

**City of Wyandotte**  
**PLANNING COMMISSION**  
***Minutes of the Thursday, January 18, 2018, Meeting***  
**MINUTES AS RECORDED**

The meeting was called to order by Chairperson Pasko at 6:30 p.m.

COMMISSIONERS PRESENT: Benson, Mayhew, Parker, Pasko, Rutkowski, Sarnacki

COMMISSIONERS EXCUSED: Adamczyk, Duran, Lupo,

ALSO PRESENT: Ben Tallerico, Planning Consultant  
Kelly Roberts, Recording Secretary

**COMMUNICATIONS:**

Communications were received and placed on file.

**APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING:**

MOTION BY COMMISSIONER MAYHEW, supported by Commissioner Sarnacki, to approve the minutes of the regular Meeting of December 21, 2017. MOTION PASSED.

**OLD BUSINESS:**

None

**NEW BUSINESS:**

1. **PUBLIC HEARING** Request from Thien Nam Vu Ta Owner and Appellant, for a Certificate of Occupancy for a restaurant at 1753 Ford Avenue, Wyandotte, in a O-S Zoning District where the proposed conflicts with Section 1101.A of the City of Wyandotte's Zoning Ordinance.

MOTION BY COMMISSIONER PARKER, supported by Commissioner Benson, WHEREAS, the Planning Commission received a request from Thien Nam Vu Ta, Owner and Appellant for a Certificate of Occupancy for a restaurant at 1753 Ford Avenue; AND

WHEREAS, the Planning Commission held the required public hearing on January 18, 2018, where comments were heard and made part of the file;

NOW, THEREFORE BE IT RESOLVED that the Planning Commission approves the Certificate of Occupancy for a restaurant at 1753 Ford Avenue, Wyandotte, Michigan for the following reason:

The adopted Master Plan for this area is Commercial Use. Further, a Restaurant is an allowable special use in the O-S District.

YEAS: BENSON, MAYHEW, PARKER, PASKO, RUTKOWSKI, SARNACKI  
NAYS: NONE                      ABSENT: ADAMCZYK, DURAN, LUPO  
MOTION PASSED

**PUBLIC HEARING** – Request from Captain's, Les Salliotte and Rick DeSana, Owner and Appellant, for a Certificate of Occupancy for a Rear Outdoor Café at 126 Oak Street, Wyandotte, in a CBD Zoning District, where the proposed conflicts with Section 2200.S.2 of the City of Wyandotte's Zoning Ordinance.

MOTION BY COMMISSIONER PASKO, supported by Commissioner Rutkowski, RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF WYANDOTTE, that the Commission reviewed the application and plan for the outdoor café at 126 Oak Street as requested by Captain's (Appellant);

AND BE RESOLVED that the Permit for an Outdoor Café on Private Property at the rear of 126 Oak Street, Wyandotte, is hereby **approved** with compliance of all ordinance requirements and other conditions listed below:

1. The outdoor café is subject to all conditions applicable to an outdoor café on private property in the Central Business District (CBD) Zoning District, Section 2202.S of the City of Wyandotte's Zoning Ordinance. The applicant is responsible for carefully reviewing, understanding and complying with the requirements of the ordinance.
2. Outdoor café to be constructed in accordance with the site plan submitted by Owner/Applicant dated November 13, 2017.
3. If alcoholic beverages are served, the current Michigan Liquor Control Commission rules and regulations shall apply, and the applicant shall obtain all necessary approvals.
4. Compliance with all Police, Fire and City Engineer requirements.
5. Use of the outdoor café shall be allowed from 7:00 a.m. to 12 midnight with extended hours to 2:00 a.m. on 3<sup>rd</sup> Fridays, Street Art Fair and events approved by Resolution by the City Council from March 15 through November 15. No afterhours smoking or drinking allowed.
6. The outdoor café shall comply with all applicable laws and regulations of the City, County, and the State.
7. Umbrellas to have name of establishment on the drip-tee only, no logo's for products.
8. Occupancy is limited to 127 persons.
9. Due to the required ADA handicap parking space and adjacent property's existing fire escape stair, the requirement of the eight (8) foot solid fence to screen the adjacent residential properties to the north will be replaced with a new building and an eight (8) foot solid wood privacy fence extending from the new building to the east property line/adjacent property's fire escape stairs.
10. No persons shall be in the Outdoor Café for any reason other than allowed and as specified in Item 5 above.
11. Rear garage doors close at 12 midnight except for the times as specified in Item 5 above.
12. Sound attenuating or buffering material shall be applied to the patio fence and building walls and be so designed to reduce the noise escaping from the patio area. Review and approval of the measures will be by the City Engineer.

YEAS: MAYHEW, PARKER, PASKO, RUTKOWSKI, SARNACKI

NAYS: BENSON

ABSENT: ADAMCZYK, DURAN, LUPO

MOTION PASSED

**PERSONS IN THE AUDIENCE:**

None

**OTHER BUSINESS:**

- Monthly Report from Ben Tallerico, Beckett & Raeder. Mr. Tallerico discussed the report that he had submitted to the Board.

**BILLS AND ACCOUNT:**

MOTION BY COMMISSIONER BENSON, supported by Commissioner Mayhew to:  
Pay Beckett & Raeder for Planning Consultant fee for January 2018 in the amount of \$700.00

YEAS: BENSON, MAYHEW, PARKER, PASKO, RUTKOWSKI, SARNACKI  
NAYS: NONE                      ABSENT: ADAMCZYK, DURAN, LUPO  
MOTION PASSED

**MOTION TO ADJOURN:**

MOTION BY COMMISSIONER BENSON, supported by Commissioner Rutkowski to adjourn the meeting at 8:15 p.m.

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Request from Thien Nam Vu Ta Owner and Appellant, for a Certificate of Occupancy for a restaurant at 1753 Ford Avenue, Wyandotte, in a O-S Zoning District where the proposed conflicts with Section 1101.A of the City of Wyandotte's Zoning Ordinance.

Chairperson Pasko opened the hearing and asked Mr. Tallerico to review with the Commission this request.

Chairperson Pasko opened the hearing and asked Mr. Tallerico to explain the special use section of the Ordinance.

Mr. Tallerico explained that the Ordinance allows for a restaurant use under the special use in the O-S Service District. Mr. Tallerico further explained that this area is Master Planned commercial use which a restaurant would qualify. Mr. Tallerico continued further that the former use was an old store.

Mr. Benti, brother to the owner. Mr. Benti stated that it is their dream to open a restaurant and currently they own a nail salon in Trenton and want to expand their businesses. Mr. Benti stated that the restaurant will be Vietnamese.

Commissioner Mayhew asked what the hours of the restaurant will be.

Mr. Benti stated that the restaurant will be open for lunch and dinner. Mr. Benti continued further that the building will be made more attractive which will help the City. Mr. Benti continued that they will be talking to their contractor to see what can be done to the building to make it more attractive.



Mr. Thien Ta, owner, indicated that they will be adding windows to the building.

Commissioner Mayhew asked if the property was inspected by the City.

Mr. Thien Ta indicated that the City has performed the commercial inspection.

Mr. Benti stated that they would like to fix up the building and make an improvement to Wyandotte.

Mr. James Placinski, 2085 18<sup>th</sup> Street. Mr. Placinski indicated that he lives six (6) house from this proposed restaurant and has lived in this neighborhood for his whole life and he is against this restaurant. Mr. Placinski indicated that he has seen businesses come and go from this site and there are plenty of restaurants in this area and adding another restaurant will not add to the property values of the residential properties.

Mr. Placinski stated that he does not believe there is enough parking and he feels that the property should be kept to what the Ordinance allows. Mr. Placinski indicated that restaurants should stay on Fort Street and Biddle and that this use is not a good location.

Mr. Tallerico indicated that the owner is not requesting a variance this is a special use to the zoning and the area is zoned office which allows for special use as a restaurant.

Mr. Placinski asked if all the parking would be off street or does the street parking count.

Mr. Tallerico indicated that it is all off street.

Mr. Thien Ta indicated that the previous use was a liquor store and his restaurant will be family friendly and not like the other places in the area which are carry out pizza place. Mr. Thien Ta further indicated that this restaurant will benefit the City.

Chairperson Pasko asked if there was anyone else present that wished to express their thoughts on the hearing. There being no further discussion, the hearing was closed.

One (1) communication was received in favor of this request.

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**PUBLIC HEARING** – Request from Captain's, Les Salliotte and Rick DeSana, Owner and Appellant, for a Certificate of Occupancy for a Rear Outdoor Café at 126 Oak Street, Wyandotte, in a CBD Zoning District, where the proposed conflicts with Section 2200.S.2 of the City of Wyandotte's Zoning Ordinance.

Chairperson Pasko opened the hearing and asked if there was anyone present who wishes to express their opinion regarding this request.

Wayne Dutton, Thomas Roberts, Architect for owners. Mr. Dutton explained that he had submitted the plan of the proposed rear outdoor café.

Commissioner Mayhew asked how tall the new building would be.

Mr. Dutton stated it would be a single story about 16' to 18' in height, brick exterior flat roof similar to the current building on the site.

Commissioner Benson asked about the occupancy load.

Mr. Dutton stated that it would be increased to 127 occupants given that additional toilet facilities will be constructed on this site, which allows for the additional occupancy load.

Chairperson Pasko read the letter received from the City Engineer, Fire Chief and Police Chief.

Commissioner Mayhew asked what type of materials the fence would be constructed of.

Mr. Dutton stated that it would be a 6 foot wooden fence to match the fence along the west property line.

Commissioner Mayhew asked if the fence could be increased to eight (8) feet.

Mr. Dutton stated that he would have no problem with a solid eight (8) foot fence.

Commissioner Parker asked if the tables would be fixed.

Mr. Dutton stated no.

Joe Voszatka, 3166 Van Alstyne. Mr. Voszatka stated that he has worked with the City in the past and he is not here to speak for or against the café, but to speak about the Section 2200 Special Use and Conditions the Commission can place on the approval.

Mr. Voszatka passed out a redline version of the Ordinance and it was made part of the file. Mr. Voszatka stated that the Commission needs to make sure the outdoor café meets the standard items 1 – 7 and if the café meets all standard items, it can be approved.

Mr. Bruce Yinger, 117 Chestnut. Mr. Yinger stated that he has made several complaints, specifically regarding the hours of operation. Mr. Yinger indicated further that the outdoor café stays open past midnight routinely. Mr. Yinger stated that he understands when it is 3<sup>rd</sup> Friday or special events, but is it all the time. Mr. Yinger further stated that if the occupancy load is increased, there will be more problems.

Chairperson Pasko stated that the Commission will be reviewing the layout and the hours.

Mr. Yinger indicated that the new building is nice, but they are serving after midnight. Mr. Yinger further questioned the seating in that there will be more people standing than sitting which could cause problems. Mr. Yinger stated that the building should be enclosed. Further Mr. Yinger stated that there needs to be a clarification on the use of the outdoor café for smoking after midnight. Mr. Yinger stated that the TV's and the fireplaces are on and it should be closed. Mr. Yinger indicated that Captain's continue to operate after midnight with no enforcement.

Joe Hirsch, 144 Chestnut. Mr. Hirsch indicated that the building is very nice, but he is concerned with the expansion and them being routinely opened past midnight and calling it a smoking area. Mr. Hirsch indicated that the TV's and fire pits burn and people are drinking. Mr. Hirsch stated that the Police respond but no tickets are issued.

Mr. Hirsch stated that parking and foot traffic is spilling over into the neighborhood and with them not closing at midnight, it should not be allowed to expand. Mr. Hirsch continued to state further that allowing the outdoor café to expand would impact the values of the neighborhood.

Mr. John Howey, owner of 116 Oak. Mr. Howey indicated that his family has owned the adjacent apartment building for 50 years and he is opposed to this café, it is not fair to the tenants to have to listen to the noise until 2:00 a.m. and it is unacceptable that there is smoke going into units it is not fair to the tenants.

Mr. Howey indicated that the area where the outdoor café is located should be enclosed so the noise and the smoke does not bother the tenants.

Mr. Howey further indicated that increasing the occupancy load to 127 will cause problems since they can't control the café with 75 occupants. Mr. Howey further indicated that it is not fair to the tenants to allow people on the café to smoke and talk.

Mary Guilioz, 145 Chestnut. Ms. Guilioz indicated that she lives right behind the bar and there are problems with loud noises and there needs to be a buffer between the residential and the bar. Ms. Guilioz indicated that she and her husband have medical issues and loud noises cause stress and they don't need that. Ms. Guilioz continued that something needs to be done to help with the issues and she wants the Commission to keep in mind if they lived there what they would want.

Dean Robinette, Attorney for Rickles Entertainment (owner of Captains). Mr. Robinette indicated that they are in favor of the outdoor with approval of the submitted plan. Mr. Robinette indicated that there were police calls and a ticket was issued, but the ticket was dismissed with no violation found.

Mr. Robinette indicated that the noise concern has been checked and the decibel level was at 50 lower than what is allowed.

Mr. Robinette indicated that the Commission received a letter from the Police Chief indicating that he had no concerns with this request. If there were issues, the Police Chief would have raised concerns.

Mr. Robinette indicated that the Michigan Law has to designate a spot for smoking and the back patio is used for smoking, he continued that it could be dangerous to leave your drinks unattended to go out and smoke so people bring them with them.

Mr. Robinette indicted that the new building would provide a buffer to absorb the noise and the 8 foot high fence will also help.

Mr. Robinette stated that if there were issues with noise, the adjacent apartment building would be expected to have vacancies which they do not.

Mr. Robinette indicated that Wyandotte is a destination for places like Captains and he would like to see the plan approved and a renewal permit for the patio for 2018.

Commissioner Benson stated that it is his understanding that Michigan Law does not allow for smoking where food or drinks are being served so it does concern him that they are smoking on the outdoor café.

Mr. Robinette indicated that there is a letter in the Commission's packet from May 9, 2017, regarding the outdoor café being used as a smoking area.

Commissioner Benson stated that he is familiar with the letter and indicated that was not related to just Captains.

Mr. Robinette stated that in his opinion, taking drinks out and smoking is not a violation of the law.

Commissioner Benson stated that in his opinion, after midnight and drinks present it is in violation.

Commissioner Parker asked if smoking was allowed before the café is closed at midnight on the outdoor patio.

Mr. Robinette indicated that they will have to make sure they meet the law regarding smoking.

Chairperson Pasko stated that in his opinion, regarding smoking, if the outdoor café is closed and someone takes a drink out and smokes, they are in violation.

Mr. Robinette stated that according to the Court, they were not in violation from the ticket that was issued, you can smoke with your drink on the café and come right back in.

Commissioner Benson asked if a smoking area is provided during other times, and asked where is it located.

Rick DeSana, 126 Oak, owner present. Mr. DeSana indicated that they don't have to provide a smoking area.

Mr. Yinger stated that he received a letter from the City Attorney dated June 8<sup>th</sup> that clarifies that issue of serve.

Mr. Hirsch asked if the new garage doors will be closed at midnight.

Mr. DeSana indicated that the new garage doors on the back will serve the same as front, close based on weather.

Mr. Hirsch indicated that in Royal Oak the outdoor cafes close at midnight and in Plymouth at 11:30 p.m. and stated that the bar is 50 feet from the residential property and asked if there is no smoking area, where will patrons smoke.

Mr. DeSana stated that he checked Royal Oak and they have occupancy on their cafes until 2:30 a.m.

Chairperson Pasko stated they would have to go out front to the sidewalk and smoke.

Chairperson Pasko asked if there was anyone else present that wished to express their thoughts on the hearing. There being no further discussion, the hearing was closed.

Communications were received from the City Engineer, Police Chief, Fire Chief and one (1) communication was received from the public hearing.

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PC#1753 Ford Rec 1/10/18

To the planning commission of the City of Wyandotte:

I am Abbas Almansa, the owner of Wyandotte Sumo, at 1730 Ford Ave across the street from the site at 1753 Ford Ave. I would love to see a Restaurant of a different culture open up. Please I urge you to approve that and encourage the owner to do that.

Thank You  
ABG.

# WYANDOTTE ZONING ORD.

Rec 1/18/18  
From Mr. Voszatka

there are no street addresses, other means of identification may be used.

4. Statement of when and where the special land use hearing will be considered.

5. Indication of when and where written comments will be received concerning the request.

SEC. 2201 D.

D. Standards. No special land use shall be recommended by the engineering department or approved by the planning commission unless it shall find the following:

1. The establishment, maintenance, or operation of the special land use will not be detrimental to or endanger the public health, safety, or general welfare, or the natural environment.

2. The special land use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor shall it substantially diminish and impair property values within its neighborhood.

3. The establishment of the special land use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

4. Adequate utilities, access roads, drainage, and necessary facilities have been or are being provided.

5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.

6. The special land use shall, in all other respects, conform to the applicable regulations of the district in which it is located and to any additional conditions or procedures as specified in Article XXII.

7. A decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.

E. Conditions and guarantees. Prior to the granting of any special land use, the planning commission shall stipulate the conditions and restrictions upon the establishment, location, construction, maintenance, and operations of the special land use as deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in this section. In all cases in which special land uses are granted, the planning commission shall require any evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Any conditions imposed shall remain unchanged except upon the mutual consent of the planning commission and the land owner. The planning commission shall maintain a record of changes granted in the conditions.

F. Effect of denial of a special land use. No application for a special land use which has been denied wholly or in part by the planning commission