

Approved: August 27, 2013

**TOWN OF GIBRALTAR
PLAN COMMISSION
TUESDAY, JULY 23, 2013
7:00 P.M.
GIBRALTAR TOWN CENTER**

Call to order: The regular meeting of the Gibraltar Plan Commission was called to order at 7:04 p.m. by Linda Merline, chairman.

Roll Call/Quorum: Merline stated that a quorum of the Commission was present.
Members present: Linda Merline, Brian Hackbarth, Tom Blackwood and Tom Young.
Members absent: Brit Unkefer

Proper Notice/Adopt Agenda: Merline confirmed the agenda had been properly noticed.
Motion: (Hackbarth, Young) to adopt the agenda as posted. Carried

Approve minutes of previous meeting: *Motion: (Hackbarth, Blackwood) to approve the minutes of June 25, 2013 as presented. Carried*

Public Comment: None

Appeal of Application for Conditional Use Permit: Paul Krause/Unity Holdings LLC– Parcel #014-39-1304A, proposed use - Moped Rentals: This is an application for a Conditional Use Permit: Paul Krause/Unity Holdings – Parcel 014-39-1304A for a proposed use of Moped Rentals. It is noted that the Resource Planning Committee decision is being appealed to the Door County Board of Adjustment. The purpose of this hearing is to gather testimony on this case. Testimony given at the June 25th meeting will be considered part of the record. The information gathered will be used to make a recommendation to the Gibraltar Town Board. The recommendation will either be to support, support a modified version, not to support or stand mute. Merline will present the recommendation to the Gibraltar Town Board at their next meeting on August 7th. Merline detailed the procedures for the meeting and introduced the Plan Commission members.

Testimony in Support:

Attorney Jim Smith representing Paul Krause and Unity Holdings. Smith stated this is an appeal of the ruling given by the Resource Planning Committee on the Krause conditional use permit. The granting of the permit was subject to conditions. The appeal will be heard by the Board of Adjustment (BOA); it will be heard De novo (new again). Smith cited Door County Zoning Ordinance 11.072a3. Smith stated he could not find stated grounds for the appeal in the documentation. The appeal states there is no legal access between the alley and Maple Street; that is true at this time. Mr. Krause has spoken to the Retreat House regarding an easement. The easement between MacDonald and Cole does not preclude either party's use of the easement. The well issues are civil matters not to be considered with the conditional use application. Smith stated the alley is not a public street, it is a private driveway. Noise, dust and fumes that would be generated would be minor, compared to the current congestion. Smith cited other RPC discussion points and the Planning Staff Analysis. Tom Young asked Smith's opinion what the question before the Plan Commission should be, motion for the appeal or motion on a De novo hearing. Smith felt it should be on the merits of an appeal, which puts the burden of proof on the appellant.

Paul Krause submitted fueling safety information related to the safety of the fuel cans to be used. The can has a safety feature where only when the handle is squeezed can the fuel be poured. Krause stated he has

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a relative that, has a successful moped rental business, for over 35 years who is guiding Krause with the new start-up. Krause feels the Commission's need to take into account the RPC's decision. This is a new business and will be an asset to the downtown area. It will be an asset for the transient visitor, in particular transient marine visitors. Individuals wishing to rent a moped will be put through a stringent training and testing prior to rental. The particular moped to be used passes California's EPA standards. Regarding noise Krause feel mopeds do not compare to the noise of a garbage truck. The Department of Motor Vehicles requires a valid driver's license to operate a 50cc moped. Additional requirements of the business not required by the DMV include: a minimum age of 18, DOT helmet and eye protection. Krause showed example photos from an automobile and moped perspective exiting onto Main Street. The Krause portion of the driveway will be repaved. The realistic format of how the business will be run is not that 30 mopeds will come and go at the same time the rentals will be spaced throughout the day. Currently there are 2 moped businesses operating in the county – Edge of Park and Washington Island. A 49cc engine is a small engine getting over 100 miles to the gallon. The locked fuel storage is a small cabinet to which only employees will have access. There will be policies and procedures in place for fuel storage and fueling the mopeds. All 30 mopeds will be provided with a park sticker and be insured. Krause offered that Elaine MacDonald can be an additional insured on the moped fleet insurance if she so wished. Other alley owners could be listed as additional insured for their protection as well. Hackbarth asked any objections to the conditions that the RPC placed on the application. Krause said the only condition that he has issue with is the requirement to exit to the north. Hackbarth's concern is the pedestrians at the Bayside sidewalk.

Alvin Krause expressed concern about the level of danger that other businesses pose. Krause stated that he has always created quality projects.

Correspondence in Support:

Two letters of support were received today- Bill Weddig and Gary Krause.

Questions:

Debra Malzahn-MacDonald questioned the reason for reopening of the hearing. It was due to the Mr. Krause's confusion between the meeting notification letter and the agenda. The Town Chairman opted to reopen the hearing as there was sufficient time to allow prior to the BOA meeting.

Judy and Steven Korte asked what were the approved hours for the business. Krause responded 8:30a.m. – 6:00 p.m. Mrs. Korte also questioned the phases of instruction and communication. Krause stated there will be instruction prior to getting on the moped. After which the next phase of instruction will be given. Instruction will be verbal.

Testimony in Opposition:

Christy Weber stated that pointing out the risks is not personal issue. Safety was not considered enough and the nine conditions given by the RPC are inadequate. There is no need for the rentals as there is another rental business within a half mile. Legal access is being questioned by the Mac Donald's. Weber stressed the danger of the additional traffic. Gravel from the Retreat lot is extremely dangerous. Small cottages/buildings cause visibility issues. Comprehensive plan promotes pedestrian traffic.

Barb McKesson expressed concern regarding the busyness of the main intersection. Safety is of the highest concern in her opinion. McKesson wishes Mr. Krause to succeed but safety concerns are a higher priority.

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Marilyn Gardner (Mrs. Tom Skogg) owns the building directly east of the Krause's. The intersection is the issue to keep in mind. Gardner stated the congestion and combustion is being added exponentially. Mopeds create emissions that stay in a more condensed area. This is the wrong location to add 30 mopeds. The location of the test track is in direct line with the propane tank. Concern was also noted about fuel spillage.

Deborah Malzahn-MacDonald, owner of Wink Swimwear expressed a safety concern.

Jennifer Thompson, Harborwear stated the RPC did not look fully into the safety issue. Adding new business is great but what happens when we create so much congestion that people will not want to visit. It is the Plan Commission's job to create a safe environment. Hackbarth are there any conditions that should have been put on? No, exiting to Maple Street is not a great idea. Not having it would be the best, but this location is not right for this business.

Judy Korte, Edgewater Cottages stated, the intersection is congested and adding more confusion is not helping. We advertise that we are a walking community.

Mary Becker an employee of Bayside Tavern expressed concern on parking. It is dangerous to have an additional 30 mopeds added to employee traffic.

Elaine MacDonald, co-owner of Bayside Tavern, stated her opposition and concern about congestion and safety. She also stated that Krause does not have an easement for the driveway. The driveway is in disrepair. The current easement to Main Street is under the conditions that the property use is what it was when the easement was written.

Correspondence received in Opposition: Nothing new since the last meeting.

Rebuttal

In Support:

Paul Krause stated the Edge of Park has their training area which is smaller than the Krause proposed training area. The space between the Blue Ivy and Wink is more that previously stated. We have more than required parking for the business model. A limitation on the type of business should not be considered where it can be located. Questioned the reversal of easement rights by Weber.

In Opposition:

Christy Weber stated bars are regulated by the state as well as conditional use. Both in excess can cause hazards.

Jennifer Thompson – Why shouldn't this hearing be De novo just as it will be for the BOA. The appeal information was submitted as evidence per Merline.

Merline adjourned the hearing. A 5 minute recess was called. The Plan Commission reconvened after 5 minutes. MOTION: (Hackbarth, Young) to rescind the motion of the last meeting. Carried

Commission discussion points included:

- ✚ Access
- ✚ Water
- ✚ Public interest/safety – new were the fuel leakage
- ✚ Site plan does not require the location of gasoline storage

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- ✚ Location of refuse receptacle location on the site plan
- ✚ The location of the propane tank not required on the site plan
- ✚ Regarding congestion and traffic hazards – it is a permitted conditional use, we need to look at the property itself, and does it make sense on that property. Blackwood stated there is not a safe way for amateur moped operators to exit to the downtown area.

MOTION: (Blackwood, Merline) to recommend to the Town Board not to support the conditional use permit based on concerns relative to safety, access of the location of the specific property and that mopeds egress the property onto the congested streets of Fish Creek. Aye: Blackwood and Merline Opposed: Hackbarth and Young Tie vote fails.

No further motions were made.

Committee Reports:

Chair: Unkefer term is to expire August 1st.

Updates on Parks & Lands/Bike Path: None

Surface & Groundwater Protection: None

Attainable Housing: None

Brochure: Young brought it to the FCCA, complimentary to the work done by Kelly and had nothing to add.

Set the Next Meeting Date: The next regular meeting is scheduled for Tuesday, August 27, 2013 at 7:00 p.m.

Adjourn: *Motion: (Young, Blackwood) to adjourn at 10:42 p.m. Carried*

Respectfully Submitted,

Beth Hagen
Clerk