

# CITY OF FENTON

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## FENTON PLANNING COMMISSION MINUTES

**City Hall Council Chambers  
Thursday, April 27, 2023  
7:00 P.M.**

Chairperson Rossmassler called the meeting to order at 7:00 p.m.

### **ROLL CALL**

Present: Steffey, Campbell, Siwik, Senyko, Csapo, Anderson, Rossmassler, Stickel  
Absent: Grossmeyer  
Others Present: Jason Payne, Building/Zoning Administrator, Carmine Avantini  
CIB Planning & Consulting

### **MINUTES**

**Motion by Csapo, supported by Siwik, to approve the minutes from the March 23, 2023. Motion passed.**

### **PUBLIC HEARING/BUSINESS**

- A. PS23-0005 – The Laundry Restaurant, located at 125 W. Shiawassee Ave., is requesting a sign waiver approval of a 32”x 50” neon-illuminated sign in the entryway window. The business is located in the CBD, Central Business District/PUD, Planned Unit Development.**

Carmine Avantini, CIB Planning, gave the following review:

At your request, we have reviewed the above request to approve a 32” x 50” neon-illuminated sign in the entryway window of The Laundry restaurant, facing Shiawassee Ave. The sign has already been installed without the owner applying for a permit. The applicant has is now requesting permit approval and has submitted their reasoning on why it should be approved separate from the ordinance. The property is zoned CBD, Central Business District/PUD, Planned Unit Development and waivers can be granted by the Planning Commission from dimensional requirements of the ordinance.

The opinions in this report are based on a review of the proposed sign and conformance to City ordinance standards. Please note that the applicant and their design professionals shall be responsible for the accuracy and validity of information presented with the application. Key review item points in this letter are underlined for the benefit of the applicant. Please note that the applicant and their design professionals shall be responsible for the accuracy and validity of information presented with the application.

## **DISCUSSION**

Based on our review of the proposed signage, a review of the zoning ordinance and Downtown Design Guidelines, a visit to the site, and discussions with Mr. Jason Payne, Building and Zoning Administrator, we offer the following comments for your consideration:

**1. Sign Ordinance Objective.** One of the objectives of the City sign ordinance is to “Recognize that the principal intent of commercial signs, to meet the purpose of these standards and serve the public interest, should be for identification of an establishment on the premises, and not for advertising special events, brand names, or off-premises activities; alternative channels of advertising communication and media are available for advertising which do not create visual blight and compromise traffic safety.” One of the concerns we have is the brightness of the sign at night and close proximity to the intersection. The potential glare and distraction to motorists should be considered, especially for traffic heading south on Adelaide Street. This is especially true when other forms of signage would accomplish the same objective with less glare.

**2. Sign Ordinance Dimensional Requirements.** As defined in the ordinance, “Permanent window signs which are not affixed directly to a window or are positioned next to a window so that they are visible from the outside shall be considered wall signs.” The proposed sign is therefore considered a wall sign and the ordinance allows one (1) wall sign per business with a sign area of 10% of the façade area or 100 square feet, whichever is less. Prior to installation of the requested neon sign, the Shiawassee Ave. identification signage consisted of “The Laundry” letters painted on the entryway window. No other identification signage is provided on either the Shiawassee Ave. or Adelaide building facades. As the primary identification sign for the Shiawassee Ave. façade, the sign meets the dimensional requirements of the zoning ordinance.

**3. Neon Signage.** *Section 36-23.05(d)(2), Window Lighting*, of the ordinance states that “Luminous tube and exposed bulb fluorescent lighting (visible from the property line) is prohibited unless it is part of a sign that meets the requirements of Article XXII, Signs, of this chapter.” *Section 36-22.03, Prohibited Signs*, of the ordinance prohibits “Signs which obstruct or impair the vision of motorists or nonmotorized travelers at any intersection.....” along with “Signs which in any way simulate or could be confused with the lighting of emergency vehicles or traffic signals; there shall be no flashing, oscillating or intermittent, or red, yellow, or green illumination on any sign located in the same line of vision as a traffic control system, nor interference with vision clearance along any highway, street, or road or at any intersection of two or more streets.” Furthermore, *Section 36-22.04(d)(2), Illumination*, of the sign ordinance

states that the “Use of glaring undiffused lights, bare bulbs, or flames is prohibited.” The requested sign does utilize red and yellow neon while being in full view to southbound Adelaide motorists at the intersection with Shiawassee. These sections are in the ordinance to protect driver safety, especially at night, and the sign illumination for the requested sign is bright enough that it could cause a distraction to motorists.

## **RECOMMENDATION**

Based upon the above review, **we recommend Planning Commission deny the request for The Laundry sign at 125 W. Shiawassee Ave. for the following reasons:**

- (1) The requested sign fails to meet the Objectives section of the sign ordinance and other less visually impacting signs, meeting ordinance requirements, could be used;
- (2) The sign ordinance clearly prohibits bright, neon signage with yellow and red colors this close to the intersection and it could create a hazard for travelling motorists; and
- (3) Waivers in the Planned Unit Development (PUD) district are not to be granted as a way to avoid meeting the requirements of the zoning ordinance.

Mark Hammel, owner of The Laundry, stated he did go to the previous building official before he did anything with this sign. Hammel said he asked if he needed a permit and was told he did not need one. The sign was ordered and once it was placed in the window, he received a letter from the city that it did not meet the zoning requirements and he needed to receive approval from this Board since it did not meet the guidelines. Hammel stated he has had a similar sign in one of his windows facing Adelaide that has been there for 25 years. Of those years, he has not had any issues with accidents due to the size and colors and he never has had an issue from the city regarding this sign. Hammel added that there are other signs in the downtown area that are similar to both his signs and they have been there for almost 10 years without having any issues as well. These other signs have the word “open” in it and if his had the word “open” in it, he wouldn’t be at this meeting because there wouldn’t be an issue.

Discussion took place and a few of the commission members did not have a problem with the signage. However, Commissioner Csapo stated he would not mind tabling this item for further review of this sign and other similar signs in the community. He would also be in favor of establishing a moratorium on neon signs in Fenton until such time a closer look can be done on the sign ordinance.

Commissioner Stickel stated he did some research, checking various municipalities around southeast Michigan and their sign ordinances. Many of them have the same language, almost identical, so it must be a “safety thing”. He is a banker, risk manager by trade and he finds it very difficult to vote against safety and especially if the City Planner has made it an issue.

The following motion was made:

**MOTION by SENYKO, supported by CAMPBELL, to APPROVE the sign waiver for 125 W. Shiawassee Ave., approving the 32”x 50” neon-illuminated sign in the entryway window.**

**MOTION PASSED (6-2) Campbell – yes, Steffey – yes, Csapo – no, Siwik – yes, Senyko – yes, Anderson – yes, Rossmassler – yes, Stickel – no**

After the vote Commissioner Csapo made the following motion:

**MOTION by CSAPO, supported by STEFFEY, to make a recommendation to City Council to establish a moratorium on approving any more signs with neon on them until we have the aforementioned evaluation of signs throughout the community and another look at the proposed sign ordinance.**

**MOTION FAILED – (2-6) Campbell – no, Steffey – no, Csapo – yes, Siwik – yes, Senyko – no, Anderson – no, Rossmassler – no, Stickel – no**

There was more discussion regarding the neon signs and what are the expectations for them. Avantini asked the Commission members to email or call him with their questions and expectations and he will address them during the sign ordinance meeting.

Commissioner Stickel stated for the record that he would like the City Administration to go through and at least look at the other signs similar to Mr. Hammel's, and if they feel they need to go through a waiver process or formal approval process, we should do that.

**B. PSPR23-0002 – Site Plan Review for Allied Media Company, located at 240 N. Fenway Drive, who is requesting to construct a 6,000 square foot industrial warehouse building. The property is zoned IND, Industrial.**

Mr. Avantini gave the following review:

At your request, we have completed our re-review of the above site plan to construct a 6,000 square foot industrial warehouse building at 240 N Fenway Drive. The site plan request also includes 57 parking spaces, 1 loading dock, 1 overhead door, 1 dumpster, and landscaping. The property is zoned IND, Industrial District where industrial uses including manufacturing facilities, warehouses and offices are permitted uses.

The Planning Commission previously granted conditional approval for this project at the October 22, 2020, Planning Commission meeting. Since receiving conditional approval, the applicant has not initiated construction of the proposed addition and the previous conditional approval has expired and requires a new review per the Zoning Ordinance.

The site plan has not changed since the initial review and our recommendations remain the same.

The opinions in this report are based on a review of the site plan submitted by the applicant and conformance to City plans and ordinance standards. Please note that the applicant and their design professionals shall be responsible for the accuracy and validity of information presented with the application. In reaching a decision on the application, the Planning Commission should consider our comments along with those from other staff and consultants, additional

information provided by the applicant, and your own findings based on ordinance standards as part of your deliberation.

**REVIEW COMMENTS**

Section 36-16.05 of the City of Fenton Zoning Ordinance lists the submittal requirements for site plan review. Based on our review of the proposal, discussions with Mr. Jason Payne, Building Official/Zoning Administrator, a preliminary meeting with the applicant and a visit to the site, we offer the following comments for your consideration:

**1. Use.** The use is a private office and associated warehouse which is permitted in the district.

**2. Area and Bulk.** The proposed site was reviewed in accordance with *Article 15* as described in the following table.

	<u>Required</u>	<u>Provided</u>	<u>Comments</u>
Front Yard Building Setback	50 ft.	300 + ft.	In compliance
Front Yard Parking Setback	20 ft.	NA	In compliance
Alloy Drive			
Side Yard Building Setback			
South	10/25 ft.	10 ft.	In compliance
North	10/25 ft.	60 ft.	In compliance
Rear Yard Building Setback	25 ft.	200+ ft.	In compliance
Maximum Lot Coverage (Impervious Surface)	75%	23 %	In compliance

**3. Building Design & Materials.** Section 36-2.20, *Non-residential design requirements*, calls for buildings to “possess architectural variety” and use “durable building materials which provide an attractive, quality appearance.” This section also states that “the predominant building materials should be quality materials that are characteristic of Michigan such as earth-toned brick, decorative tilt-up panels, wood, native stone, and tinted/textured concrete masonry units and/or glass products.” The submitted site plan elevations show that the building addition will match the existing building materials which is a mix of siding and block.

**4. Mechanical Units.** A note should be added to the site plan indicating that all rooftop mechanical equipment will be properly screened according to the ordinance.

**5. Parking Lot Requirements.** The following table lists the requirements for parking lot design:

	<u>Required</u>	<u>Provided</u>	<u>Comments</u>
<b>a. Parking Spaces</b>	38	57	In compliance

<b>b. Parking Aisle Width</b>	26 ft.	24 ft.	Not in compliance
<b>c. Parking Space Dimensions</b>	9 ft. x 18 ft.	9 ft. x 18 ft.	In compliance
<b>d. Barrier-Free Parking Spaces*</b>	3 spaces	4 spaces	In compliance

\* barrier free spaces are subject to the State of Michigan Department of Labor, Construction Code Commission, Barrier Free Design Division regulations.

**6. Access and Circulation.** The proposed building will be accessed from the existing drive off of Fenway. Fire truck access must be verified.

**7. Pedestrian Circulation.** A sidewalk is existing along Fenway Drive.

**8. Landscaping.** A separate landscape plan has been included in the site plan submission and the following table summarizes the requirements for this project. The applicant is also adding 8 new shrubs near the entrance of the addition.

	<u>Required</u>	<u>Provided</u>	<u>Comments</u>
<b>Parking Lot compliance</b>	1 tree per 8 parking spaces = 7 trees	8 existing landscaping to remain	In
<b>Greenbelt compliance</b>	20-foot width, 1 canopy tree and 6 upright shrubs per 30 linear feet = 6 trees, 36 upright shrubs required	Existing landscaping to remain	In

**9. Lighting Plan.** A photometric grid has been provided indicating that the intensity levels are acceptable. It should be noted that all lighting is required to be shielded and fixed at a 90 degree angle to the ground.

**10. Dumpster Enclosure.** The dumpster enclosure is existing and will remain in its current location.

**11. Stormwater** – All storm water runoff is proposed to tie into the existing storm sewer system on site. This will need approval from the city engineer.

**12. Other Approvals.** The proposed site plan must be reviewed and approved by the appropriate city departments, consultants, and agencies.

## **RECOMMENDATION**

Based upon the above comments, we recommend approval of the site plan for Allied Media with the following conditions;

- (1) That all rooftop mechanical equipment will be shielded in accordance with the ordinance;**
- (2) That the Fire Department has verified that they have adequate site access to the new addition;**
- (3) That all light fixtures are fixed at a 90 degree angle to the ground, and shall not be at a 45 degree angle; and**
- (4) All other approvals are received from appropriate city departments, consultants and agencies.**

The applicant, Rudy Quaderer, of Griggs Quaderer Inc., stated he is the site engineer for this project and as Mr. Avantini stated, this project was approved back during Covid and they did not follow through with it, so they are now ready to move forward. They have no issues with the items listed in the CIB letter.

After a brief discussion, the following motion was made:

**MOTION by CSAPO, supported by STEFFEY, to APPROVE the Site Plan for Allied Media, located at 240 N. Fenway Drive, to construct a 6,000 square foot industrial warehouse building, conditioned upon the items stated in the CIB letter dated April 23, 2023.**

**MOTION PASSED (8-0) Campbell – yes, Steffey – yes, Csapo – yes, Siwik – yes, Senyko – yes, Anderson – yes, Rossmassler – yes, Stickel – yes**

**C. PUBLIC HEARING – To allow public comment to consider a special land use allowing a themed food, entertainment, and pub venue for The Railyard, located at 234 N. Leroy St., formerly the Red Fox Outfitters Building. Property is zoned CBD, Central Business District/PUD, Planned Unit Development.**

The public hearing was opened at 7:47 pm and the following people spoke:

1. Cherie Smith, 200 Union Street, stated she was concerned about rowdiness, noise, and parking for this business.
2. Brent Williams, 111 S. Walnut, stated he is a business owner and life long resident of Fenton. He recommends this project.

The public hearing was closed at 7:53 pm.

**D. PSLU23-0003 – Special Land Use for The Railyard, located at 234 N. Leroy St., who is requesting approval of an outdoor food, entertainment, and pub venue.**

Carmine Avantini gave the following report:

We have reviewed the above special land use request to utilize the former Beanery and Red Fox Outfitters building as a themed food, entertainment, and pub venue. Proposed is the conversion of the building into a pub with a bar, seating, and various entertainment activities including two pianos, a pool table, shuffleboard table, and a lower-level arcade room. Three (3) railroad containers will be converted into two (2) food/retail booths with the third being stacked on top as an identifying architectural feature. There will also be an outdoor patio area with seating that can be utilized as a gathering spot or for games like corn hole. The current eleven (11) parking spaces are to be replaced with seven (7) spaces (still with three barrier-free) along with parking availability in the abutting 49 space City-owned lot. The property is zoned CBD/PUD where Bars, Taverns, Lounges, Microbreweries (accessory only), and brewpubs are special land uses in the CBD, Central Business District.

The opinions in this report are based on a review of the sketch plan and materials submitted by the applicant and conformance to City plans and ordinance standards. Please note that the applicant shall be responsible for the accuracy and validity of information presented with the application. In reaching a decision on the application, the Planning Commission should consider our comments along with those from other staff and consultants, additional information provided by the applicant, input provided during the public hearing, and your own findings based on ordinance standards as part of your deliberation.

**GENERAL SPECIAL LAND USE STANDARDS**

According to *ARTICLE 14*, any special land use must adhere to all of the following general standards listed in the Zoning Ordinance:

*1. Be compatible and in accordance with the goals, objectives, and policies of the City of Fenton Master Plan and promote the intent of the zoning district in which the use is proposed.*

**Finding – In compliance:** The subject site is located in an area intended for a mixture of uses, including restaurant and entertainment, so use as a themed food, entertainment and pub venue will not change the character of the area. This is conditioned upon there being limitations attached to the outdoor entertainment that will prevent nearby residences from being negatively impacted. It should also be noted that the Master Plan designates this as the Railroad District and the proposed use fits with that theme, utilizing railroad containers.

*2. Be constructed, operated, and maintained so as to be compatible with the existing or intended character of the general vicinity and so as not to change the essential character of the area in which it is proposed.*



**Finding – Potentially in compliance:** As mentioned above, the proposed use is potentially compatible with the character of the general vicinity, conditioned upon noise limitations for the outdoor events and activities. Since there are other restaurants and gathering places in the downtown, use of the building as proposed should not change the character of the area.

*3. Be served adequately by public facilities and services, such as highways, streets, police and fire protection, drainage structures, water and sewage facilities, and primary and secondary schools.*

**Finding - In compliance:** The subject building is adequately served by existing facilities and roads.

*4. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to the natural environment, public health, safety, or welfare by reason of excessive production of traffic, noise, smoke, odors, or other such nuisance.*

**Finding – Potentially in compliance:** The special use should not have a negative impact on the above items through the excessive production of noise, traffic, etc. There will, however, be an impact on parking during peak times and the applicant will have to demonstrate that the existing off- and on-street parking is adequate to handle the associated visitor volumes. This information should anticipate that there will be a turnover in spaces throughout the evening hours.

#### **SPECIFIC SPECIAL LAND USE STANDARDS**

The special land use application has been reviewed utilizing the following specific standards outlined in *Section 36-14.08, Special land use specific requirements*, of the Fenton Zoning Ordinance.

*g. Bars, taverns, lounges, microbreweries (accessory), and brewpubs.*

1. The principal building shall be setback at least 100 feet from a residential district.

**Finding - In compliance:** The principal building is over 200 feet from the nearest residential district.

*2. Noise shall not be apparent outside of the building in accordance with [section 36-2.21](#), Performance standards, and other city ordinances.*

**Finding – Potentially In compliance:** If outdoor entertainment is limited to acoustical performances without electric amplifiers, the noise should not negatively impact nearby residences.

*3. Outdoor seating must meet the special land use standards for restaurants: open front window and seasonal outdoor seating.*

**Finding – Potentially in compliance:** The above special land use standards for restaurants require administrative review and approval by the Building official/zoning administrator. This approval will have to be obtained by the applicant prior to the use of outdoor seating.

## RECOMMENDATION

Based upon the above analysis, **we recommend approval of the special land use for The Rail Yard, located at 234 N. Leroy Street**, conditioned upon the following:

1. There being limitations attached to the outdoor entertainment that will prevent nearby residences from being negatively impacted. This would include there being only acoustical music and no electric amplifiers;
2. The applicant providing information showing that there is adequate public parking for the use; and
3. Review and approval from all applicable consultants, departments and agencies.

There was discussion regarding the acoustical music, piped-in music, and the electric amplifiers. The City has a noise ordinance so the Commission felt that this ordinance would cover the microphone usage and loud noise. Electric amplifiers could present a problem, but acoustical music with a microphone, they felt would not. Also in the ordinance is the time limit as to how late the music is allowed as well, so this could also be monitored by proper city departments. So, it was agreed that item number 1 in the recommendation letter for the special land use could be removed.

The applicant, Josh Ingersoll, 600 Franklin, Fenton, addressed the noise issue. They are not looking at having bands at this venue. It will be a guy with a microphone at a low decibel. There definitely needs to be an ambiance outdoors either with entertainment playing outside or piped-in music and it will be kept well within the city ordinance.

Regarding the parking, Cameron Alvarado, Rowe Engineering, stated the building has 7 parking spots and with the public parking, they have the 56 needed to be in compliance.

The only concerns the Commission had with the parking, is there could be some potential issue with parking in the residential areas, and so there is probably going to be a dynamic that at the moment is unknown based on the success of this opportunity, so they would request that the applicants be a good neighbor if these issues arise.

Avantini added that the applicant could approach the dermatology office about leasing their lot during off hours when they are not using their space. The applicant stated he has already had conversations with them regarding using their lot in the future.

**MOTION by STICKEL, supported by SENYKO, to APPROVE the special land use for the Railyard, located at 234 N. Leroy St., subject to the conditions in the CIB letter dated April 14<sup>th</sup>, with the removal of recommendation #1.**

**MOTION PASSED (8-0) Stickel – yes, Campbell – yes, Steffey – yes, Csapo – yes, Siwik – yes, Senyko – yes, Rossmaessler – yes, Anderson – yes**

**E. PSPR23-0003 – Site Plan Review for the Railyard, an approximate .524 acres, located at 234 N. Leroy Street. Applicant is requesting to have three railroad containers converted into food/retail booths, along with outdoor activities.**

Per your request, we have completed our review of the above final PUD site plan to convert the former Red Fox Outfitters building and site into a themed food, entertainment and pub venue. Proposed is the conversion of the building into a pub with a bar, seating, and various entertainment activities including two pianos, a pool table, shuffleboard table, and a lower-level arcade room. Three (3) railroad containers will be converted into two (2) food/retail booths with the third being stacked on top as an identifying architectural feature. There will also be an outdoor patio area with seating that can be utilized as a gathering spot or for games like corn hole. The current eleven (11) parking spaces are to be replaced with seven (7) spaces (still with three barrier-free) along with parking availability in the abutting 49 space City-owned lot.

The property is zoned CBD/PUD where Bars, Taverns, Lounges, Microbreweries (accessory only), and brewpubs are special land uses in the CBD, Central Business District. As part of a PUD, Downtown Fenton is also covered by a Preliminary Planned Unit Development Plan that requires multi-story traditional buildings. This plan is in compliance with the Preliminary PUD Plan and can therefore move directly to Final PUD Site Plan Review.

The opinions in this report are based on a review of the site plan submitted by the applicant and conformance to City plans and ordinance standards. Please note that the applicant and their design professionals shall be responsible for the accuracy and validity of information presented with the application. In reaching a decision on the application, the Planning Commission should consider our comments along with those from other staff and consultants, additional information provided by the applicant, and your own findings based on ordinance standards as part of your deliberation.

## **DISCUSSION**

*Section 36-16.05* of the City of Fenton Zoning Ordinance lists the submittal requirements for site plan review and the Downtown Design Guidelines also apply. Based on our review of the proposal, meetings with the applicant, a review of the zoning ordinance and design guidelines, and discussions with Mr. Jason Payne, Building Official/Zoning Administrator, we offer the following comments for your consideration:

**1. Area and Bulk Requirements.** The primary area and bulk requirement in the CBD District is a maximum building height of 35 feet, with provisions for the review of taller structures. The main building is existing and meets ordinance requirements while the containers are considered accessory structures. Section 36-2.01(g), Accessory buildings, structures, and uses, of the ordinance limits the location of accessory structures to rear yards only, and the containers are placed in the front yard. In addition, accessory structures can be a maximum of fourteen (14) feet in height, while the application proposes the containers to be approximately seventeen (17) feet in height. While we consider the location and arrangement of the containers to be acceptable, waivers will be needed for both the height and location.

**2. Building Design.** The existing building is attractive and additions are proposed that must meet the Downtown Design Guidelines. On the north side of the building, an addition is proposed that basically follows the same footprint as the current existing addition structure. The other addition, closest to N. Leroy Street, utilizes approximately the same footprint as the existing entry stairs and roof. Proposed materials and roof structures are to match the existing building and will blend in with the existing structure, while emulating the glass façade on the east façade of the building.

The containers will retain the appearance of railroad cars and support the name and theme of this being a “rail yard.” A cooler structure is also proposed on the south side of the building, next to the railroad tracks, but details are not provided on the elevations. We are of the opinion that the proposed building additions and the containers meet the Downtown Design Guidelines, and also support the Master Plan designation of this being the Rail District for Downtown. Additional details are needed for the cooler structure on the south side of the building.

**4. Rooftop Mechanical Unit Screening.** It doesn’t appear that rooftop mechanical equipment can be used but a note must be added to the construction drawing building elevations indicating that any rooftop units will be fully screened.

**5. Parking.** The site plan indicates that the current eleven (11) on-site parking spaces will be replaced with seven (7) spaces, of which three (3) will be barrier-free (please note that the 7-foot-wide spaces must be increased to a width of 8 feet). The ordinance requires one (1) space per each 70 s.f. of gross floor for restaurants. At 3,912 square feet, a total of 56 parking spaces are required for this project. Since seven (7) parking spaces are provided, on-street and the abutting 49 space parking lot will be relied upon to meet ordinance requirements. *Section 36-19.02, General requirements*, of the ordinance states that “*Within the CBD, off-street parking shall be either on the same lot, lot(s) under the same ownership and control, open public parking lots, or on the street within 500 feet of the building it is intended to serve, measured from the nearest point of the building entrance to the nearest point of the off-street parking lot.*” The abutting public parking lot is clearly within the 500-foot distance and parking supply information is needed to ensure that adequate spaces are available. The Planning Commission must find that there are adequate parking spaces available both on-street and in the public parking lot to accommodate the proposed development.

**6. Signage.** Signage is not proposed at this time and permits will have to be applied for at that time.

**7. Walls and Fences.** A wall/fence combination is proposed behind the container area and along the north side of the site. *Section 36-2.09, Fences and walls*, of the ordinance indicates that the maximum height of fences and walls is six (6) feet. We are of the opinion that a height of four (4) feet would be more appropriate for the fence to keep it from looking like a cage area.

**8. Sidewalks.** The sidewalk along Main Street is existing and should not be changed, including the expanded streetscape area where the outdoor sculpture is located. This sidewalk area is not accurately shown on the site plan and we want to ensure that it remain the same.

**9. Landscaping.** New landscaping is proposed next to the wall facing the parking lot to the east, as well as the northeast, northwest and southwest corners of the building. We are of the opinion that the additional landscaping is an enhancement to the site and improves the aesthetics, without compromising visibility into the property.

**10. Lighting.** The lighting levels throughout the site are acceptable, except in the patio seating area on the north side of the building. Are there plans to light this area in the evening with alternate light sources?

**11. Outdoor Activities.** We want to ensure that the outside gathering area remains attractive and does not become a nuisance to nearby residential properties. There should be restrictions limiting musical performances to acoustical only along with restrictions regarding the use of any tent or similar coverings without prior City approval.

**12. Development Agreement.** *Section 36-13.08(c), Final PUD site plan submittal requirements,* calls for the submission of a written PUD development agreement, unless the Building Official/Zoning Administrator determines that one is not necessary. The above outdoor activities concerns should be written into a brief development agreement that is executed by the applicant and the City.

**13. Other Approvals.** The proposed site plan must be reviewed and approved by the appropriate city departments, consultants, and agencies.

## RECOMMENDATION

Based upon the above review, **we recommend approval of the Final PUD Site Plan for The Rail Yard at 234 N. Leroy Street**, conditioned upon the following items:

- (1) Special land use approval;
- (2) Planning Commission approval of waivers allowing: 1) the location of the containers in the front yard; and 2) a height of approximately seventeen (17) feet for the containers;
- (3) A note being added to the construction drawing building elevations indicating that any rooftop units will be fully screened;
- (4) Planning Commission approval of the parking supply, utilizing both on-street and public parking lots spaces;
- (5) That the fence along Main Street be limited to a height of four (4) feet;
- (6) That there be restrictions limiting musical performances to acoustical only, along with restrictions regarding the use of any tent or similar coverings without prior City approval;
- (7) Execution of a development agreement detailing the outdoor restrictions indicated above; and
- (8) Approvals being obtained from all agencies, departments and consultants.

The applicant, Josh Ingersoll, stated that he agrees with everything Mr. Avantini listed in his review.

There were also questions regarding the brick wall and wrought iron fencing. Ingersoll stated the intent of the 6 foot concrete barrier is to create a divide between the containers and help with the sound. He really didn't want the public to be able to see through to the vendors and at the end of the wall, the fencing will begin which will be consistent with the other fencing around the parcel. Avantini added that he recommended the 4 foot fencing which would eliminate the caged feeling a 6 foot fence would give. Ingersoll added that there will be two breaks in the four foot fence and the only reason for the fencing is to provide clear barriers for the liquor control commission.

There were some questions regarding the outdoor area during the winter months. Ingersoll stated the intent is to be open through October and open in mid-April and use that as a seasonal space. If the outdoor evolves down the road, they will bring back a proposal for approval. It was brought up that the outdoor seating with the downtown restaurants run from April 1<sup>st</sup> through October 31<sup>st</sup> and Mr. Ingersoll stated he would operate the same. The question was then asked if recommendation number 7 was needed. Avantini recommended leaving it in as a caveat that if it is deemed necessary by the City Attorney, it will be in place.

Ingersoll gave a generalization of the project which has been a really popular concept in other areas like Traverse City, Petosky, and they also looked at ones in Colorado. They have done a lot of research on this and the owner of the one in Petosky is starting a fifth location in Grand Rapids. It's been very popular and family oriented venue with families and dogs, getting your own food from the vendors and getting your own beer from the beer wall; a self-serve, social space. There won't be a lot of changes to the building; a couple of additions, one being a permanent food space which will be built in addition to the building to provide food service year round and extend the bar inside.

The following motion was then made:

**MOTION by SENYCO, supported by CAMPBELL, to APPROVE the site plan Railyard, located at 234 N. Leroy Street, conditioned upon the recommendations listed in the CIB letter date April 14, 2023, with numbers 1-5 and 8, item number 6 only regarding the tent portion and excluding the musical performances portion, and item 7 to be an execution of a development agreement detailing the outdoor restrictions *IF* it is deemed necessary by the City Attorney.**

**MOTION PASSED (8-0) Stickel – yes, Campbell – yes, Steffey – yes, Csapo – yes, Siwik – yes, Senyko – yes, Rossmassler – yes, Anderson – yes**

### **CALL TO THE AUDIENCE**

No one this evening.

## **ADMINISTRATIVE ITEMS**

\_\_\_\_\_ Nothing this evening.

## **CIB ITEMS**

Siwik asked if there was a way to inventory exiting signs that are going to be grandfathered into the new ordinance. Payne stated that he and Avantini would have to look into this request. We can also discuss this further during the sign ordinance amendments that will be presented soon to the Planning Commission.

## **COMMISSION MEMBER ITEMS**

\_\_\_\_\_  
\_\_\_\_\_ Nothing this evening.

## **ADJOURNMENT**

The meeting was adjourned at 8:50 p.m.

Respectfully submitted by,

**Linda Davis**

Recording Secretary