

**Minutes Planning Commission Meeting
April 21, 2022, City Hall**
**102 Butler Street, Saugatuck, MI**
**7:00 PM**

**Call to Order:**The meeting was called to order by Chairperson Fox at 7:02 p.m.

**Attendance:**

Present: Broeker, Crawford, Fox, Gardner, Gaunt, Heriford and Manns.

Absent: None

Others Present: Zoning Administrator Osman, Attorney Patterson, and Clerk Wolters.

**Approval of agenda**:

 *A motion was made by Manns, 2nd by Gardner to approve the agenda with adding a change; add to the agenda that the Planning Commission will move into closed session for discussion with legal counsel regarding a written legal opinion. Motion carried unanimously.*

**Approval of Minutes:** *A motion was made by Gardner, 2nd by Gaunt to approve the minutes as presented for March 17, 2022, and March 21, 2022. Motion carried unanimously.*

**Public Comment on Agenda Items:**

1. Eric Chaitin, *Saugatuck City Business Owner-* Spoke in support of WPBG, LLC.
2. Dominic Daunter. *Saugatuck Township Resident-* Spoke in support of WPBG, LLC.
3. Catherine Simon, *Saugatuck City Business Owner*- Spoke in opposition of WPBG, LLC.
4. Jane Verplank, *Saugatuck City Business Owner*- Spoke in opposition of WPBG, LLC.
5. Christine Murphy, *WPBG, LLC Owner and applicant*- stated she is open to closing outdoor space at 10: 00 p.m if she is given more seats.
6. Patrick Drueke, *Lawyer representing WPBG, LLC*- he summarized the submitted letter to Planning Commission on 4-14-22. Asked Planning Commission to reconsider and allow what WPBG, LLC set forth in its March application.
7. Donna Daunter, *Saugatuck Township Resident*- Spoke in support of WPBG, LLC.
8. Brad Browder, *Saugatuck Township Resident*- Spoke in support of WPBG, LLC.
9. Brady Bailiff, *Saugatuck City Resident-* Spoke in support and opposition of WPBG, LLC.
10. Steven Levy, *Former Saugatuck City Resident*- Spoke in support of WPBG, LLC.

**Closed Session:**Pursuant to MCL 15.268(a) of the Open Meetings Act; The Planning Commission will enter into closed session to discuss the City Attorney’s confidential written legal opinion regarding imposing conditions as part of zoning approvals as well as pending amendment to a special land use request. *Motion by Gaunt, 2nd by Heriford to enter into closed session. Motion carried unanimously. Planning Commission* *moved into closed session at 7:30 p.m.*

*Motion by Manns, 2nd by Broeker to come out of closed session. Upon roll call vote, the motion carried unanimously. Planning Commission came out of closed session at 8:58 p.m.*

**Old Business: None**

**New Business:**
**A. Consideration of amending conditions for 449 Water Street, 121 Mary Street:**

WPBG, LLC has applied for consideration to amend the conditions for the expanded

bar/restaurant at 449 WATER ST. This property is located in the WSE-WATER E C2 Zone

District. The purpose of this memo is to show how the ordinance relates to this application.

On March 21, 2022, the Planning Commission approved the expansion of the bar/restaurant at

449 Water Street into the existing building on the same parcel with the address of 121 Mary

Street and outdoor seating with a site plan review and as a special land use permit with the

following conditions:

1. Occupancy is limited to twenty-five seats total, inside and outside. The total number of

 seats shall be posted inside the building.

2. Hours of occupancy limited to 11:00 AM to 11:00 PM

3. Music, live or recorded, is limited to indoor only at a level that does not interfere with

 intimate conversation, no amplified music, no live or recorded music outside, no

 speakers outside, and no percussion instruments.

4. Written contracts for events including specific hours of occupancy, number of seats,

 and limitations on music and other information that the proprietor has indicated, shall

 be kept on file and copies provided to the Zoning Administrator upon request.

5. Covering other than umbrellas over the outdoor seating areas, either permanent or

 temporary are not permitted.

6. Fence height is limited to 8 feet above the adjacent grade.

7. Drainage is to be approved by the city engineer, and if after construction it does not

 drain properly the concrete will be removed and replaced.

8. Fire Department plan review and approval of the sealed plan is required.

9. Written approval from the Allegan County Health Department will be submitted to the

 Zoning Administrator.

10.Any changes to the site plan or the conditions shall be brought back to the Planning

 Commission for review.

Public Hearing was opened by the Chair at 9:00 pm:

Summary by the Zoning Administrator:After several meetings with the Planning Commission, the applicant was approved for a special land use permit with various conditions. The applicant submitted a letter requesting that one of the conditions be adjusted, or perhaps two be adjusted. Items being capacity, hours of operation and addition of sound deadening.

Chairman Fox and Commission member Broeker explained the three options for the Planning Commission to continue:

1. Deny appeal and allow for the appeal process.
2. Amendment by mutual consent pursuant to section 154.85 of the City Code.
3. Continue with public hearing for expanded land use pursuant to section 154.087 of the City Code.

*A Motion by Gardner, 2nd by Manns that the Planning Commission enter into a discussion with the landowner regarding the requested change and conditions and arrive at a mutually agreeable change.*

Presentation:

Patrick Drueke, *Lawyer representing WPBG, LLC*- Stated his client will be happy to engage discussion with the Planning Commission and would like to meet with his client before entering discussions with the Planning Commission.

Christine Murphy-Pierce, *owner of Wicks Park Bar & Grill-* Noted she has a difficult time measuring and classifying what a nuisance is. She has never been a nuisance to the town and noted she has never received any fines from the City. She provides a service and wants to bring something to the town that is currently unavailable.

Deliberation:

* Gardner clarified the difference between legal occupancy and occupancy the Planning Commission is talking about for special land use for a specific space.
* The applicant and her lawyer requested to meet in private, request was granted by the Planning Commission.
* Planning Commission requested document from Zoning Administrator showing public notice of mailing to residents that are within 300 feet of the property in question.
* Zoning Administrator provided the notice along with the newspaper clipping of public notice.
* Patrick Drueke and his client proposed the following terms of the conditions and are willing to agree in writing to:
	+ Occupancy limited to 50 seats total outside and 25 seats inside, posted inside the building.
	+ Hours of occupancy limited to 11 a.m. to 10 p.m.
	+ Outside installing an exterior noise reducing acoustic barrier and or panel on the fence at the east and south sides immediately adjacent to the outdoor event space.
	+ All conditions as they are written item number three to item number ten from the March 17, 2022 minutes that were approved at the beginning of the meeting, which begin at “Music, live or recorded, is limited to indoor only at a level that does not interfere with intimate conversation, no amplified music, no live or recorded music outside, no speakers outside, and no percussion instruments” and end at “Any changes to the site plan or the conditions shall be brought back to the Planning Commission for review.” The remaining conditions remain in full force and effect.
* Chairman Fox stated the Planning Commission would be willing to offer 25 outside and 25 inside.
* Gardener noted there were earlier discussions that the Planning Commission had with the applicant, and numbers attested were 25 inside and 25 outside. He stated he was open to discussion changing the condition number one to 25 inside and 25 outside, the suggested hours of occupancy and the sound changes.
* Gardner wanted to note for the record that item number seven condition; drainage is to be approved by the City Engineer, and if after construction it does not drain properly the concrete will be removed and replaced. There have been several citizens as well as Planning Commissioners that have noted the cement was poured, it will be draining on the adjoining property.

**Communications**: Twelve letters were received and attached to the permanent record.

* Thomas and Maureen Smith, *Saugatuck City residents*- Wrote in support of WPBG, LLC.
* Brad and Erin Browder, *Saugatuck Township Resident*- Wrote in support of WPBG, LLC.
* Catherine Simon, *Saugatuck Business Owner and resident*- Wrote in opposition of WPBG, LLC.
* Brady Bailiff, *Saugatuck City Business Owner*- Wrote in support and opposition of WPBG, LLC.
* Courtney Burnham, *Saugatuck Business Owner*- Wrote in support of WPBG, LLC.
* Gary Medler, *Saugatuck City Resident*- Wrote in opposition of WPBG, LLC.
* Kimberly Bale, *Saugatuck City Resident*- Wrote in support of WPBG, LLC.
* Nico Leo, *Saugatuck City Resident*- Wrote in support of WPBG, LLC.
* Sarah Meyer, *Former employee of applicant*- Wrote in support of WPBG, LLC.
* Elizabeth Holley, *Fennville City Resident*- Wrote in support of WPBG, LLC.
* Jane Verplank, *Saugatuck City Business Owner and resident*- Wrote in opposition of WPBG, LLC.

The public comment portion of the hearing was closed at 9:58 p.m.

Commission Action:
 *A motion by Gardner, 2nd by Gaunt that the Planning Commission amend its conditions for approval for the special land use as follows;
 Number one; occupancy is limited to 25 seats inside and 25 seats outside and posted inside the building.
 Number two; hours of occupancy will be limited to 11 a.m. to 10 p.m. inside and outside.
 Add condition number eleven; adding a sound proposal for sound deadening, using language that was given to us by applicant.
 All other conditions remain unchanged.*

Deliberation continued:

* Manns commented that he does not believe the inside needs to be limited to closing at 10 p.m. and believes the outdoor space can accommodate more than 25 and that 25 is too low.
* Patrick Drueke asked for clarification on direction and where the Commission is on his client’s changed request.

*A motion was made by Manns to amend the motion on the floor to allow further discussion toward a compromise occupancy limit of 50 outside and 25 inside. Upon receiving no 2nd to the motion, the amendment to the motion was withdrawn.*

*Gardner then asked to call the question on his original motion.*

*Upon roll call vote the motion carried 6-1,*

*Yeas, Broeker, Crawford, Fox, Gardner, Gaunt and Heriford.*

*Nays, Manns.*

**Reports of Officers and Committees:** None

**Public Comments: None**

**Adjournment:**  Upon motion by Crawford, 2nd by Broeker, the motion to adjourn at 10:01 p.m. carried unanimously.