

**OFFICIAL PROCEEDINGS OF THE
MARQUETTE CITY PLANNING COMMISSION
June 20, 2023**

A regular meeting of the Marquette City Planning Commission was duly called and held at 6:00 p.m. on Tuesday, June 20, 2023, in the Commission Chambers at City Hall.

ROLL CALL

Planning Commission (PC) members present: W. Premeau, M. Rayner, S. Lawry, Vice-Chair N. Williams, K. Clegg.

PC members absent: D. Fetter, A. Andres, C. Gottlieb, Chair S. Mittlefehldt (all excused)

Staff present: Zoning Official A. Landers, City Planner & Zoning Administrator D. Stensaas

AGENDA

It was moved by K. Clegg, seconded by M. Rayner, and carried 8-0 to approve the agenda as presented.

MINUTES

The minutes of 05-16-23 and 06-06-23 were approved with corrections annotated in the meeting.

CONFLICT of INTEREST

No conflicts of interest were confirmed.

PUBLIC HEARINGS

**A. 09-SPR-06-23 & 01-CSD-06-23 (PIN: 0510156) – Forestville Basin Trail: The Bluffs Site
Condominiums request**

Zoning Official A. Landers stated: The Planning Commission is being asked to review an application for a Site Condominium proposal and provide a recommendation to the City Commission. She showed the application materials and site plans submitted by the applicant, as well as the Staff File Report and attachments, on the monitors in the room and explained each of the many items in that packet of materials that was included in the agenda packet.

Mr. Brain Savolainen, the representative for the applicant, stated:

I'm the civil engineer who prepared the roadway, the plans as part of the condominium. The road, right now, is an extension through a private road that goes through Marquette Township and then ends near the boundary of - Bruce Pesola is actually the owner of the project and the city had made some applications to the zoning. I think you guys have actually seen this once before. This is based on some of the new rules and regulations that were there. We met with city staff and went through several of the items. You don't technically have a roadway standard for this type of road. What we used was an AASHTO low-volume road where you're not seeing more than 100 vehicles a day, where it's basically like a dead-end situation like this. Though you don't have that in your ordinance, you do reference the AASHTO low-volume manual as an acceptable [guide] so that's why we chose that. The existing width of the roadway as it stands now is 20 ft. of gravel and we just maintain that through- we put a turning radius on it to handle ambulance, fire trucks, things like that, and we actually- the situation here is any fire or emergency thing, first responders actually work at the Township, so that's why you see correspondence from them in the packet. We also went through them, provided them with plans to review it. If this step is approved, then final condominium documents will be prepared, and Michael Mileski is a surveyor that will

be preparing those. He is also here for any questions should you have them, and I will be available for any other questions.

N. Williams opened the public hearing and closed it after nobody came forward to comment.

It was moved by S. Lawry, seconded by K. Clegg, and carried 5-0 to suspend the rules for discussion.

S. Lawry said that he had a question for staff, and asked how close is this property to the Longyear property that is in the 425-Agreement area – and are there other utilities in that area?

Mr. Savolainen stated:

The Longyear [property] actually is prior to the bridge crossing Forestville Road. This is past that location. We'll have no utilities and it'll all be well and septic. I believe there is power through the existing corridor, so that will basically be it for that. In terms of pickup, it's like a standard home pickup. I don't know which garbage contractor they have set up there, but there is an existing condominium just before our condominium and we have also been with them, and we made some minor modifications for the intersection of the road and how everything ties in, and that also went through the Township. So in regards to utilities, there really nothing more than power.

S. Lawry asked:

As far as the services then, there's a couple of homes out there that are actually existing homes within the city limits, correct?

Mr. Savolainen said yes, I believe there are a couple in the existing condominium.

A. Landers stated:

Let me clarify. The homes aren't in the city limits but part of the parcels are.

S. Lawry stated:

So that would explain why there hasn't been a demand for city services of any kind there, then.

A. Landers said yes, right.

S. Lawry stated:

Because I think this is going to present some issues, whether it be garbage collection or school transportation or road maintenance. Now it's private, but as far as that goes - I'm wondering why the fire protection, why Marquette Township would be the first responder. I believe on all structure fires right now, Chocolay Township, Marquette township and the city of Marquette are all responding.

Mr. Savolainen stated:

I guess they're not positive on who necessarily will be, but we're told also to contact the Township because of them currently handling that area, so I think it was a matter of both fire departments being onboard and your staff did also report [inaudible 00:13:27].

D. Stensaas said:

I think it's a mutual aid agreement.

S. Lawry stated:

I think it's been changed to require all three responses on a structure fire. It's automatic instead of requested mutually, and Marquette City has no tankers and obviously they need the tankers, which was a question - I didn't drive out there, it's probably been a year and a half, two years since I was out there, but at that time much of that Forestville Basin Trail was not wide enough for two tankers to pass.

Mr. Savolainen stated:

It's tight, it's 20 feet. The last time I drove out, there's a spot where there's a suction tube somewhere halfway down that road. I don't who officially put that in, but all we can do is make it what we can and continue it. We don't have any ability to change how the existing roadway is coming to that and so we tried to make it as clear as we did. Elevations where we are extremely flat, and that's the thing, too - we are very high above the Dead River in terms of being able to utilize the river on this site. For a place to do that, it really is not feasible [due to] the steep banks.

S. Lawry stated:

Yes, like 70 to 90 feet above the river, which leads to another question - if the lake elevation is lowered, or the reservoir is lowered for dam maintenance, do these people have water?

Mr. Savolainen stated:

All the water is well and septic, so that's going to be part of their own individual part of doing this, we're in process right now of doing the required evaluation of the site for septic and for well. We'll be digging test holes here soon and the soils are really good. It should pass without a problem, but if there's a water issue that will come up as part of the condominium requirements.

S. Lawry stated:

The water table could be at one level when the reservoir is full and quite a bit lower and they have to draw that down for some reason. And then also I was concerned with access - is there another way out of here if the bridge is not available - by going through the back to the Noquemanon Trails?

Mr. Savolainen stated:

It's actually a county road that comes off Forestville and heads into the old pit property. It is a designated county road and it's all been winding through there. I designed that years ago, and NTN has property back there, and Smith [Paving]. It's designated and ends up coming out just south of the Sugar Loaf, Partridge Trail area on CR 550.

S. Lawry stated I think it also may connect to the old Ash Haul Road.

Mr. Savolainen stated:

Yes, it does, but the Ash Haul Road - I don't know if that is designated "County" yet.

S. Lawry said the county has acquired it, but I don't know if they've opened it to traffic.

Mr. Savolainen stated:

Even if that hasn't happened yet you can still keep going north, and that's why I brought up through NTN's property and Smith and Lindberg, but it does technically have two accesses that way, and actually a third, if you want to go all the way into Negaunee township. It's not a fun road but I've taken it.

S. Lawry stated:

We hear horror stories from all over the country about people building at the wildland interface and this is I guess as much of a wildland interface as Marquette's got. And how municipalities haven't done their due diligence by letting people build out there. I guess one other point - I didn't see anything in the Public Works review comments about how they would provide typical city services to that area, because I believe the policy is still where residences are built on a private road, they have to bring their trash and everything out to the nearest public road. Public vehicles doing garbage collection I believe do not use private roads and so I think our standards call for a maximum link to a private road to be a quarter mile. I realize that doesn't apply here simply because you can't get there from a city public road. It poses some unique service delivery problems.

A. Landers stated:

My guess is if they didn't put that in there, he might have missed that. I don't think they qualify for it, so they would have to get their own trash removed.

M. Rayner stated:

That's what they do now on Forestville Basin Road I believe, they have to go get their mail up at the other end where it goes to a county road. You have to take that trash the same. And they hire out their plowing for that road.

Mr. Savolainen said all the mailboxes are all up at the end.

M. Rayner said that no services go down that road.

Mr. Savolainen stated:

That would be the same thing in this case that the mail would actually be in the township where it meets the road there.

S. Lawry stated:

I think that's the case with school bus routes as well. Having served on the Board of Review, people who buy these lots don't really understand that and why they're paying taxes if they can't get the same services. But it does come up regularly.

N. Williams stated:

The next step would be making the motions. My comment would be that I believe is the same case that came before the Board of Zoning Appeals, is that accurate, Andrea?

A. Landers said it is the same property.

N. Williams stated:

The same property and from that I remember of that case, what the Board of Zoning Appeals decided was basically that this needed to be a condominium in order for it to be viable and so I believe that's how the applicant came up with this arrangement.

S. Lawry said that he would be willing to make a motion.

It was moved by S. Lawry, seconded by K. Clegg, and carried 5-0 that after review of the site plan and the supplemental documentation dated 05-23-23, and the Staff Report for 09-SPR-06-23 & 01-CSD-06-23, the Planning Commission finds substantial compliance with the City of Marquette Land Development Code Section 54.1405 and Section 54.503 and hereby recommends that the City Commission approve 09-SPR-06-23 & 01-CSD-06-23 with the following conditions:

*1) the submittal of an amended plan is submitted to meet staff original and additional comments.
2) that the Master Deed include language to the effect that limited City services are available to residents of these lots, and language to indicate that the provision of City infrastructure would be at the cost of abutting landowners and not at the general obligation of the City or its utility funds.*

B. 02-SUP-06-23 (PIN: 0181350) – 420 N. Third Street: Marihuana Retailer request

A. Landers stated:

Staff has reviewed the special land use permit for a marihuana retailer located at 420 N. Third Street. She showed on the monitors in the room the application materials and site plans submitted by the applicant, the Staff File Report/Analysis, area and block maps, photos of the site, staff comments and responses and additional staff comments, and the site plan set. She also said that she did not receive any correspondence with this.

Mr. Erik Moin, the applicant, stated:

My name is Erik Moin. I live down state. Both my children live in Marquette. My plans here are for a multi-use building. It is not strictly a marihuana retail facility. The intention would be to have the ground floor be a marihuana retail, second floor office space supporting that regional operation in compliance with the Marihuana Regulatory Agency. There's also an apartment on the second floor and then the third floor has three studio apartments so those are what our intentions are for the facility and that's the scope of what our plans are.

Mr. Brain Bloch, of 908 N. Third Street, stated:

I'm very interested in the growth and development of 3rd Street. I've been watching it for 20 years. I bought my building there knowing that development in this city was going to be heading this way. I participated in the neighborhood charrette and the development or the transition of "The Village" into the 3rd Street corridor. I've been involved in real estate development since 1993 and I think this building is going to really look great where it's going, with Blackrocks, with the bagel shop and in short having watched many cities develop, this is the first property being developed to the highest and best use under the new corridor zoning plan that's been developed over the years and in my experience in the real estate development business it's like dominoes. Once somebody says hey, I'm just going to go for it. Instead of polishing a turd we tore it down and we're building something nice, and I think that's going to encourage other people to realize that the investment in 3rd Street is a good one and a lot of the redevelopment that will be happening on 3rd Street will be accelerated by people seeing this building coming into that standard.

N. Williams opened the public hearing and closed it after nobody came forward to comment.

It was moved by M. Rayner, seconded by S. Lawry, and carried 5-0 to suspend the rules for discussion.

K. Clegg stated:

I have some questions for the applicant. In the application they said no marihuana consumption on site, but since you're having apartments on site and you can't really guarantee that, I'm not sure with, is it LARA? If it's part of your licensure to ensure that that is required, if that means that apartments on site are contraindicated in your licensing, can you speak to that?

Mr. Bloch stated:

LARA's regulations would be specific to the four corners of the space that is licensed for marihuana. The upstairs apartments, not licensed. As the developers and owners of the property, we don't want people smoking in our units, regardless of what it would be. They're small apartments. Picture a strip mall. If you've got a strip mall and you've got a florist, a birdseed place and a coffee place, they're distinct and separate. If the florist is actually running a bookie operation out of it, the guy next door has nothing to do with it. So, as to your question, there will be no marihuana consumption in the store, in the offices, in the parking lot, and we will be enforcing that because that's the rules and this building is a very expensive investment on our part and we're certainly not going to screw up a good thing for some little thing like that. As a long-time attorney, I've done a lot of landlord-tenant work and I know how to write a lease and these apartments are going to be premium. If you look at those porches overlooking - they'll be facing Blackrocks from that height, amazing views. We don't intend to - I'm guessing they'll be pretty high end apartments and it just happens that when you rent to a higher socioeconomic class, you have a lot less problems as a landlord.

K. Clegg stated:

Can you comment on the parking spaces that are available? There are four units and they're one bedroom, correct?

Mr. Moin stated:

Four studios. The second floor is slightly larger than the third floor units.

K. Clegg asked:

If there's 9 parking spaces, how many are required per housing unit? Is it 1 or 2, or 1.5, according to our updated code?

A. Landers stated:

I'll check my notes, but I know it meets parking, but if you want specifics I'll have to look in my notes.

K. Clegg stated:

That's fine, I'll take your word for it if it meets all the parking requirements.

W. Premeau stated:

I have a question for Andrea. All that stuff was based on employees, right? You based it on a number of employees? It didn't say anything about the units.

A. Landers stated:

It meets the parking requirements. So, 3rd Street has its own parking requirements but I can go into the code if you want to see it.

D. Stensaas said that Commissioner Premeau is talking about parsing out the different uses. If the parking was allocated based on parsing out the retail and office, residential, etc.

A. Landers stated:

Third Street doesn't require it for certain uses and I can pull that up, like retail offices at a minimum. But it's the residential that they have to have parking for.

D. Stensaas said stated that's right, I think assembly uses and residential are the only required parking uses.

A. Landers said yes, due to the DDA parking study.

N. Williams asked Mr. Premeau if he had any other comments.

W. Premeau stated:

I just would say the plan itself, you should probably have someone review that closely. Many things in the plan that do not meet the code. I assume you're going to bring it up to the Michigan commercial building code. Lots of changes have to be made.

Mr. Moin stated:

We're aware of the number of them. We communicate with the architects on a regular basis and like everything else nothing goes as smoothly as we'd like it to, but we persevere.

Mr. Moin said we are also committed to adhering to the Land Development Code.

S. Lawry stated:

About 4 or 5 times in our standards that we're supposed to be comparing it against, it says it needs to comply with city ordinances, state and federal laws, and how can it comply with federal laws if it's selling marihuana?

D. Stensaas said that is with the state, the state has its own allowances under the federal law to do what it's doing.

Mr. Lawry stated:

What we're doing has some validity because if we're approving something that doesn't comply anyway, do we really give a permit?

D. Stensaas said we have the state's blessing to do this. If somebody's got a problem with the federal-state interaction, that's where they need to take the case to.

Mr. Lawry stated:

Having served on federal grand jury, I know they don't necessarily care what the state says.

N. Williams stated:

The Planning Commission will review the Special Land Use Standards one at a time to evaluate the proposal. The Planning Commission found that the proposal conforms with all 14 of the standards, as follows, with some of the relevant discussion:

1) Intent of the Zoning District (T5 subdistrict)

2) Use of Adjacent Lands

3) Physical Appearance of Structures

4) Landscaping

S. Lawry said that regarding the discussion about fitting new trees into the site in the staff and applicant's comments, are all those trees that currently are on the property line, are those over on the residential lot or are those on the Blackrocks lot? The existing tree structure that's there doesn't look like it will allow new planted trees to develop, I guess that is what I'm getting at. Are we requiring something that isn't necessary?

A. Landers stated:

We're requiring it on their property. I don't believe those trees are on their property, because they're not showing them being on their property.

D. Stensaas said that the LDC allows for existing trees to count toward landscaping and screening requirements if they meet the standards, and we want that and don't want to have people tearing trees up if they meet code requirements. So, they probably wouldn't have met the requirements.

S. Lawry said that part of the discussion was the you can't permit them to allow the canopy from their required trees to extend over the line, but if the existing tree canopy is already extending over their property, I wouldn't want to see us require them to cut all those branches off just so they can plant trees to meet our standard either, and they do have the right to cut them off if they are extending over onto their property.

A. Landers said that there are differing views among lawyers on that issue, but we advise people that trees are a civil issue.

5) Operations of Use

K. Clegg said that it should be noted that of the three businesses that would be there in line, this one would close the earliest by a wide margin.

S. Lawry said that a previous owner of the property, who had apartments there, was before this body several times trying to have us consider the effects of Blackrocks on those residential apartments. So, the effect could be the opposite of what we're discussing now, as the apartments may suffer some negative effects of the outdoor activities at Blackrocks.

K. Clegg said that any potential leaseholders of that property will know exactly what they're getting into.

N. Williams said that at least they're coming after Blackrocks existence .

6) Time of Use, Physical and Economic Relationship

K. Clegg said that we kind of covered that in the last one.

N. Williams stated there is residential nearby, not behind this space but the hours are to close earlier than other businesses nearby.

7) Number of Persons or Employees

M. Rayner asked:

For delivery of products, is it going to be handled through the front of this dwelling then?

Mr. Moin said there is a back door, in the southeast corner.

M. Rayner stated:

With your parking – will it still work?

Mr. Moin stated:

It will. There's a walkway out to the farthest few spots. So, delivery is typically available from retailer and lab stores. If you look at the footprint of the building, there is a door on the southeast corner...and there's a walkway out. There's also significant screening. That's your corner where the trees are that Commissioner Lawry was addressing. That corner on the residential lot is heavily wooded right now. And there's some new trees going in per the requirements.

A. Landers stated:

And then here's the unloading zone [shown on-screen], and he's saying that they would walk here and go into this door here.

Mr. Bloch stated:

And marihuana delivery doesn't come in a semi-like food truck, there are vans.

8) Vehicular and Pedestrian Circulation

N. Williams stated:

I think we all know traffic on 3rd Street can be bad at times but it does not seem like this use will significantly impact that.

D. Stensaas stated:

I do have a question, if you will allow it. On the site plan - the curb cut. Initially the applicant asked us for an administrative waiver. The curb cut and the curb return, that's not where it is now, right? Where it is now is a little farther to the north. And because there's a driveway basically right up against Blackrocks, on the south side of Blackrocks, I don't know why the site plan wasn't changed to reflect the fact that the applicant asked staff if we would allow that curb cut to remain where it is, because after talking to the City Engineer, we said yes. But this curb cut [shown in the site plans] is not where it is now. One way or another that needs to be noted here that if this gets approved, because this is going to be the approved site plan that you're showing us. This hasn't been changed, so that's an amendment to the site plan that would need to be requested and made.

Mr. Moin stated:

That was an oversight by the civil engineering team. If you look at the curb cut now, so this curb side here actually initiates on the southwest corner of the Blackrocks building, so this whole thing is already right here. This is an oversight from civil, and so we fully intend to not build this and we'll amend the drawings with plans, but this is a driveway. The current driveway is asphalt right now and goes out at about right here. It's very interesting, there's a seam down this asphalt area right now that basically represents the property line, so thank you David for pointing this out and this has been the subject of discussion. Currently, this whole piece is already in place for the existing driveway. So, there would be a new curb cut, of course this is a new parking lot. But this is incorrect, and the site plan will be amended, because we would just incorporate the existing curb cut and then only make the new one in the driveway.

N. Williams stated:

So, based on your question, would the entire thing just be shifted north or would it be extra wide, or is that permitted?

D. Stensaas stated:

I think what we've agreed on here is the existing cover cut will remain.

Mr. Moin stated

Yes, the north curb cut will remain.

M. Stensaas stated:

I brought this up because we need to address this at this meeting. That north curb cut here is not going to be made. It's going to exist as it is after this and that meets the city standard for the maximum width of a curb cut in this area. And it wouldn't serve any purpose to narrow that curb cut. It would actually be detrimental to everybody, especially to Blackrocks because that side of the building where you see that polygon with the door opening is - there's no polygon there, there's just a door.

A. Landers said it's a landing with steps.

M. Stensaas said that is an entrance to their side of their community room and stage area.

S. Lawry stated:

Talking about the driveway too, I mean this drawing depicts it still as an MDOT type-M opening in the comments, and even engineering indicated they have to change that to meet the city standard. It doesn't really interrupt the sidewalk with more ramps and curb returns, so in addition to moving it or showing two, they have to be shown as a different style.

M. Moin stated:

I believe we addressed that in our comments.

A. Landers stated:

Yes, he's just pointing it out to say that there were more comments about this. That's my understanding.

9) Physical Characteristics of the Site

S. Lawry stated:

The engineering comments made several suggestions about your runoff drainage and one of them was to consider tying into the storm sewer system because everything's falling toward the private residential lot at this point. I know your comments indicated you were trying to just slow and divert flows. But they were suggesting, I think detention and possible connection to the storm sewer, and if you are going to move your snow storage back there, as your comments indicated, I guess I'm wondering have you reviewed their comments and determined any change from what you originally proposed?

Mr. Moin stated:

We are accepting the civil engineer's comments on the drainage and the reduction in the flow speed. We didn't know those comments and particularly with the snow storage area, and so her response was to create it with a baffling - I don't think that's the exact word. But, there is a flow intended to go to the southeast corner as it is now, and as it was, so our intention is to get those adapt those baffling techniques to slow the flow and prevent erosion.

S. Lawry said okay, but it gets harder to connect to the sewer after the pavement is done.

10) Public Services

11) Environmental Factors

D. Stensaas stated:

The biggest issue might be odor, but I think our code has a pretty robust requirement for fans and filtration to prevent the marihuana smell from becoming an issue in the neighborhood.

Mr. Moin stated:

Carbon filter, negative air pressure and our air handling systems to adhere to that and of course the MRA is also very aware of those concerns in comments, and so we're very cognizant of that. Negative air pressure isn't particularly difficult to obtain. It's a very common practice. It started in healthcare.

M. Rayner stated:

Do you have another facility, so you're used to doing these?

Mr. Moin stated:

We're very familiar with the Marihuana Regulatory Agency within the Department of LARA. There's another facility about to open in Gaylord. There's open operations in full compliance with the MRA.

12) Site Area and Potential Expansion Areas

13) Additional Neighborhood Factors

14) Master Plan Conformance

N. Williams stated:

I would agree that this is generally met. Should we also go through the next section?

A. Landers stated:

Those being administrative standards, it depends on how we feel about that.

N. Williams stated:

Does anyone have any comments about 54.1402, which is the site plan review standards.

S. Lawry stated:

I guess I would just ask staff, since there's been a lot of back and forth on this and there appears to have been some difficulty I guess on getting a common understanding of regulations and what was required, are you at this point satisfied that all of your potential non-compliance issues have been met?

A. Landers stated:

I believe they understand what they need to submit to us now and I do believe they will get us an amended site plan to meet our comments and additional staff comments. I'd just ask for that to be a condition and then also per what dave had brought up, a condition about the curb cut, since that wasn't a comment, it should be a condition as well.

It was moved by K. Clegg, seconded by N. Williams, and carried 5-0 that after holding a public hearing and review of the site plan set dated May 22, 2023, with supplemental documentation and the Staff Report/Analysis for 02-SUP-06-23, the Planning Commission finds that the request meets the intent and requirements of the Land Development Code Sections 54.1403, 54.1402, and 54.629, and hereby approves 02-SUP-06-23 with the following conditions:

- 1. That an amended plan is submitted to meet all of staff comments, including the additional comments with special attention to the revision to the curb cut to show the existing layout for the north curb of the driveway opening as discussed today.*

COMMISSION AND STAFF COMMENTS

M. Rayner stated that the Master Plan public workshops held last week were very well done.

ADJOURNMENT

The meeting was adjourned by Vice-Chair N. Williams at 7:06 p.m.

David Stensaas

Prepared by: kw/iMedat

Edited by D. Stensaas, City Planner and Zoning Administrator, Planning Commission Staff Liaison