



**Minutes of the Regular Meeting of the
Cedar Springs Planning Commission**

Tuesday, October 6, 2015

7:00 p.m.

**Cedar Springs City Hall
66 S. Main St.
Cedar Springs, Michigan**

1. The Meeting was Called to Order by Chairperson **Craig Owens** at 7:00 p.m. The Pledge of Allegiance was recited.

2. <u>ROLL CALL:</u>	Ms. Lisa Atchison	Present
	Mr. Dale Bray	Present
	Mrs. Kathy Bremmer	Present
	Mr. Clint Conley	Present
	Ms. Sherri Foster	Present
	Mr. Jerry Hall	Present
	Mr. Perry Hopkins	Present
	Mr. Mark Laws	Excused
	Mr. Craig Owens, Chairperson	Present

3. City Planner **Carmine Avantini** was recognized as being present.

4. **Motion by Foster, supported by Atchison, to approve the minutes of the September 8, 2015 meeting.**

VOTE: 8 – 0, Motion Carried.

5. **Motion by Foster, supported by Conley, to approve the agenda.**

VOTE: 8 – 0, Motion Carried.

6. PUBLIC COMMENTS.

Rose Powell, announced the Cedar Springs Public Library capital campaign was underway.

Sue Wolfe, asked that consideration be given to extending the amount of time for people to speak to 10 minutes.

Duane McIntyre addressed concerns with PUD guidelines.

7. SCHEDULED PUBLIC HEARINGS.

- A. **Motion by Bremmer, supported by Foster, to open a Public Hearing on a Special Land Use Approval Permit for Boyd Culver for property located at 81 N. Main St.**

VOTE: 8 – 0, Motion Carried.

The Public Hearing opened at 7:07 p.m.

1. Staff Comments:

Avantini reviewed his letter dated September 30, 2015 (**Item A.**) The applicant was requesting to operate a light assembly and packaging of home brewing business at the site. The store will carry a full line of ingredients and equipment for home brewing of beer, wine and cider. Initially the store will employ two people with a goal of employing four per shift. The only change to the building will be the replacement of signage, he said. He recommended approval.

2. Public Comments:

There were no public comments; but an email had been received from **Lea Dillard**, Flaunt It Sportswear, who supported and encouraged the issuance of the permit.

3. **Motion by Hall, supported by Bray, to close the public hearing.**

VOTE: 8 – 0, Motion Carried.

The Public Hearing closed at 7:17 p.m.

- B. **Motion by Atchison, supported by Bray, to open a Public Hearing on a Special Land Use Approval Permit for Bob Cook and Nikki Twitchell/Cook for property located at 171 W. Muskegon St.**

VOTE: 8 – 0, Motion Carried.

The Public Hearing opened at 7:18 p.m.

1. Staff Comments:

Avantini stated that while this appeared to be a good use of the building; the renderings for the project needed to be more detailed to ensure that ordinance requirements and building code requirements were being met. He recommended the Special Land Use request be tabled until more information was furnished.

2. Public Comments:

Sue Wolfe stated she owned the property next to the proposed site and was excited about the project.

3. **Motion by Bray, supported by Conley, to close the Public Hearing.**

VOTE: 8 – 0, Motion Carried.

The Public Hearing closed at 7:20 p.m.

8. NEW BUSINESS.

- A. **Motion by Hall, supported by Hopkins, to approve a Special Land Use Approval Permit for Boyd Culver for property located at 81 N. Main St.**

VOTE: 8 – 0, Motion Carried.

- B. **Motion by Bremmer, supported by Foster, to table a Special Land Use Approval Permit for Bob Cook and Nikki Twitchell/Cook for property located at 171 W. Muskegon St. until they furnish an acceptable site plan.**

VOTE: 8 – 0, Motion Carried.

- C. Discussion regarding a request from the Community Building Development Team for a new zoning district:

In a letter dated September 24, 2015 (**Item B**) Jesse Morgan, project manager, Hubbel, Roth & Clark, Inc. outlined the CBDT's position regarding an option for rezoning sites for community purposes. Community Use zoning would allow all of the proposed structures the CBDT wishes to construct on City-owned property, he said.

Avantini suggested that discussion for such a zoning classification take place during the master plan update that will be the focus of the planning commission in the coming months. It would require language to be drafted, public hearings and two readings before the City Council. He said it was a matter of approach for the CBDT's projects. The projects were allowed on the site or would be allowed with a special land use. Rezoning of a portion of the property and a PUD overlay would give the group what it needed as well, he explained.

Atchison asked the benefits of Community Use Zoning.

Morgan responded it would be beneficial for future sites and move the City forward. Currently there were limitations as to what could be done, he said. Commissioners asked how things could be expedited.

Rezoning the property currently zoned Industrial to B-3 would be the quickest avenue, **Avantini** said. That would also require them to meet the requirements of B-3 zoning; but if they did a PUD overlay, while it doesn't change the zoning, it would allow them to be more flexible.

He suggested working with the attorney to put together language for the PUD.

- D. Discussion regarding a request from the Community Building Development Team on case law allowing municipalities to proceed on public programs without following its own ordinances (**Item B**):

City Manager **Thad Taylor** stated he had discussed this with the City's Attorney whose main issue was that the court did not state a City was immune from its ordinances and that the case cited was for a project undertaken by the municipality. This was not the case with what the Community Building Development Team was proposing. They were building the projects and turning the projects over to the City after completion. This case law also did not take into consideration requirements of the State Municipal Planning Act which called for approval by the planning commission.

Bremmer said planning commissioners had taken an oath of office to follow the City's ordinances and she had a problem if she was being asked to break the law.

9. OLD BUSINESS.

- A. **Motion by Bremmer, supported by Hopkins, to set a public meeting date for public input into the master plan for November 10, 2015.**

VOTE: 8 – 0, Motion Carried.

- B. Discussion regarding issues raised concerning PUD Guidelines: two story requirements; garage setbacks, 12-ft. ceiling height; **Avantini** stated the PUD guidelines were a starting point for developers to use. You are going to get a lot of different standards or guidelines from developers, he said. You need to have some starting point. The Planning Commission has the flexibility to apply them under a case by case basis. There are times where the guidelines will apply and times they don't, he explained. Guidelines represent an ideal, he said.

10. OPEN DISCUSSION FOR ISSUES NOT ON THE AGENDA.

- A. Correspondence was received from the Kent County Agricultural Preservation Board.

B. Staff Comments:

1. The City Manager said he had been working with a retirement company who was purchasing 10 acres on Solon Road and would be asking to come into the City under the 425 Agreement. They specialized in individual and assisted living housing. He stated he was fielding a lot of interest in development in the community. Display Pack would be bringing in their site plan for the November Planning Commission meeting.

C. Planning Commission Members:

Bray inquired about the status of the extension of West Street.

Taylor stated the preliminary application had been submitted; but more information was needed to be sent to the EDA. It was a \$3.2 million project and the City would be expected to fund 50%.

Atchison asked about the retail center on White Creek.

Taylor said the project was currently on hold as the numbers were not working out for the developer.

Foster told members from the Community Building Development Team that she knew they were getting irritated; but things would work out. What they were planning were good projects.

Hall said the open discussion that evening proved we are heading the way we should go. He also stated that the Council had a training session on the Open Meetings Act and were told that the four minutes they allowed the public during public comments was very generous amount of time.

11. REPORT OF THE CITY COUNCIL REPRESENTATIVE.

Hall said the City Council was considering videotaping the planning commission meetings.

12. REPORT OF THE PLANNING CONSULTANT.

Avantini stated he would be a presenter at the State Planning Conference and what he would be speaking about would be the topic of a work session for a future Planning Commission meeting.

13. **Motion by Hall, supported by Foster to adjourn.**

VOTE: 8 – 0, Motion Carried.

The meeting adjourned at 9:01 p.m.

Linda Christensen, City Clerk

Craig Owens, Chairperson



CIB PLANNING

Community Image Builders

September 30, 2015

Planning Commission
City of Cedar Springs
PO Box 310
66 S. Main Street
Cedar Springs, MI 49319

Attention: Mr. Thad Taylor, City Manager

Subject: **Special Land Use Review, Boyd Culver, Coldbreak Brewing Company, 181 N. Main Street, located to the immediate south of the Cedar Springs Brewing Company building, on the west side of N. Main Street, zoned B-2, Central Business District.**

Dear Planning Commissioners:

We have reviewed the above request to operate a light assembly and packaging of home brewing business in the former Liquor Hut property, next to the Cedar Springs Brewing Company building. Utilizing the Coldbreak Brewing brand, the retail store will carry a full line of ingredients and equipment for home brewing of beer, wine and cider. Classes teaching all the nuances of the brewing process will also be offered to customers. The store will initially employ 2 people with the goal of having 4 per shift. The production of the Coldbreak Brand will be conducted in the warehouse area of the building with occasional ground and freight shipments handled in the rear of the building.

With regard to signage, the applicant plans on replacing the panels in the existing "Liquor Hut" sign and may apply for additional brand signs. All signs will have to meet the standards of the sign ordinance and obtain separate permits for each. The subject site is zoned B-2, Central Business District, and the "Production of merchandise on the premises, provided that not more than 15 persons are employed on the premises..." as well as "Commercial uses under ten thousand (10,000) square feet of gross floor area" are special land uses in this district

The opinions in this report are based on a review of the application submitted by the applicant and conformance to City plans and ordinance standards. Please note that the applicant is responsible for the accuracy and validity of information presented with the application. In reaching a decision on the application, the Planning Commission should consider our comments along with those from other staff and consultants, additional information provided by the applicant, input provided during the public hearing, and your own findings based on ordinance standards as part of your deliberation.

GENERAL SPECIAL LAND USE REQUIREMENTS

According to *Section 40-571(1), Special land use standards*, of the zoning ordinance, any special land use must adhere to all of the following general standards listed in the Zoning Ordinance:

- a. *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 that such a use will not change the essential character of the area in which it is proposed.*

The proposed use will be occupying an existing retail building that previously housed a liquor store. The level of activity should be no greater than that of the liquor store and is an ideal location for the use, being next door to the Cedar Springs Brewing Company.

- b. *Be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools.*

All existing City services are available to this site.

- c. *Not create excessive additional requirements at public cost for public facilities and services.*

The project should not create additional requirements for public facilities and services.

- d. *Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.*

The Use Table of the ordinance indicates that “such production shall not be detrimental either by odor, noise, vibration, or smoke to the nearest occupied dwelling.” All activities shall be conducted within the building and as such the residential property immediately behind this building should not be negatively impacted, due to an excessive amount of traffic, noise, smoke, etc.

- e. *Be consistent with the intent and purpose of the zoning district in which it is proposed to locate such use.*

The subject property is located in the B-2, Central Business District, which “is intended to concentrate community retail and service activities in a single core area. The creation of this district reflects the city's commitment to strengthening the central business district as an economic center for the city and the neighboring communities.” The proposed business will continue to strengthen the downtown area by establishing a complementary use to the Cedar Springs Brewing Company and draw additional shoppers into the area. The use therefore meets the intent and purpose of the B-2 zoning district.

RECOMMENDATION

Based upon the above discussion, **we recommend special land use approval for the Boyd Culver, Coldbreak Brewing Company operation**, since it meets the general requirements of the zoning ordinance.

Sincerely,

CIB PLANNING

A handwritten signature in cursive script that reads "Carmine P. Avantini".

Carmine P. Avantini, AICP

**PRINCIPALS**

George E. Hubbell
 Thomas E. Biehl
 Walter H. Alix
 Keith D. McCormack
 Nancy M.D. Faught
 Daniel W. Mitchell
 Jesse B. VanDeCreek
 Roland N. Alix
 Michael C. MacDonald
 James F. Burton

SENIOR ASSOCIATES

Gary J. Tressel
 Kenneth A. Melchior
 Randal L. Ford
 William R. Davis
 Dennis J. Benoit
 Robert F. DeFrain
 Thomas D. LaCross
 Albert P. Mickalich
 Timothy H. Sullivan

ASSOCIATES

Jonathan E. Booth
 Marvin A. Olane
 Marshall J. Grazioli
 Donna M. Martin
 Charles E. Hart
 Colleen L. Hill-Stramsak
 Bradley W. Shepler
 Karyn M. Stickel
 Jane M. Graham

HUBBELL, ROTH & CLARK, INC.

OFFICE: 801 Broadway NW, Suite 215
 Grand Rapids, MI 49504
 PHONE: 616.454.4286
 FAX: 616.454.4278
 WEBSITE: www.hrc-engr.com
 EMAIL: info@hrc-engr.com

September 24, 2015

Cedar Springs, MI

Attn: City Council

Re: Existing Fire Barn Site – Zoning Recommendation

Dear Council Members:

The Cedar Springs Community Building Development Team (CBDT) has been reviewing land use options for developing the existing Fire Barn site for community purposes. The existing site is adjacent to the Cedar Creek, and contains flood plains, two artesian wells, and is also adjacent to the White Pine Trail.

Community Planned uses for the site include:

- | | |
|---------------------|-----------------------|
| ≡ Library | ≡ Rain Gardens |
| ≡ Pathway/Boardwalk | ≡ Wetland Restoration |
| ≡ Amphitheater | ≡ Sculpture |
| ≡ Parking | |

The existing city owned land planned for development includes seven (7) properties with zoning consisting of B-3 and I-1. Within a B-3 zoned district, boardwalks, pathways, amphitheatres and libraries are "Permitted Use", based on the permitted use "Parks, public open spaces, swimming pools and community buildings". Within an I-1 zoned district these uses are considered "Specifically Not Allowed", per City of Cedar Springs Code of Ordinances, Sec. 40-133. – TABLE OF USES.

Municipality Requirements to Follow its Own Zoning Ordinance

Case law, established under "Morrison et al. v. City of East Lansing, 255 Mich. App. 505 (2003)", describes that a municipality that adopts a zoning ordinance need not follow its own ordinance. The Michigan State University "Land Use Series", last revised on June 22, 2015, a document on Restrictions on Zoning Authority, specifically notes this case when adopting zoning regulations. The document is attached, in its entirety, for reference. As noted in the "Land Use Series" document, this case law applies specifically to Cities and Villages, however it could also apply to Townships and Counties. With the establishment of this decision, the City of Cedar Springs does not need to meet any requirements, such as height, setbacks, offsets that are established for zoning purposes if the City is constructing a publicly owned, non-profit building on City owned property. Additional language from the case that applies to the City of Cedar Springs is identified in the attached document "Morrison v. City of East Lansing". Key components of this ruling are that the City meet all requirements of the Open Meetings Act, the developments are to benefit the general public, are supported by the general fund, and are not-for-profit, thus constituting a government function.

Request

The CBDT requests the City Council review and act on the court case that established the restriction on zoning authority at either your regular October meeting or a special meeting later in October. The CBDT believes this court case allows construction and development of the existing "Fire Barn" site, for community purposes, without the requirement of variances, Planned Unit Development (PUD), or rezoning. The CBDT also requests the City Council waive Policy 12 for this meeting to allow these projects to move along to the next phase of city review.

As presented at the September Regular Council Meeting, the CBDT requests the City Council continue to direct the Planning Commission to immediately begin development of a Community Use (CU) zoning ordinance as outlined in the previously presented documents. This ordinance will benefit the City in future "Government Function" developments. It is also an ideal time to



reevaluate the current zoning as part of your Master Plan Update. Once a CU is created, it could allow for all the proposed structures to fall within the CU allowable Uses by Right, therefore, dissolving any potential concerns of acting under the case law guidelines.

The CBDT gratefully acknowledged Hubbell, Roth, and Clark, Inc. (HRC) for having found this viable option used by other units of government. Both HRC and the CBDT believe this legally allows the City Council to move forward immediately on the proposed public structures to be built on public land. If the Council should have any questions please contact Kurt Mabie. The CBDT is officially requesting this be placed on your October agenda and therefore allowing public input as an agenda item. This letter is being sent in a timely manner which should allow for the city council and the city's legal team to review and be prepared to take action at your October Council Meeting.

The CBDT along with HRC would like to thank you for your continued support toward bringing about these positive changes for our community.

Sincerely,
HUBBELL, ROTH & CLARK, INC.

A handwritten signature in black ink that reads "Jesse Morgan". The signature is written in a cursive, flowing style.

Jesse M. Morgan, PE
Project Manager

Attachments: Morrison v. City of East Lansing
Michigan State University Extension "Land Use Series"