

# MINUTES

City of Alpena Planning Commission  
Regular Meeting  
April 8, 2014  
Alpena, Michigan

## CALL TO ORDER:

The regular meeting of the Planning Commission was called to order at 7 p.m. by Randy Boboltz, Planning Commission Vice-Chair.

## ROLL CALL: PLANNING COMMISSION

Present: Glowinski, Heraghty, Hunter, Boboltz, VanWagoner, Gilmore

Absent: Lewis, Sabourin, Dort

Staff: Adam Poll (Director of Planning & Development), Don Gilmet (Building Official)

## PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was recited.

## APPROVAL OF AGENDA:

The April 8, 2014, agenda was approved as printed

## APPROVAL OF MINUTES:

The minutes of the 2014, regular meeting were approved as printed.

## PUBLIC HEARING AND COMMISSION ACTION:

**Case 14-SP-02:** Request by Greg Konwinski for site plan review to allow a food vending trailer to operate at 1016 S. State Street (Lee's Miniature Golf).

Currently, neither the City Zoning Ordinance, nor the Alpena City Ordinance have language regarding temporary food trailers on private property. Staff has been directed by City Council to draft a mobile food vehicle (food truck) ordinance to cover the potential use of mobile food vehicles within the City and currently staff is working with a group including those who would like to operate food trucks (or trailers) within the City, and owners of existing brick and mortar restaurants. In order to begin operations in mid-May, the applicant asked staff if there was any process that could be utilized to allow him to operate his trailer prior to the ordinance adoption. As no specific language exists in the Zoning Ordinance, staff is treating the request as an accessory use to the existing mini-golf use.

The site is zoned Commercial Corridor District (CCD), which allows restaurants with outdoor seating areas, as well as fitness and recreational uses such as mini-golf. A brick and mortar restaurant could be constructed on the site by right. Because of the

temporary nature and because this use will be located on a mobile vehicle that is not subject to building code staff required the applicant to appear before the Planning Commission for site plan review.

The applicant has indicated that he will be selling a variety of foods with a menu consisting of fresh fruit and vegetable juices, smoothies, grilled cheese sandwiches, organic coffee, and healthy food bowls. The applicant noted that he will be licensed by the Alpena County Health Department as a fully functional commercial kitchen. The applicant had indicated that the hours of operation will be from 11 a.m. to 3 p.m. and from 4 p.m. to 9 p.m. from Wednesday to Sunday. The applicant has indicated that he had talked to the Department of Public Works who would provide additional tables to the site. After talking to the City Engineer, it does not appear that there will be excess tables available. The applicant has indicated that he is required by the health department to provide his own trash receptacles for his patrons.

If the City does pass a food truck ordinance in the near future, it would appear that this use would be regulated by the proposed ordinance. Initial drafts of the ordinance have required any mobile food vehicle to be at least 150 feet from any brick and mortar restaurants with a licensed kitchen. The site in question would appear to meet this requirement. In addition, the use, as described, would appear to meet other applicable requirements as well.

The use would appear to take up two parking stalls, with the potential to take up more if the applicant utilizes any tables. The site would still have 21 parking stalls remaining, which would appear to be adequate for existing and proposed use. In addition, there is a significant amount of public parking area to the south of the mini-golf course.

Staff recommends that the request to allow a food vending trailer to operate at 1016 S. State Street (Lee's Miniature Golf) be approved for the following reasons:

1. It would not appear to have a negative impact on the area.
2. It would appear to be a logical accessory use to the existing mini-golf location.

And with the following conditions:

1. The use would be subject to any mobile food vehicle ordinance that is passed in the future.
2. The use is inspected and licensed by the Alpena County Health Department.
3. The applicant maintains the appearance of the trailer and surrounding area.
4. Any utility needs are provided by the property owner.

FAVOR:  
None.

OPPOSITION:  
None.

#### COMMISSIONER'S DISCUSSION AND ACTION:

Hunter stated that it doesn't say seasonal but it is long-term so how is this being regulated differently from other food trailers that we see for specific events in town, like at the band shell, the Brown Trout Festival, and Art on the Bay. Are they going to have to come before the Commission? Do they have to get approval from Council? Poll stated they would not have to come before the Commission because those food trailers would be considered part of the events and if Konwinski wanted to take his trailer as part of an event then he would be able to do that. Hunter asked if event sponsors approve what food trailers can be there so the City has no involvement with that. Poll stated that the City approves the events and the sponsors pick whatever food trailers they want so the City doesn't directly approve them. Hunter asked why Konwinski needs a permit then to operate. If there isn't a law my sense is you can do it, unless there is a law restricting you from doing it. Is there a law that restricts Konwinski from doing this? Poll stated there is no wording in the ordinance that covers this use, but the ordinance what is allowed at a site, not what is disallowed. Hunter asked why we are involved in this. Poll stated that we are involved because this a use that is not covered by the ordinance and is potentially controversial in the fact that brick and mortar restaurants that do not want to see food trailers. Because of the location next to the public park and the lack of regulations on the trailer itself is why we are getting involved. Hunter stated that he is then not grandfathered in until you get a law to cover him. Poll stated that Council has instructed him to research and develop an ordinance to operate food trucks in the City and if the ordinance is passed, then the fee that Konwinski has paid would be applied to the ordinance fee but he would have to abide by the regulations set forth. Hunter asked what the violation be if Konwinski would just open up his trailer there. There are enough parking spots there so the violation wouldn't be inadequate parking. Poll stated his violation would be operating a mobile food vehicle that is not part of an event. Boboltz stated that the City is going to have an ordinance soon and it seems to make sense to behoove us to speak about this matter tonight in light of the fact that we know there is going to be an ordinance there and we are giving this person assurance that he has our blessing and hopefully he is fine with the ordinance when it is approved. Poll stated there is no language in the ordinance regarding mobile food trucks and basically the ordinance leaves anything that is not in the ordinance up to the Planner's discretion whether it needs to be approved by the Commission. If the Commission doesn't feel this needs to be approved today, we can allow Konwinski to utilize the site in question and return any fee he has paid. When and if the ordinance is passed we can have Konwinski pay the fee for the ordinance. Just trying to make sure that Konwinski is covered under every aspect and that no one can question his ability to be there. Glowinski stated it's not like this is precedence, he remembers the hot dog stand on public property at the Culligan Plaza for a number of summers and doesn't ever remember them coming to the Planning Commission to ask for permission to operate there. Heraghty asked if it is because the restaurant is on wheels, making it mobile. It is obviously going to be stationary at the mini golf course. Is that why it is coming before us because of that mobile side of it versus a cart stand? Glowinski stated the cart was mobile too, it was moved from Culligan Plaza down to Garant's Party Store. Poll stated that food carts are permitted within the DDA if they obtain the proper permits through the DDA. They are technically not allowed outside of the DDA. It is written within the

City Code. Glowinski asked if Konwinski approached the City asking what he had to do. Poll stated that Konwinski is actually involved in our food truck Ordinance Committee and he is working with us as well giving us his thoughts and making sure that he has no issues. Open to suggestions that he Konwinski doesn't have to come before the Commission if Commissioners doesn't think so. Glowinski stated he isn't going to go away. It looks like he already has an investment and when the ordinance does come out he will already have it. Makes sense to review it at this point. Boboltz stated he would like to hear from Konwinski and have him tell the Commission a little bit of what he is going to do and what he would like to see us do or not do tonight before I would make up my mind.

Hunter asked if this is going to be seasonal. Konwinski stated it is going to depend on the weather, probably late October. Hunter stated that when the Commission approves a land use it is for a long term purpose. If we approve this tonight can Konwinski come back every summer for as long as he wants or would this be just approving it for this summer? Poll stated this would be at the Planning Commission's discretion, but did not put in the list of conditions. As of right now, if you approve it the way it sits it would be indefinitely. Hunter stated he doesn't want to make a whole lot of work in the future for anyone including the applicant. Can we correctly approve this so that Konwinski doesn't have to come back again after the ordinance is passed? To me it sounds like we are being asked to preapprove for an ordinance that hasn't quite been finished yet. Poll stated this would be considered an accessory use tied to one location. If at this point he decided to move his trailer somewhere else then this would not apply. Hunter stated he would prefer not to vote on this tonight.

Konwinski, 200 S. Second Avenue, Apt. 3, stated he just wants to do whatever was necessary to get this going and make sure that someone doesn't show up and say that I can't do this. Came to Poll to find out what he had to do and was informed that Don Gilmet had a process that would have taken 6-8 weeks, but didn't want to do that because of how long it would take. Was given the option to do it the way we are doing it tonight. There are currently just two food trucks; his trailer and The Flattery. The Flattery is mobile and feels they are the ones that will be infringing on the brick and mortar restaurants more because they could theoretically park in front of the restaurant and sell something similar or take business away from them. The food truck ordinance is more for trucks that are mobile. Glowinski asked if Konwinski plans on having water inside the truck. Konwinski stated there are 5 sinks in the trailer. There will be two ways of getting water. One is going to be for the three compartment sink that you have to have for a commercial kitchen. You have to be able to wash, rinse, and sanitize. There will also be a hand washing sink. All the water for that will be coming from the municipal water supply via a hose. Any water for coffee, drinking water, and tea will be Culligan water that will be brought to the trailer. Glowinski asked where the wastewater will be going. Konwinski stated the trailer has a 42 gallon tank which will be emptied into a toilet and will go into the sewer.

Mike Polluch, 1008 S. State Avenue, stated that Konwinski contacted him and asked him about this idea. Told Konwinski to get ahold of Gilmet and find out what the laws

are. Wanted to make sure Konwinski touched base with everybody before we sat anything up, before we did anything so we don't get half way into this and then we are told that it has to be taken down. Food trucks have become popular in other cities and thinks it is something good for Alpena.

Hunter stated if the Commission votes on this tonight he would like the motion to include that Konwinski would not have to pay anymore fees for any future regulation. Poll stated that it could be added as another condition stating that whatever fees he paid will be applied to any ordinance fees. Glowinski stated that he is of the opinion that Konwinski and Polluch wants to be above the board. They came here for our endorsement and thinks it is a great project. Us voting on it lends to the endorsement that we approve of what they are doing.

Hunter asked about a time limit on this. Is it every summer if he wants to come back. Poll stated the Commission could set a time limit for just this summer, you could not set a time limit, or you could say he can do it every summer but has to be closed by a certain date. Honestly doesn't think it is going to matter if we get this food truck ordinance passed because we would prefer the condition be that whatever happens here he still has to follow the food truck ordinance.

Motion made by Glowinski, seconded by Heraghty, to approve the request to allow a food vending trailer to operate at 1016 S. State Street (Lee's Miniature Golf) with the conditions stated for one year and any fees that are paid would go towards any fees that are established in the new ordinance.

Ayes: Heraghty, Hunter, Boboltz, Glowinski, VanWagoner, Gilmore

Nays: None.

Absent: Dort, Lewis, Sabourin

Motion passed by a vote of 6-0.

**BUSINESS:**

None.

**COMMUNICATIONS:**

None.

**REPORTS:**

1. Freedom Motors Update

Poll stated that Gilmet has received the building plans and they are in the process of being reviewed. Freedom Motors has met all requirements so far. The clock has just started for the demolition phase a few days ago. Have not seen any activity as of yet, but still pretty early. Gilmet does have some concerns with the frost in the ground but it shouldn't hinder any demolition, but if there is any need to extend that,

we will cross that bridge when we get there. Glowinski stated there were a lot of people around the greenhouse over the weekend and earlier in the week, so they are working on it. Boboltz stated because of the sensitivity of the display at the current location, every time he has driven by it did appear that everything was in order and didn't see anyone blocking Duffy's driveway.

## 2. Update on Planning and Development Projects

### MSHDA Grants

Poll stated the City has finally been reimbursed for all the previous rental rehab grants. We have resubmitted for a new round of grants for our next 2 year grant cycle. We are asking for 10 units in the downtown. They did let us extend that down Chisholm and they did up that benefit to \$40,000 a unit. Just to refresh everyone's memory, this is to create new rental units on the second floor of commercial buildings. We also applied for 10 units for the Neighborhood Rental Development program also.

### Redevelopment Ready Communities Designation

Poll stated that the City applied for the Redevelopment Ready Communities status and the City was 1 of 17 communities that were chosen out of 65 communities that applied. The goal of this program is to streamline our process and try to reach out to businesses and make our community more business friendly for existing businesses and new businesses that are looking to move into the downtown. There will be some training sessions this summer for Commissioners to attend.

### Food Truck Ordinance

Poll stated that this is a work in process and we are making good progress. Staff has been spending a majority of their time on this.

## CALL TO PUBLIC:

None.

## MEMBERS' COMMENTS:

Boboltz stated it is really neat to see an increased level of activity that we are experiencing in the downtown. There is a lot of traffic compared previous years with all the additional businesses and activities that are happening downtown.

Hunter asked Poll if he has heard any news about the new downtown parking and how it is working. Poll stated he has heard that it has been a success. There have been a few complaints, but just like any major change, people are getting used to it. The downtown is being monitored and they are writing tickets. They are moving forward to get the gentleman that monitors the downtown access to write other tickets other than just parking tickets, which our Police Department is very much in favor of. Boboltz stated that since they started enforcing the parking again he has noticed that if he goes into The Fresh Palate there are actually spots open in the parking lot at 3<sup>rd</sup> and River. Before you would see that parking lot filled with no vacancies prior to 11 a.m., but now there are openings because employees are parking in other lots.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 7:45 p.m. by Vice-Chair Boboltz.

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Wayne Lewis, Secretary