

**Mt. Pleasant Planning Commission
Minutes of Regular Meeting
January 6, 2011**

- I.** Chairman Orlik called the meeting to order at 7:00 p.m.

Present: Brockman, Kostrzewa, Lux, Holtgreive, Orlik (Chair), Rautanen, Robinette, Smith (Vice-Chair), and one vacancy.

Staff: Gray, Murphy.

- II.** Approval of Agenda:

Motion by Holtgreive, support by Kostrzewa to approve agenda.

Motion approved.

- III.** Approval of Minutes

- A.** December 2, 2010 regular meeting.

Motion by Rautanen, support by Holtgeive to approve the minutes from the December 2, 2010 regular meeting as submitted.

Motion approved.

- IV.** Zoning Board of Appeals Report.

Commissioner Brockman reported that the ZBA did not meet in December.

- V. Public Hearings:**

Chairman Orlik explained board proceedings and asked staff to introduce the first case.

- A. SUP-10-11 – 1705-1721 S. Mission - L-1 Bar & Grille.**

Staff described the location as being just south of Appian Way and stated that the property is zoned C-3 General Business. The property to the east (behind) of the site is zoned M-2 and is home to the Forum Apartments, which is predominantly student housing. Staff shared an aerial photograph of the site showing the location of the suite within the complex. The suite was formerly the R & R Laundromat and is located in the northern most suite of the complex.

Staff reported that the applicant is proposing a 24 hour business, to include a restaurant that serves alcohol at least 20 hours each day. The business will convert to nightclub use from 10:00 p.m. – 2:00 a.m.

Staff reminded the Board that the property recently was approved for a new building in the parking lot, and commented that an approval of this new project will not change the expectations of the previous approval, which remains in effect. At this time, staff stated that applicant would be making some changes to the façade in regards to signage, but stated he would let the applicant speak to that in greater detail.

Staff reported that the Zoning Board of Appeals considered two variances for this project in November of 2010 at which time they approved the nightclub/restaurant to be located within 50 feet of a residential district. The Board based their decision on the location within the complex, which actually puts them approximately 400' from the residential district. They also approved waiving any additional screening separating the business from the M-2 district, based on the applicant's representation that the business will be similar to a Class I restaurant, providing 50% of their sales are from food, and based on their location within the complex and proposed floor plan, with the building itself acting as a buffer.

Chairman Orlik clarified that the variance was granted with the existing screening and if that screening was damaged it would need to be replaced.

Staff stated that this request is somewhat unique in that it is actually two uses – A restaurant that serves alcohol and Nightclub. It is also unique in that it is located within a complex rather than as a standalone building. Staff shared the proposed floor plan, showing the seating in front, with the kitchen, storage, restrooms, etc. located towards the back of the unit. A second floor plan was shared, showing some of the tables removed during the nightclub hours to provide a dance floor for patrons. Staff commented that the applicant would be held to the representations shown on the two layouts.

Staff stated there would be no changes to the site with this request. Comments from DPW and DPS were fairly standard, with a note from DPS that the use will require a sprinkler system.

Staff commented that shopping center locations generally have significant turnover, and cautioned the Board that if the applicant should move out, they may have some market pressure to approve a strictly nightclub use, therefore suggested any approval be tied specifically to the representations of the applicant. Any proposed change would need to come back to the Planning Commission.

Chairman Orlik asked if the Resort License requires the applicant to maintain 50% food sales. Staff stated that it does. He further explained that resort licenses may be transferred into the city from other locations in the State, but are subject to City Commission approval.

Commissioner Kostrzewa asked if the business could sell alcohol 24 hours a day, 7 days a week. Staff stated that although they are open 24 hours, they cannot sell alcohol at certain

times.

Commissioner Rautanen asked if the separation distance requirement of 100 ft. between bars/nightclubs would affect the previously approved site in front. Staff stated that the only way it would be impacted is if it was for strictly nightclub/bar use. The 100 ft. separation does not apply to Class 1 Restaurants.

Commissioner Lux asked if the City has a consultant that would go in and check for compliance with the 50% food sales requirement on the resort liquor license. Staff stated that there is not; however, if we have reason to suspect, we would investigate and if not satisfied would then file a complaint with the state. Commissioner Lux commented that the State does not check for compliance unless there is a complaint.

Kerry Chahil, representing L-1 Bar & Grille addressed the Board. Mr. Chahil stated that this is a unique and innovative project and provided some background on his experience of helping all types of businesses open up. Mr. Chahil stated that he feels the breakfast part of this business will be the mainstay of the establishment. He further stated that he is looking for an upscale ambiance, with white table linens, oversized plates, and great service. Mr. Chahil stated that the menu would have limited items and would focus on the quality of the food, and on being the best restaurant, with the bar coming second. Mr. Chahil stated he feels there is a huge need in Mt. Pleasant for eating establishments at 2:00 a.m. He further commented that with the resort license, he is required to provide seating for 100, with 50% of his sales from food. He stated he has room for more tables, but limited the seating to 100 for the ambiance. Mr. Chahil provided a rendering of what they wish the establishment to look like. He further commented that the menus provided to the Board were only a sample, and the final version will be much nicer. He commented that they wish to take advantage of every market and will offer reasonable prices. Mr. Chahil stated that any item on the menu will be able to be ready in 7 minutes. He also stated the establishment would offer raw juices.

Commissioner Robinette questioned how the changeover from nightclub to restaurant would take place. Mr. Chahil stated prior to 10:00 p.m., they will begin seating patrons at the tables that are not located on the dance floor. To begin the change back, he commented that the sale of alcohol has to cease by 2:00 a.m., with all alcohol being off the tables by 2:30 a.m. Tables will be brought back in as needed, with all tables back in place by 3:00 a.m. He further commented that there would be 75 seats available at all times.

Commissioner Lux stated that she had gotten information from the State that requires resort licenses to maintain seating for 100 at all times. Mr. Chahil stated that he understood the requirement to be seating for 100 for at least 5 hours of the day; however, he stated that if he is mistaken and is required to have seating for 100, then he will maintain that number. Commissioner Brockman asked if the barstools were being counted as seating, to which Mr. Chahil responded they were.

Chairman Orlik asked what material the dance floor would be. Mr. Chahil responded that the floors are polished cement, with the dance floor being a different color. He further

commented that there will be K-12 insulation to provide the best sound and also the best insulation to keep the sound inside. Commissioner Lux commented that she was happy to hear that they would be installing K-12 as that was one of her concerns and asked if that were one of the stipulations, if the applicant would be willing to agree. Mr. Cahil responded that K-12 is necessary to get the best sound so making that a requirement would not be a problem.

Chairman Orlik asked what time the DJ would stop and Commissioner Smith asked if there would ever be live bands. Mr. Cahil stated the music would stop at 2:00 a.m. and there would not be live bands – as there would not be room for them. The DJ equipment will remain on site.

Commissioner Kostrzewa asked where the tables would be put once removed from the dance floor. Mr. Cahil stated that the initial plan was to place them in the storage area in the back; however, if he is required to maintain 100 seats, he will simply move the tables closer together to clear off the dance floor.

Commissioner Kostrzewa asked if Mr. Cahil would be managing the establishment. Mr. Cahil indicated he would be. He added that he hopes to hire 30-40 local employees.

Commissioner Lux asked if they had applied for the license to allow alcohol sales at 7:00 a.m. on Sunday. Mr. Cahil stated that they have applied; however he does not expect that to be their market. Commissioner Robinette asked if someone could purchase take-out alcohol on Sunday morning. Mr. Cahil stated that although you can apply for that license, he declined that as that is not the image he is after.

The applicant was asked for clarification on the façade and front wall configuration. Mr. Cahil stated that originally they had an architect design a façade. As the owner of the property has entertained plans to redo the façade on the entire complex, they have chosen to hold off until those plans are finalized to assure that the facades are harmonious. Mr. Cahil commented that once the shopping center commits to the façade improvement he will be the first to move forward.

Chairman Orlik asked how the applicant would react if the nightclub portion was highly successful and their food sales drop below the 50% requirement. Mr. Cahil stated that if you have the best food, you won't fall below. He further stated that if you market properly and offer discounts, etc. on food you can boost your food sales.

Chairman Orlik opened the Public Hearing.

Dave Sapp, 1518 Briarwood, addressed the Board, speaking in opposition of the proposed restaurant/nightclub. Mr. Sapp expressed concerns with the late hours, increase in traffic, and an area behind the establishment that could potentially increase crime concerns with people walking through at night.

Michael Mezei, 1519 Briarwood, addressed the Board, speaking in opposition to the

proposed nightclub. Mr. Mezei commented that his initial interest in the project changed to concern with the 24 hour operation, stating he does not feel Mt. Pleasant needs more 24 hour establishments. He commented that he would love a great breakfast place to take his family, but was skeptical of the nightclub use. Mr. Mezie reiterated a concern voiced by one of the Zoning Board of Appeals members that the applicant was trying to be too many things. Mr. Mezei expressed concern with an establishment of this sort being allowed on the East side of Mission Street, commenting that he is concerned it could have a domino effect.

Brandon LaBelle, owner of the property, addressed the Board, stating he is a local businessman and lifelong resident and is excited to see businesses coming to Mt. Pleasant. Mr. LaBelle commented on the effect of the economy and the number of empty buildings along Mission and referred to several points in the City's Economic Development Action Plan. Mr. LaBelle stated he supports new development in the city and hopes the Board does too.

There being no one else who wished to address the Board, the Public Hearing was closed.

Board Discussion:

Chairman Orlik commented that the Board needs to decide if there will be any residual damage to the area if the business doesn't make it.

Commissioner Rautanen commented that there used to be a bar/nightclub on the East side of Mission several years ago.

Commissioner Lux commented that many of her questions have been answered, however, her biggest concern is the alcohol. She reiterated that the Liquor Control Commission does not check for compliance unless there is a complaint and we have nothing in place to assure compliance. Commissioner Lux further asked if the Commission could place some condition on the approval.

Staff stated that the enforcement of conditions will be the same for this establishment as for others in the City. If we have reason to believe they are not in compliance then we will conduct an investigation. If we are not satisfied, then we would file a complaint with the State. Staff also stated that the recommendation offered is tied to the applicant's representation of what the operation will look like, based on the layouts he has provided, making it a simple analysis to check the number of tables, etc. to see if he is complying with what he has proposed.

Chairman Orlik added that the conditions offered by the applicant are stricter than regulation on other nightclubs in town.

Commissioner Robinette commented that from the developer's standpoint, he feels it would be in their best interest to be in compliance.

Commissioner Brockman asked how many resort licenses there were and commented that the

City is limited to the number of licenses they can have. Staff indicated he wasn't sure of the number of resort licenses; however, further explained that resort licenses are transferable from one location to another within the state, with City Commission approval. Staff spoke to Mr. Mezei's concern that the approval of this would cause a domino effect, stating that approval at one location does not mean other areas are appropriate and each case is reviewed on its own merit.

Commissioner Holtgreive commented on the barrier at the back of the property being chain link and questioned whether the Board could require something more. Chairman Orlik stated that the ZBA had already ruled on the barrier and given their action, the Planning Commission can't require more. Staff commented that although they can't mandate it, they could ask the applicant if he would be willing to address it.

Commissioner Kostrzewa stated that he had walked the property and he commented that it looked to be in the middle of commercial properties, with the apartments behind and asked the neighbors for clarification on their proximity to the site. Mr. Mezei commented that he may have overestimated the closeness; however maintained his concerns.

Commissioner Kostrzewa asked about the area, which appears to be a right-of-way, that was mentioned as one of Mr. Sapp's concerns and if it would be feasible to consider blocking it off. Chairman Orlik commented that blocking it off could adversely affect existing uses.

Commissioner Kostrzewa commented that the property owner, who has expressed support of the project, would be the one who suffered the most if the business is less than perfect.

Commissioner Lux asked for clarification on the ZBA action in regards to screening. Chairman Orlik stated the ZBA waived any additional screening requirements, other than what was already in place.

Commissioner Lux addressed the applicant in regards to maintaining compliance with the 50% food requirement.

Mr. Chahil stated that he would be willing to provide numbers on a 30-day, 60-day basis if requested and agreed with Commissioner Robinette that it is in his best interest to maintain the numbers to avoid any complaints to the State. He also commented that the screening issue does not even come into effect for Class I restaurants.

Commissioner Lux asked if there would be some sort of security to prevent loitering, etc. Mr. Chahil stated that security is very important and that all staff will be training it TAM (Techniques of Alcohol Management). He also commented that there would be security provided at the front door.

Mr. Chahil stated that when opening Liquor 1 next door, he observed traffic patterns for hours and concluded that the traffic comes from Mission, not from behind.

Commissioner Lux asked if there were speed bumps there to which it was stated there are.

Commissioner Lux asked Mr. LaBelle if, as the owner of the property, if he felt the operation was creating any safety concerns if he would address it. Mr. LaBelle commented that he would absolutely address that and further stated that this space is a relatively small tenant space in a large building and he would not lease to someone who could potentially harm his other tenants.

Commissioner Holtgreive asked Mr. LaBelle if he would consider a masonry screening to the east. Mr. LaBelle said he wasn't sure who actually owned the fence but would will look into it.

Motion by Smith, support by Brockman to approve SUP-10-11 from L-1, Inc. to allow a restaurant that serves alcohol/nightclub at the property located at 1705-1721 S. Mission Street meets the conditions listed in Section 154.171(A). The Special Use Permit is hereby approved, based on the materials provided by the applicant, subject to the following conditions:

1. The applicant shall comply with the requirements of Section 154.067(C)(9) of the Zoning Ordinance.
2. The applicant shall comply with the requirements of the Zoning Board of Appeals and the State of Michigan, with at least 50% of the gross revenues of the establishment from food sales.
3. The establishment shall operate in accordance with the restaurant and night club layouts represented by the applicant, and received in the Community Development Department on December 27, 2010.
4. Approval is based on the representation of the applicant that the establishment will be operated 24-hours a day, with the establishment operating as a night club at most between the hours of 10:00 p.m. and 2:00 a.m., daily. An increase in the maximum hours of operation as a night club and/or decreases in the minimum hours as a full service restaurant will be considered a change in use and will require review and approval by the Planning Commission.
5. Noise from the establishment shall not be audible at the property lines.
6. The applicant shall comply with the requirements of the Division of Public Safety (DPS) and the Division of Public Works (DPW).

Motion approved unanimously by roll call vote.

VI. Public Comments

Chairman Orlik opened the Public Comments portion of the meeting, stating that this would be the last opportunity for audience members to speak, other than applicants.

There being no who wished to address the Board, Public Comments was closed.

VII. Site Plan Reviews

None Scheduled.

VIII. Unfinished Business:

None

IX. New Business:

A. Approval of 2011 Meeting Schedule: Staff presented the traditional schedule, with meetings scheduled on the first Thursday of each month, along with a list of typical dates that have conflicted in the past.

Motion by Rautanen, support by Robinette to approve schedule as presented.

Motion passed unanimously.

X. Staff Report

A. February Meeting: Staff reported that the deadline for the February meeting is Monday, and although no items have been received to date, the February meeting is traditionally the time for electing new officers, reviewing the 2010 Report and setting goals for the year. Therefore; even if no requests are received, we will be holding a meeting.

XI. Adjournment.

Motion by Robinette, support by Holtgreive to adjourn to work session.

Motion passed unanimously.

Meeting adjourned 8:43 p.m.

bam