

**JULY 30, 2020 PLAN COMMISSION MEETING MINUTES
CITY OF EDGERTON**

Commission Chair Christopher Lund called the meeting to order at 6:30 p.m.

Present: Christopher Lund, Jim Burdick, Anne Radtke (remote connection), Jim Kapellen, Julie Hagemann and Paul Davis who arrived at 6:32 p.m.

Absent: Ron Webb

Others Present: City Administrator Ramona Flanigan and a few citizens.

City Administrator Ramona Flanigan confirmed the meeting agendas were properly posted on Friday, July 24th at the Post Office, Edgerton Library, and City Hall.

PUBLIC HEARING: The Plan Commission held a public hearing to hear comments regarding a request by the Edgerton School District for approval of a conditional use permit to allow the installation of an identification, monument sign for the district office; a message center, monument sign for the elementary school; and a wall sign at the high school pool for the parcels located at 100 and 200 Elm High Dr.

City Administrator Ramona Flanigan stated the Commission recently amended the ordinance to allow institutional land uses the ability to request signage through a conditional use permit that is more flexible than the residential signage requirements.

The electronic message center (EMC) signs at the district office and pool will replace the existing signs. The elementary school sign is new and will be located near the existing circular seating area at the entrance.

Hearing no comments, the Mayor closed the public hearing.

CONSIDER CONDITIONAL USE PERMIT FOR SCHOOL SIGNAGE: Jim Kapellen/Julie Hagemann moved to grant the conditional use permit to allow the installation of an identification, monument sign for the district office; a message center, monument sign for the elementary school; and a wall sign at the high school pool for the parcels located at 100 and 200 Elm High Dr. with the following findings and conditions:

Conditions: The message center signs comply with the sign ordinance including the following:

- The sign does not change its appearance more than once every sixty (60) or more seconds;
- The sign contains no chasing lights;
- The sign message does not advertise an off-premises business;
- The electronic message center (EMC) shall not be illuminated between 10:00 pm and 5:00 am;
- The EMC utilizes an auto dimming feature to adjust the brightness of the display based on ambient outside light;

- The EMC is equipped with a manual and scheduled brightness control so that the brightness of the sign does not negatively impact adjoining property; and
- The sign does not have incandescent bulbs or rotating louvers.

Finding of fact:

- The proposed conditional use with the above conditions is in harmony with the purposes, goals, and objectives of the Master Plan or the Zoning Ordinance. 22.206(4)(c)2.
- The proposed conditional use, in its proposed location and as depicted on the site plan, will not result in undue adverse impact on nearby property, the character of the neighborhood traffic factors, and public rights-of-way. 22.206(4)(c)3.
- The proposed conditional use maintains the desired land use intensity and land use impact as it relates to the environs of the property. 22.206(4)(c)4.
- The proposed conditional use will not create major undesirable impacts on nearby properties, the environment, or the community as a whole. Section 22.206(4)(d),
- The potential public benefits of the proposed conditional use outweigh any and all potential adverse impacts of the proposed conditional use.

The motion passed on a 6/0 roll call vote.

PUBLIC HEARING: The Plan Commission held a public hearing to hear comments regarding a request by Terri Nottestad for approval of a conditional use permit to allow the establishment of an outdoor entertainment area at 520 N Main St. (parcel 6-26-305.2)

City Administrator Ramona Flanigan stated due to COVID-19 and social distancing requirements, the petition before the Plan Commission should be considered as a temporary use. Under normal circumstances the petition would not come before the Commission because it does not meet many of the requirements.

The following is a list of the conditions required by the ordinance for beer gardens and the bold comments apply to this proposal:

Conditional Use Regulations: {B-1, B-2, B-3, B-4, and HMU for establishments that serve alcohol}

- a. No permit shall be issued for an outdoor premises/beer garden if any part of the outdoor service area is within one hundred (100) feet of a residentially zoned property. **(actual distance 140')**
- b. Outdoor premises/beer gardens cannot be located in a right-of-way.
- c. No permit shall be issued for an outdoor premises/beer garden if the area is greater than 50% of the gross floor area of the principal use structure. **(less than 50%)**
- d. The outdoor premises/beer garden shall be attached to the principal use structure and access to the outdoor premises/beer garden shall only be allowed through the main building entrance and exit, exclusive of emergency exits not generally used for entrance and exit, and through a fenced and controlled entrance and exit. The Plan Commission shall define a controlled entrance or exit for each conditional use permit based on the site conditions. All outdoor premises/beer garden areas

shall comply with building and fire codes including exiting regulations. **(The proposed garden is attached to the building. Access to the beer garden is not directly from the building. Instead, patrons accessing the beer garden exit the building and go down a ramp before reaching the beer garden. The petitioner does not wish to include the building exit in the beer garden since this door serves as the accessible entrance to the building and patrons using this door would have to go through the beer garden first.)**

- e. Every outdoor premises/beer garden shall be completely surrounded by a well-maintained wall, fence or barrier at least four (4) feet in height. It is the nature of fencing as well as other measures and barriers to provide control over the operation of the outdoor premises/beer garden by prohibiting or significantly restricting the ease in which alcoholic beverages may be passed from within the outdoor premises/beer garden to anyone outside the outdoor premises/beer garden. Fencing requirements may be waived at the discretion of the Common Council upon recommendation of the Plan Commission. **(The proposed snow fence does not meet the intent of the ordinance. If allowed, it should only be considered because it is temporary and only under these unusual circumstances.)**
- f. The flooring of the outdoor premises/beer garden shall be constructed with a hard surface, such as decking material, concrete or paver brick. **(Asphalt)**
- g. It shall be the responsibility of the operator to daily clean up adjoining property of all debris that originates from the outdoor premises/beer garden.
- h. The outdoor premises/beer garden shall only be used for the purpose of serving food and beverages and no part of said area shall be used for recreational activities, including, but not limited to, volleyball or horseshoes.
- i. Noise from any source that is emitted from the outdoor area shall not exceed limitations provided in the City of Edgerton Code of General Ordinances. Amplified sound or live music is not permitted after 9:00 p.m. in the B-1, B-3, and B-4 Zoning Districts and not after 10:00 p.m. in the B-2 and HMU Districts. This section shall not be construed to limit the authority of the Police Department to respond to nuisance noise complaints and to take appropriate action in response thereto during any hours. For additional noise regulations for all land uses see Section [22.409](#) and for alcohol licensed establishments see Section [19.17\(9\)\(e\)](#). **(The petitioner does not wish to have live music in the beer garden.)**
- j. Three (3) or more noise complaints filed and verified by the Edgerton Police Department against the owner of an outdoor premises/beer garden during any 12-month period shall constitute sufficient grounds to revoke the outdoor premises/beer garden permit granted under this section, subject to a public hearing conducted in accordance with this chapter.
- k. All outdoor premises/beer gardens shall be sufficiently lighted to ensure the safety of patrons at all times when any patrons shall be therein, and at all times when the outdoor premises/beer garden is open to the public. Lighting of the area must be shielded and not be of intensity or brilliance to create glare which is distracting to adjoining property owners or can become a hazard or danger to vehicular traffic. **(The petitioner does not plan to add any lighting for the beer garden. There**

is an existing yard light over the building exit and the petitioner feels the light will be adequate to serve the temporary beer garden. If the petitioner petitions to make the beer garden permanent in the future, lighting would have to be improved.)

1. In no event shall the outdoor premises/beer garden reduce or inhibit the use or number of parking stalls provided on the property below the requirement established by the provisions of Section [22.404](#). If the number of provided parking stalls on the property is already less than the requirement, such outdoor premises/beer garden area shall not further reduce the number of parking stalls already present. **(The beer garden area in currently has picnic tables and appears to not be used for parking although it is part of the parking lot.)**

In addition, the petitioner must amend the liquor license for the establishment to allow the serving of alcohol in the beer garden.

Terri Nottestad, owner of Last Nite Bar & Grill, stated the area being considered is not large enough for a band and is currently being used as an outdoor smoking area. There are two tables in the area now and no additional tables are being proposed.

Jim Burdick asked if music will be piped out to the area. Nottestad stated it is not being considered.

Nottestad stated she is unsure how the fence will be put up. She envisions the snow fence will be secured to posts that will be bolted to the pavement. She hopes to replace a portion of the concrete and construct a permanent fence next year.

Jim Burdick and Chris Lund suggested a November 30th deadline for the temporary conditional use permit. Nottestad stated she currently has to tell her patrons not to take alcohol outside to the area now. She would like enough time to see how the temporary area is working and determine if she wishes to proceed with a permanent area instead of allowing alcohol for a short time and then removing it.

Joe Schweighardt, 204 Shannon St, stated he is concerned with loud music and noise. He was informed that there will be not music allowed outdoors.

After some discussion on dates and administrative approvals, the group agreed with a March 1st temporary use date with a possible 3-month administrative extension to allow for construction if the beer garden it going to be permanent.

Hearing no further comments, the Mayor closed the public hearing.

CONSIDER CONDITIONAL USE PERMIT FOR 520 N MAIN ST, LAST NITE BAR & GRILL: Jim Kapellen/Jim Burdick moved to approve a conditional use permit to allow the establishment of a temporary outdoor entertainment area at 520 N Main Street in accordance with the approved plans with the following conditions and finding of fact:
Conditions:

1. Any lighting changes do not create a nuisance to the neighboring properties.
2. The petitioner amends the liquor licenses to allow the serving of alcohol in the beer garden.
3. The permit expires and all outside improvements for the beer garden are removed by March 1, 2021 unless a possible 3 month administratively approved extension is granted.
4. No outside music or entertainment is allowed in the beer garden including piped music or speakers.
5. The City Council approves the proposed fence.
6. The petitioner complies with all the conditions listed in #3 above other than those waived by the Plan Commission or Council.
7. The fence must be secured

Finding of fact:

1. The proposed conditional use with the above conditions is in harmony with the purposes, goals, and objectives of the Master Plan or the Zoning Ordinance. 22.206.(4)(c) 2.
2. The proposed conditional use, in its proposed location and as depicted on the site plan, will not result in undue adverse impact on nearby property, the character of the neighborhood, traffic factors, and public rights-of-way. 22.206.(4)(c) 3.
3. The proposed conditional use maintains the desired land use intensity and land use impact as it relates to the environs of the property 22.206.(4)(c) 4.
4. The proposed conditional use will not create major undesirable impacts on nearby properties, the environment, or the community as a whole, per Section 22.206(4)(d).
5. The potential public benefits of the proposed conditional use outweigh any and all potential adverse impacts of the proposed conditional use.

The motion passed on a 6/0 roll call vote.

MINUTES: A Jim Burdick/Anne Radtke motion to approve the June 24, 2020 Plan Commission meeting minutes passed on a 6/0 roll call vote.

Being no other business before the Commission, a Jim Kapellen/Julie Hagemann motion to adjourn passed on a 6/0 roll call vote.

Ramona Flanigan/ch
City Administrator

Approved August 17, 2020