

# MANISTEE CITY PLANNING COMMISSION

70 Maple Street  
Manistee, MI 49660

## MEETING MINUTES

May 4, 2006

A Meeting of the Manistee City Planning Commission was held on Thursday, May 4, 2006 at 7:00 p.m. in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan.

**MEMBERS PRESENT:** Maureen Barry, Ben Bifoss, Tamara Buswinka, Dave Crockett, Greg Ferguson, Ray Fortier, and Tony Slawinski

**MEMBERS ABSENT:** Sara Bizon and Roger Yoder

**OTHERS:** Michael R. Wood (20 Hancock Street), Linda Spencer (S.S. City of Milwaukee), Fred MacDonald (Convention & Visitors Bureau), Dave Yarnell (Chamber of Commerce), Ginny Pelton (329 First Avenue), James Sheldon (Ludington), Pete Lazdins (Design Plus), Jim Nordlund (Nordlund & Associates), JT MacDonald (West Coast LLC), Greg Gust (West Coast LLC), Mark Chmura (308 River Street), Cyndy Fuller (Harbor Village), Jeff Mikula (Abonmarche), Mark Reenders (Mark Reenders Construction Inc.), Jon Rose (Community Development), Denise Blakeslee (Planning & Zoning) and Others

Meeting was opened at 7:02 p.m. by Vice Chair Ray Fortier.

### PUBLIC HEARING:

#### S.S. City of Milwaukee - Special Use Permit Revision.

The S.S. City of Milwaukee was granted a Special Use Permit in October 2003. The S.S. City of Milwaukee is in the process of selling the portion of their property that the Moonlite Motel is located on (111 Arthur Street).

**Michael Wood, Bitley Michigan, 53 N. Arthur Street & 20 Hancock Street** - Mr. Wood disagreed with issuing the Special Use Permit the first time. The first application included the entire complex including the Motel and it should stay as one complex. He would like to see the boat removed, spoke of the junk on this site, they have parties and weddings on the boat, they have not met the commitments made in their first application and the plan. He said that they will sell the motel and we will be stuck with the junk. Copy of letter sent to the Planning Commission (attached).

**Linda Spencer, General Manager S.S. City of Milwaukee** - Ms. Spencer said that the S.S. City of Milwaukee is a non-profit organization run by volunteers. They are selling the motel property which was in disrepair and they do not have the funds and manpower to repair it. They are in the process of moving

the handicap ramp to the rear of the boat. A seawall collapsed and they are repairing it and are in the process of cleaning and landscaping the site. These items taken longer than they expected but they are committed. The contract for weddings and parties held on the boat, reads that the music must be turned off by 11:00 p.m. Parking is less of an issue than they believed it would be when they applied for their Special Use Permit in 2003. The main source of revenue has been the "Ghost Ship" event during Halloween. Their income is from the Ghost Ship, Tours, Parties and Memberships. They had approximately 5,500 people tour last year. This location has been much better than the previous location on Tenth Street. Approximately 65% of their visitors said they stopped because they could see the boat when they came through town. Of the 5,500 visitors half were during the Ghost Ship event.

**Fred MacDonald, Convention and Visitors Bureau** - Mr. MacDonald is sympathetic towards Mr. Woods concern. The S.S. City of Milwaukee is struggling, while the City of Muskegon has two ships and lots of support from their community. Given time the S.S. City of Milwaukee will become more of an attraction. With their funding and having to use volunteers it will take them time to accomplish all of their goals. Give them the time they need and they will become a good attraction, they are important to the economy and will become an asset to the community.

**Dave Yarnell, Chamber of Commerce** - Uniqueness is a key asset in Manistee. The S.S. City of Milwaukee is a great addition to the our Uniqueness and an important part of our Historic Tours. They are having difficulties because they need to depend on volunteers. Given time they will accomplish their goals and we will be proud of them. The US 31 location is a good location for them.

**Ginny Pelton, 329 First Avenue** - Ms. Pelton feels that the SS City of Milwaukee is a cool asset to our community. She spoke of the assets of our Lakeshore, Rivers and volunteering. She is in support of the ship.

**James Sheldon, Ludington Area** - Mr. Sheldon's Dance group holds an annual event in August on the Ship. They have a great time and he came to support the request for the S.S. City of Milwaukee. The ship is unique to Manistee and he enjoys seeing when he travels through the community and thinks of it as part of the community. Given time it will keep getting better it just need support from the community. More need to get involved and they will realize the asset of having the ship.

There being no further discussion the Public Hearing Closed at 7:20 p.m.

West Coast LLC/The Bay Condominiums - Special Use Permit for Planned Unit Development.

**Pete Lazdins, Design Plus; Jim Nordlund, Nordlund & Associates, Inc.; J.T. MacDonald, West Coast LLC; Greg Gust, West Coast LLC.** - Gave an overview of the proposed Planned Unit Development. The request would allow the development of 40 residential condominium units with boats slips and amenities. There are two existing curb cuts on US 31 and when the project is complete they will only have one. They have spent a year working on the development for this project that will result in increase in tax base, units will begin at \$300,000 bringing additional jobs to the community during construction and upon completion, new residents. They used Section 509 of the ordinance to determine grade. Using this

section the height of the buildings will meet the requirement of the ordinance. View corridors would be at the north and south ends of project and 20 feet between buildings. Developer would be willing to donate the north end as public space.

Ginny Pelton , 329 First Avenue - Likes the proposed development. Likes the idea of allowing public access, if you build it people will come.

There being no further discussion the Public Hearing Closed at 7:40 p.m.

#### APPROVAL OF MINUTES:

##### Planning Commission Meeting of April 6, 2006

MOTION by Tamara Buswinka, seconded by Tony Slawinski that the minutes of the April 6, 2006 Planning Commission Meeting be approved.

With a roll call vote this motion passed 7 to 0.

Yes: Barry, Buswinka, Ferguson, Fortier, Bifoss, Slawinski, Crockett  
No: None

#### NEW BUSINESS:

##### S.S. City of Milwaukee - Special Use Permit Revision.

A Public Hearing was held earlier in response to a request from the S.S. City of Milwaukee to revise their Special Use Permit that granted in October 2003.

Discussion on requirements of Special Use Permit, were all conditions met, is paved parking required?

MOTION by Tamara Buswinka, seconded by Ben Bifoss to postpone discussion on the S.S. City of Milwaukee request for a Special Use Permit amendment until the June 1, 2006 meeting to allow review of site plan as it pertains to the new ordinance, staff review for compliance/changes and to report differences.

With a roll call vote this motion failed 4 to 3

Yes: Bifoss, Ferguson, Buswinka  
No: Barry, Fortier, Crockett, Slawinski

MOTION by Dave Crockett, seconded by Maureen Barry that the request from the S.S. City of Milwaukee to revise their Special Use Permit be approved.

With a roll call vote this motion failed 3 to 4.

Yes: Barry, Fortier, Crockett  
No: Buswinka, Ferguson, Bifoss, Slawinski

MOTION by Ben Bifoss, seconded by Tamara Buswinka to schedule a Special Meeting after the May 18, 2006 worksession to discuss the request from the S.S. City of Milwaukee

With a roll call vote this motion passed 7 to 0.

Yes: Fortier, Buswinka, Bifoss, Slawinski, Crockett, Barry, Ferguson  
No: None

#### West Coast LLC/The Bay Condominiums - Special Use Permit for Planned Unit Development.

A Public Hearing was held earlier in response to a request for West Coast L.L.C. for a Planned Unit Development for The Bay Condominiums (former Joslin's site). The request would allow the development of 40 residential condominium units with boats slips and amenities .

Discussion included:

- ▶ Creating a wall of buildings
- ▶ Deceleration Lanes
- ▶ Where sidewalks end
- ▶ Landscaping concerns
- ▶ Encroachment into waterfront setback
- ▶ Dumpster locations, is there a dumpster?
- ▶ Traffic flow (no turn around)
- ▶ Definition of View Corridors
- ▶ Asphalt encroachment
- ▶ Donation of property as park - what are feelings of Parks Commission?

MOTION by Ben Bifoss, seconded by Tamra Buswinka that the request from West Coast LLC/The Bay Condominiums for a Special Use Permit for a Planned Unit Development be moved to the next worksession for further discussion with the developer to discuss waterfront setback concerns and effort to provide view corridors.

With a roll call vote this failed 2 to 5.

Yes: Buswinka, Bifoss  
No: Fortier, Slawinski, Crockett, Barry Ferguson

MOTION by Maureen Barry, seconded by Ben Bifoss to postpone the request from West Coast LLC/The Bay Condominiums for a Special Use Permit for a Planned Unit Development to the May 18, 2006 worksession.

With a roll call vote this motion passed 7 to 0.

Yes: Slawinski, Barry, crockett, Ferguson, Buswinka, Fortier, Bifoss  
No: None

Mark & Chris Chmura - Special Use Permit for Marina.

Mark & Chris Chmura purchased the property at 308 River Street (Hokanson's). Mr. & Mrs. Chmura would like to construct a marina with 8 boat slips. If the Planning Commission feels that the application is sufficient they can request that Staff Schedule a Public Hearing.

Mr. Chmura would like to construct the dock along the seawall (not the finger piers/boat slips) prior to issuance of the Special Use Permit with the understanding that it would be at his own risk. Mr. Chmura is allowed to construct two boat slips as a use by right. Marina's are defined as "A facility including three (3) or more waterfront boat slips..." The Planning Commission could authorize the issuance of a Land Use Permit for the construction of the dock at the owners risk.

Mr. Chmura was requested to submit documentation on how to handle fish waste for his marina.

MOTION by Tamra Buswinka, seconded by Ben Bifoss that a Public Hearing be scheduled for June 1, 2006 to hear the request from Mark & Chris Chmura for a Special Use Permit to construct an eight boat slip marina at 308 River Street and that a Land Use Permit be issued to allow the construction of a dock along the seawall for two boat slips.

With a roll call vote this motion passed 7 to 0.

Yes: Slawinski, Barry, crockett, Ferguson, Buswinka, Fortier, Bifoss  
No: None

Harbor Village - Site Plan Review (10 Condominium Units).

Due to a conflict Ben Bifoss abstained from discussion on this request.

Jeff Mikula and Cyndy Fuller explained the request from Harbor Village for a Site Plan for 10 Condominium Units. This development is located in the Lakeview Area. The request is for a lesser number of units than allowed in the area where the existing storage/maintenance facility is located. The developer plans to demolish the existing structure to construct these units. The layout of the buildings and driveways were explained and the area will have a neighborhood appearance.

MOTION by Tony Slawinski, seconded by Dave Crockett that the request from Harbor Village for Site Plan Approval for a 10 Condominium units in the Lakeview Area be approved.

With a roll call vote this motion passed 6 to 0 with Ben Bifoss abstaining.

Yes: Crockett, Slawinski, Buswinka, Ferguson, Barry and Fortier  
No: None

Mark A. Reenders Construction Inc. Special Use Permit for Planned Unit Development.

Mark Reenders from Mark A. Reenders Construction Inc. presented a proposal for a Planned Unit Development on the former Washington School property. The project will consist of two phases with a total of 33 units. The developer will save some of the existing trees on the site but will remove the pine trees along Ford Street. Due to the topography of the site the units in phase one will be three stories in height while the units in phase two will be two stories.

Discussion included:

- Wall of buildings
- Storm Water control
- Off street parking
- Does the development fit with the neighborhood

MOTION by Maureen Barry, seconded by Greg Ferguson that a Public Hearing be scheduled for June 1, 2006 in response to the request from Mark A. Reenders Construction Inc. for a Special Use Permit for a Planned Unit Development

With a roll call vote this motion passed 7 to 0.

Yes: Crockett, Barry, Buswinka, Ferguson, Bifoss, Fortier, Slawinski  
No: None

**UNFINISHED BUSINESS:**

Jon Rose gave each member a letter from City Attorney Bruce Gockerman regarding their question as to which Zoning Ordinance the request from Sand Products Corporation falls under. Mr. Gockerman's determination is that the current ordinance should be used and his letter is attached.

**OTHER COMMUNICATIONS:**

None

**CITIZEN QUESTIONS AND CONCERNS:**

None

**WORK/STUDY SESSION:**

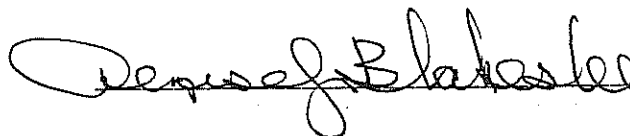
Next worksession will be on Thursday, May 18, 2006 at 6:00 p.m. in the Council Chambers followed by a Special Meeting.

**ADJOURNMENT:**

MOTION by Ben Bifoss, seconded by Tony Slawinski that the meeting be adjourned. Motion passed unanimously.

MEETING ADJOURNED AT 10:13 P.M.

MANISTEE PLANNING COMMISSION



Denise J. Blakeslee, Recording Secretary

Michael R. Wood  
10130 N. Centerline Road  
Bitely, Michigan 49309  
231-745-3236 Fax 745-8736

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5-1-06

Mr. Jon R. Rose  
Community Development  
City of Marquette

9 Pages  
Total

Dear Mr. Rose:

Subject: SS City of Milwaukee request to  
revise the Special Use Permit

This letter is to request that the "Request  
to revise" be denied! I was at the  
original hearing representing my daughter (POA  
attached) as well as myself as a separate  
commercial property owner. My (son) request  
at that time representing my daughter (53 N.  
Arthur) and now both of us (mine 20 Hancock) was  
and is in total opposition to the entire  
SS Milwaukee Special Use Permit. By  
revising to remove the Moonlite Motel  
just leaves us with the eyesore of  
the SS Milwaukee.

Every honest person knew the original proposal  
was illegal, i.e., a total sad joke. The



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5-1-06

use of SS Milwaukee is a failure, they didn't meet their timetable for rehab, it looks like waste, and they have not adhered to their usage commitments. With regard to the latter, I specifically asked if there would be loud parties, bands, noise and booze. Was told no -- none of the above. Well there have been all of these well into the night -- bands, booze and wedding receptions and party events. Now they want to remove the motel and exercise their option to sell the property. And we're still stuck with the eye sore, filth and noise -- not to mention the on lake impact -- fishing and safety, etc.

By revising the permit the entire incentive to finish the rehab is gone and adjacent property owners are stuck with the "waste".

"We were lied to -- the permit should "hold" as is until that ship is removed!"

Michael R. Wood  
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Removed on the original concept <sup>5-106</sup> completed.  
You must not let them get away with  
failure at the expense to adjoining  
property owners!

Submitted with respect,

Michael R. Wood

POA for Parcel 5151 142 011 00  
Owner with wife Parcel 5151 448 733-01

Attachment -- Stephanie M. Wood Power of  
Attorney -- 6 Page Attachment

# Gockerman, Wilson, Saylor & Hesslin, P.C.

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May 3, 2006

**NOTICE: THIS COMMUNICATION IS COVERED BY THE ATTORNEY-CLIENT PRIVILEGE AND IS NOT SUBJECT TO DISCLOSURE UNDER THE MICHIGAN FREEDOM OF INFORMATION ACT.**

Mr. Roger Yoder  
Chairman  
City of Manistee Planning Commission  
70 Maple Street  
Manistee, MI 49660

Mr. Jon Rose  
Community Development Director/Planning Commission Liaison  
City of Manistee  
70 Maple Street  
Manistee, MI 49660

Re: Application of New City of Manistee Zoning Ordinance to Pending Land Use Applications and Previously Issued but Unconstructed PUD

Gentlemen:

Mr. Rose has requested a formal opinion on the applicability of the new City of Manistee Zoning Ordinance as adopted February 21, 2006 and effective March 27, 2006 to land use applications received before the effective date of the Act and land use approvals issued before the effective date of the Act. The Michigan law is quite clear on this subject. No vested interest or rights exists in an ordinance or land use permit until actual substantial physical work has begun on the subject property. Adams v Kalamazoo Ice and Fuel Company, 245 Mich 261; 22 NW 86 (1928); also see, Civil Association v Horowitz, 318 Mich 333; 28 NW2d 97 (1947); White Lake Township v

Mr. Roger Yoder  
Mr. Jon Rose  
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*Amos*, 371 Mich 693; 124 NW2d 803 (1963). The Michigan Supreme Court has laid down the rule that a use begins at the time when substantial physical construction or work for the facilities approved for the use has begun. *Lansing v Dawley*, 247 Mich 394; 225 NW 500 (1929); also see, *Schubiner v West Bloomfield Township*, 131 Mich App 490; 351 NW2d 214 (1984).

Thus, the new ordinance, as adopted February 21, 2006 and effective upon publication March 27, 2006, is the controlling land use ordinance for:

1. All land use applications received on or after March 27, 2006;
2. All land use applications filed under the old ordinance but approval unissued at the effective date of the new ordinance;
3. All land use applications filed and approved under the old ordinance, but where no substantial construction has taken place by the effective date of the new ordinance; and
4. All land use applications received under the old ordinance but unacted upon by the Planning Commission as of the effective date of the new ordinance.

The best treatise discussion of this matter can be found in Section 5.02, Michigan Zoning and Planning, Third Edition (and supplements thereto) as authored by Clan Crawford, Jr. and published by the Institute of Continuing Education.

Should you have further questions, please contact me at your earliest convenience.

Very truly yours,

GOCKERMAN, WILSON, SAYLOR & HESSLIN, P.C.



Bruce C. Gockerman

BCG:pav

c: Mr. Mitch Deisch, City Manager

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