to power and water if needed.
8. Applicant's proposed hours of operation are 9:00 a.m. until the food supply runs out but no later than 9:00 p.m.

**Motion by Commissioner Seman, seconded by Commissioner Harris, 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.

There were no conditions but Zoning Administrator Lockett explained that the permit is for 90 days. If Applicant wishes to extend the permit, he will have to come into the office. At this time, there is no fee for renewal of the permit. Applicant asked whether he would have to renew through the year. Lockett explained that the time limit of 90 days makes it temporary, it was not anticipated that units would be open year round. The permit does not have to be renewed every 90 days. The special use permit applies to the Applicant at this particular site. As long as there are no changes, Applicant may request the renewal of the temporary 90 day permit in the spring, likely before Memorial Day.

H. Meets the Site Plan review requirements of **Article 6** of this Ordinance. The following was incorporated into the record and voted on.

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 parcel as Residential; the Future Land Use Map identifies the parcel as Village Commercial. The property is zoned Village Commons.

2. The proposed location of mobile food vending unit is outside the minimum setbacks. (Exhibits 1 and 3)

3. The requested use, Mobile Food Vending, is by special use permit in the Village Commons district. (Exhibit 3)

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 is proposing to use a vacant parcel along N. Bridge Lane that is currently used for parking. (Exhibit 2)

2. Properties in the vicinity include eating/drinking establishments, professional or business office, retail outlets with gross floor area under 5000 square feet, upper floor dwellings, single family dwellings, and public parking. (Exhibit 3)

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 site improvement include grading, leveling, and mulching to beautify the site and to accommodate an unloading area and nine onsite parking spaces for employees and guests. (Exhibit 1)

2. There is dense natural vegetation to the west of the site. (Exhibit 2)

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 owners have provided Applicant permission to grade, level, mulch and beautify the proposed area. (Exhibit 1)
 2. Development of the site to accommodate the temporary land use may 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. Adjacent properties associated with commercial uses are used for parking. (Exhibit 2)
 2. There is a significant natural barrier for the residential parcels. (Exhibit 2)
- 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 3)
- G. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access.*
1. The mobile food-vending unit is located on site to afford emergency vehicle access. (Exhibit 1)
- 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 for a mobile food-vending unit. (Exhibit 1)
 2. The proposed site is a vacant parcel adjacent to N. Bridge Lane. (Exhibits 1 and 2)
- I. Walkways shall be provided, separate from the road system, where feasible.*
1. The proposed site is a vacant parcel adjacent to N. Bridge Lane. (Exhibits 1 and 2)
- 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. Applicant has not proposed lighting other than within the mobile food-vending unit. (Exhibit 1)
- 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. The mobile food-vending unit is 184 square feet. 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. (Exhibits 1 and 3)

2. Applicant proposes parking to accommodate a loading zone, two employee parking spaces and guest parking up to 7 vehicles. (Exhibit 1)

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. Applicant proposes parking to accommodate a loading zone, two employee parking spaces and guest parking up to 7 vehicles. (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. The mobile food-vending unit is self-contained however; Applicant has permission to connect to the property owners' power and water if needed. (Exhibit 1)

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 completed the serve safe classes and allergen training. (Exhibit 1)

2. The health department application has been completed and is under review. (Exhibit 1)

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

7. Presentation by the Applicant, Applicant's Attorney or Other Agents: The Applicant requested approval of his request.

8. Correspondence and/or Persons Speaking in Favor of the Application: 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

Members of the public, Trish Fox, one of the residents near the proposed use, stated that she and her husband supported Scott's new endeavor. Shelley Levigne stated that they are in support of extra places to eat in the summer when there are long lines at restaurants in town. Barbecue is a great addition.

- 9. **Correspondence and/or Persons Speaking in Opposition to the Application:** None presented.
- 10. **Rebuttal by the Applicant, Applicant’s Attorney or Other Agents:** None presented.
- 11. **Closing of Public Hearing:** The public hearing was closed at 5:19 p.m.
- 12. **Deliberations:** Chairman Drollinger asked whether commission members were satisfied with what they had done and asked whether there were any comments or additions. There was none.
- 13. **Motion for a Decision:** Chairman Drollinger requested a motion for a decision. Applicant indicated that he hopes to open Saturday and will have to be on site around 9:00 a.m. Chairman Drollinger clarified that Applicant could be on site earlier, the hours of operation where he is open to the public were identified. Chairman Drollinger then made the motion to approve which was supported by Commissioner Harris.

Motion by Chairman Drollinger, seconded by Commissioner Harris, to approve based on the findings of fact, the site plan review standards, and the special use permit review standards Applicant’s request to operate a mobile food vending unit as identified in the application and on the site plan, from 11:00 a.m. to 9:00 p.m. for a 90 day period beginning June 13, 2018. Motion passed by unanimous voice vote.
- 14. **Closing of Member and/or Public Comment:** Andy Brady asked whether the trailer would be able to stay on the site during the 90-day period. Chairman Drollinger indicated yes.
- 1. **Adjournment:** Public hearing was adjourned at 5:25 p.m.

Minutes compiled by:
Lori Lockett, Zoning Administrator & Recording Secretary

Approved: _____
William Drollinger, Chairman
Date: _____