

CITY PLANNING COMMISSION

RECOMMENDATION

OFFICIAL MAP AMENDMENT

Re: To amend the Official Map of the City of Rochester by dedicating 81 North Plymouth Avenue as right-of-way for a pedestrian walkway; an action requiring City Planning Commission recommendation to City Council.

Case No: OMA-09-16-17

Resolution:

RESOLVED, the City Planning Commission recommends that the Official Map of the City of Rochester be To amend the Official Map of the City of Rochester by dedicating 81 North Plymouth Avenue as right-of-way for a pedestrian walkway as detailed in the memorandum to Zina Lagonegro, Director of Planning and Zoning, from James R. McIntosh, P.E., City Engineer, dated February 17, 2017.

| | |
|------------------------|---------------------------|
| Vote: | Motion Passes |
| Action: | Recommend Approval |
| Filing date: | April 3, 2017 |
| Record of Vote: | 6-0-0 |
| D. Watson | Recommend Approval |
| S. Mayer | Recommend Approval |
| M. Gaudioso | Recommend Approval |
| S. Rebholz | Recommend Approval |
| H. Hogan | Recommend Approval |
| T. Bruce | Recommend Approval |
| E. Marlin | Absent |
| M. Pichardo | Absent |

**MINUTES
TEXT AMENDMENT
OMA-09-16-17
CITY PLANNING COMMISSION INFORMATIONAL MEETING (4/3/2017)
Page 1 of 1**

APPLICANT: City of Rochester, City Engineer

PURPOSE: To amend the Official Map of the City of Rochester by dedicating 81 North Plymouth Avenue as right-of-way for a pedestrian walkway; an action requiring City Planning Commission recommendation to City Council.

APPLICANT AND/OR REPRESENTATIVE PRESENTATION:

Al Giglio, DES: Hi, my name is Al Giglio. I'm with the City of Rochester Division of Street Design, Room 300B. I am here representing the City Engineer who is asking for this City owned parcel, 81 North Plymouth Avenue, to be dedicated as additional right of way. The existing use of it is a walkway from Washington to Plymouth Avenue. Upon dedication as additional right of way, the use will remain the same. It will just be dedicated right of way.

Questions from the Members: NONE

Speakers in Favor: NONE

Speakers in Opposition: NONE

HEARING ENDS



April 13, 2017

Mr. Mark Coon
Bell Atlantic Mobile Systems d/b/a Verizon Wireless
1275 John Street
Rochester, New York 14586

NOTICE OF DECISION

In the matter of the request for a **Special Permit to:** install a 'micro cell' wireless telecommunications facility on the rooftop of this residential building that is less than four stories.

ON THE PREMISES AT: 36 Comfort Street
ZONING DISTRICT: R-2 Medium Density Residential District
APPLICATION NUMBER: E-043-16-17
VOTE: 6-0-0

PLEASE TAKE NOTICE that at the City Planning Commission meeting held on April 3, 2017, said application was **APPROVED ON CONDITION THAT:**

- The proposed chimney concealment color matches the color of the existing chimney.

Please Note: Pursuant to Section 120-192B(7) of the City Code, a Special Permit shall become null and void one (1) year after the date on which it was issued unless a Building Permit is obtained. **Please contact Jill Wiedrick at 428-6914 to complete the approval process.**

CITY PLANNING COMMISSION

Zina Lagonegro, AICP, EIT
Secretary, City Planning Commission

xc: Costich Engineers, 217 Lake Avenue, Rochester, New York 14608
Robert Brenner, Esq., Nixon Peabody LLP, 1300 Clinton Square, Rochester, NY 14604

2017 APR 21 PM 3:09
RECEIVED
CITY OF ROCHESTER
CLERK/COUNCIL OFFICE



Resolution and Findings of Fact:

Prior Application

At the February 6, 2017 City Planning Commission Hearing, the Special Permit application to install a 'micro cell' wireless telecommunications facility on the rooftop of a residential building that is less than four stories located at 36 Comfort Street was denied.

A Rehearing Request application was submitted for the same address and then contemplated by the City Planning Commission (Commission) at the March 6, 2017 Commission Hearing. By a unanimous vote, the Commission determined that the new application was materially different than the prior application and thus, voted to consider the revised application.

Present Application

This decision to approve the revised application was based on the following findings of fact:

Pursuant to Section 120-192B(2) and (3) of the Zoning Code, the Special Permit procedure is intended to provide a means to evaluate any use that is identified as having some special impact or uniqueness which requires a careful review of its location, design, configuration and special impact to determine the desirability of permitting its establishment on particular given site. A Special Permit use may or may not be appropriate in a particular location depending on a weighing in each case, of the public need and benefit against the local impact and effect and with regard to the following five criteria:

A. The proposed PWTF will be in harmony with the goals, standards and objectives of the Comprehensive Plan.

- 1) The proposal is intended to advance Campaign Seven of the City's Rochester 2010: The Comprehensive Plan - Quality Service, to develop and maintain high quality services and infrastructure to the City's citizens, and provide an advanced and coordinated communications system that adapts to emerging technologies that serves the larger public interest.
- 2) The goals and objectives of the Comprehensive Plan are also reflected in the Zoning Code, Section 120-143 regarding Personal Wireless Telecommunications Facilities (PWTFs), which expresses a preference that antennas be located on existing buildings and towers rather than on newly constructed towers.
- 3) Section 120-143 of the Zoning Code section also requires Special Permit approval for the installation of a Personal Wireless Telecommunications Facility (PWTF) on an existing residential structure that is less than four stories in height. The imposition of this Special Permit requirement reflects a preference for placing PWTFs on existing residential structure that are four or more stories in height.

- 4) The relevant goals and objectives of the Comprehensive Plan are also reflected in the fact that the proposed site of the PWTF at 36 Comfort Street is located within the R-2 Medium Density Residential zoning district. The purpose of the R-2 district is to provide a mix of single-family, two-family and multifamily housing choices while maintaining the lower-density scale of the neighborhoods. Although these areas are located proximate to neighborhood-scale shopping and service opportunities, the district requirements are intended to preserve, promote and protect a quality of urban residential living characterized by unobstructed front yards, pedestrian-scale streetscapes and buildings scaled and designed to be compatible with the neighborhood (Zoning Code §120-16). Therefore, a PWTF placed and configured so that it stands out from or dominates the residential structure on which it is placed would run contrary to the Comprehensive Plan.

B. The proposed PWTF will not have a substantial or undue adverse effect upon adjacent properties.

- 1) The subject property contains a 2 ½ story two-family residence that is legal for one family on the first floor and one family on the second floor.
- 2) The applicant is proposing to install 'micro cell' wireless telecommunications facilities to help alleviate existing or projected capacity concerns affecting its existing wireless network that is made up of traditional "macro" cells served by large antennas located on towers and "micro" cells. Micro cells are intended to provide 'hot spot' type coverage where the area to be covered is within a radius of 1,000 feet or less.
- 3) The proposed 'micro cell' wireless telecommunications facility operates using a small antenna referred to as a "Cantenna," which is approximately 2 feet high and 1 foot in diameter. Cantennas are mounted above the roofline to 'see' the service area and to provide the intended coverage. The installation also includes a ground-based equipment cabinet for operation.
- 4) The project site consists of a 36+/- square foot area of leased rooftop space for the cantenna and a 36+/- square foot area of leased exterior ground space for the equipment cabinet. In the previous application, a stealth enclosure resembling an aluminum clad stove pipe was proposed. The applicant is now proposing to install the cantenna on one of the building's two existing chimneys, within a stealth enclosure that resembles a 'chimney pot,' that extends above the existing chimney an additional 3'1" in height.
- 5) The Commission examined the drawings dated 2/23/2017 and noted significant changes from the prior application. These drawings show that the proposed cantenna has been relocated farther to the rear of the building, reduced in overall height, and mounted atop the existing brick chimney concealed within a stealth enclosure that resembles a 'chimney pot.'

- 6) The Commission also noted from these drawings (dated 2/23/2017) that the ground mounted equipment cabinet would be located toward the rear of the property, close to the house, facing Orion Alley and the CCD-R Center City District-Riverfront zoned properties on the other side, and limited to a footprint of 8' by 4'6". The equipment is shown to be surrounded by a 6' wood stockade fence that ensures that the equipment cannot be seen. The height of the fence is consistent with the maximum permissible height of fences within the rear and side yards of residential properties (Zoning Code §120-167B[2]). As part of the original application, the applicant demonstrated that it was not feasible to conceal the equipment inside the residence either in the attic or basement.
- 7) The Commission commented that the applicant had taken numerous steps to mitigate issues that were identified in previous applications, specifically the appearance and location of the cantenna.
- 8) The Commission accepted the applicant's assertion that the addition of the proposed PWTF on 36 Comfort Street will fill a telecommunications gap that currently exists or will exist in the near future, and that the applicant's search failed to find an available alternative location that could service the same gap without requiring its own special permit.
- 9) The Commission determined that any of the following alterations to the applicant's proposal would eliminate the conditions necessary to support its determination that the PWTF proposal will not have a substantial or undue adverse effect upon adjacent properties:
 - a) any increase in the 3'1" height or in the width of the cantenna's stealth structure (due to the loss of consistency with other chimneys with regard to height above the roof);
 - b) any horizontal change in the location of the roof on which the cantenna is placed (due to the less prominent location of the approved cantenna in relation to the roof peak and front of the house);
 - c) relocating the cantenna from the chimney and/or its chimney pot stealth structure (due to the loss of resemblance with other chimneys);
 - d) placement of any additional telecommunication antenna elsewhere on the roof even if it does not exceed the height of the one that is proposed and even if placed on a substantially similar chimney-like structure and concealed within its own substantially similar chimney pot stealth structure (because the placement of an additional chimney and pot structure to the residence's two existing chimneys would be inconsistent with the appearance of other houses of similar kind in the neighborhood);

- e) the addition of any ground-based telecommunication equipment that would cause the equipment to exceed the 6' height of the concealing fence, increase the ±36 square foot ground footprint, or change the unobtrusive location of the equipment area (because it would be inconsistent with the enclosures for residential air conditioning and other utility enclosures and/or with the 6' residential fence height limit).

Therefore, any of the above listed alterations, additions or colocations for the approved PWTF would constitute a "substantial change" not entitled to automatic local zoning approval for telecommunications facilities pursuant Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. § 1455[a]) because each listed alteration would defeat essential concealment elements of the approved PWTF's base station.

C. The proposed PWTF will not dominate the immediate vicinity or interfere with the development and use of neighboring properties.

The Commission determined that, with the chimney color matching condition noted above, the proposed PWTF at 36 Comfort Street will not dominate the immediate vicinity or interfere with the development and use of neighboring properties. The bases for this determination include the observations listed under Section B above.

D. The proposed PWTF will be served by essential public facilities and services.

The available utilities and services are sufficient to meet the demands of the proposed installation of the PWTF at 36 Comfort Street.

E. The proposed PWTF will not result in the destruction or damage of any natural, scenic or historic feature of significant importance.

Installation of the proposed 'micro cell' wireless telecommunications facility at 36 Comfort Street will not result in the destruction or damage of any natural, scenic or historic feature of significant importance.

BASED ON THESE FACTS AND FINDINGS, BE IT RESOLVED that the City Planning Commission **APPROVES ON CONDITION** application **E-043-16-17** by Bell Atlantic Mobile Systems d/b/a Verizon Wireless, to install a 'micro cell' wireless telecommunications facility on the rooftop of this residential building that is less than four stories at **36 Comfort Street**.

This decision was based on the following testimony and evidence:

Supporting Testimony:

Thomas C. Greiner, Jr., attorney representing applicant
Peter Franz, Verizon representative

Opposing Testimony:

None

Evidence:

Staff Report
Special Permit Application and Standards
Project Description
Applicable Legal Standards
Compliance with the City's wireless telecommunications facility standards
Statement of need and site selection analysis by RF engineering department (including propagation studies)
Detailed RF report outlining the capacity need for the Project
Structural integrity letter
Copy of lease evidencing Landowner's consent to this application
Site Plan
Copy of Verizon Wireless' FCC licenses
Photosimulation report (including viewshed map)
Map depicting the approximate locations of existing Verizon Wireless macro and micro cell facilities, together with approximate locations of proposed/future sites
Letter regarding BASWA, between Robert J. Brenner and Christina Jones, dated March 29, 2017
Additional information regarding cantennas located on lightpoles
Personal Appearance Notice
Notification Labels
Speakers' Lists

Record of Vote:

| | |
|-------------|---------|
| D. Watson | Approve |
| E. Marlin | Absent |
| H. Hogan | Approve |
| T. Bruce | Approve |
| S. Mayer | Approve |
| M. Gaudioso | Approve |
| M. Pichardo | Absent |
| S. Rebholz | Approve |



City of Rochester

Neighborhood and Business Development
City Hall Room 125B, 30 Church Street
Rochester, New York 14614-1290
www.cityofrochester.gov

Bureau of Planning
and Zoning

April 13, 2017

Mr. Daniel Nothnagle, Three Heads Brewing
186 Atlantic Avenue
Rochester, New York 14607

NOTICE OF DECISION

In the matter of the request for a Special Permit to: establish food trucks and recreational activities in the parking lot of the brewery.

ON THE PREMISES AT: 186 Atlantic Avenue
ZONING DISTRICT: M-1 Industrial District
APPLICATION NUMBER: E-044-16-17
VOTE: 6-0-0

PLEASE TAKE NOTICE that at the City Planning Commission meeting held on April 3, 2017, the Planning Commission, as Lead Agency, issued a negative declaration for the proposed action, determining no significant effect on the environment in accordance with Article 8 of the New York State Environmental Conservation Law and Chapter 48 of the Rochester Municipal Code, and said application was **APPROVED ON CONDITION THAT:**

- 1) **All recreational activities on the patio shall end by 10:00PM, daily.**
- 2) **Only ONE vendor (food truck or food cart) shall be on site at any given time and shall not obstruct the handicap accessible parking spaces.**

Please Note: Pursuant to Section 120-192B(7) of the City Code, a Special Permit shall become null and void one (1) year after the date on which it was issued unless a Building Permit is obtained and maintained. **Please contact Jill Wiedrick at 428-6914 to complete the approval process.**

CITY PLANNING COMMISSION

Zina Lagonegro, AICP, EIT
Secretary, City Planning Commission

RECEIVED
CITY OF ROCHESTER
CLERK/COUNCIL OFFICE
2017 APR 21 PM 3:08



Resolution and Findings of Fact:

This decision was based on the following findings of fact:

Pursuant to Section 120-192B(2) and (3) of the Zoning Code, the Special Permit procedure is intended to provide a means to evaluate any use that is identified as having some special impact or uniqueness which requires a careful review of its location, design, configuration and special impact to determine the desirability of permitting its establishment on particular given site. A Special Permit use may or may not be appropriate in a particular location depending on a weighing in each case, of the public need and benefit against the local impact and effect and with regard to the following five criteria:

A. The proposed use will be in harmony with the goals, standards and objectives of the Comprehensive Plan.

- 1) The goals and objectives of the Comprehensive Plan are reflected in the 2003 Zoning Code which requires Special Permit approval for outdoor activities accessory to a permitted use.
- 2) Per Section 120-192 of the Zoning Code, the Planning Commission can approve the application for a Special Permit with conditions. The City Planning Commission granted a Special Permit on condition that:
 - 1) All recreational activities on the patio shall end by 10:00PM, daily.
 - 2) Only ONE vendor (food truck or food cart) shall be on site at any given time and shall not obstruct the handicap accessible parking spaces.

B. The proposed development will not have a substantial or undue adverse effect upon adjacent properties.

- 1) The subject property is located on Atlantic Avenue between Norwood Street and Anderson Avenue. The property has been developed as a brewery and tasting room.
- 2) In 2016, live entertainment was approved for a period of two years on condition that the live entertainment shall only be permitted on Thursday from 7:00PM to 10:00PM, and on Friday and Saturday from 7:00PM to 11:00PM (set up may occur one hour before, and take down may occur one hour after these timeframes).
- 3) The applicant proposes to establish the use of food trucks in the parking lot near the front of the building, as well as recreational activities that shall take place on the outdoor patio. The applicant has stated that food trucks would not be on site every day of the week; however, he would like the ability to have a food truck any day of the week. Recreational activities will include outdoor yard games.
- 4) Oral testimony revealed that the applicant had secured a temporary permit to allow food trucks on premise last year and had found that it was a successful experiment not only for the food truck operators, but also for the brewery. The applicant noted that he wished to be granted a permanent special permit to allow for this to continue.
- 5) The applicant also noted in oral testimony that the brewery customers had been engaging in recreational activities on the patio, but were unaware that a permit was needed. The applicant detailed that the recreational activities typically cease at dark.

- 6) The City Planning Commission determined that granting a permit for food trucks and recreational activities would not have a substantial or undue adverse effect upon adjacent properties. The City Planning Commission reasoned that the addition of these two uses to the outdoor area would likely further the development of the neighborhood, contributing to the activity and excitement that already exists.
- 7) To ensure that the proposed uses do not have a substantial or undue adverse effect upon adjacent properties, the City Planning Commission approved the application on condition that:
 - 1) All recreational activities on the patio shall end by 10:00PM, daily.
 - 2) Only ONE vendor (food truck or food cart) shall be on site at any given time and shall not obstruct the handicap accessible parking spaces.

C. The proposed use will be developed so as not to interfere with the development and use of neighboring properties.

The City Planning Commission determined that with the conditions noted above, establishing food trucks and recreational activities accessory to the brewery will not interfere with the development and use of neighboring properties.

D. The proposed use will be served by essential public facilities and services.

The available utilities and services are sufficient to meet the demands of the proposed use.

E. The proposed use will not result in the destruction or damage of any natural, scenic or historic feature of significant importance.

There are no other natural, scenic or historic features of significant importance on or in close proximity to the subject property to be affected by the proposed use.

BASED ON THESE FACTS AND FINDINGS, BE IT RESOLVED that the City Planning Commission **APPROVES ON CONDITION** application E-044-16-17 by **Dan Nothnagle, Three Heads Brewing** to establish food trucks and recreational activities in the parking lot of the brewery at **186 Atlantic Avenue**.

This decision was based on the following testimony and evidence:

Supporting Testimony:

Dan Nothnagle
Karrie Laughton

Opposing Testimony:

None

Evidence:

Staff Report
Special Permit Application and Standards
Site Plan showing food truck parking and outdoor patio
Aerial Photograph

Evidence Cont'd:

Location Map
Email with questions from Lisa Reyes, dated April 2, 2017
Notice of Environmental Determination dated April 3, 2017
Short Environmental Assessment Form Parts I and II
Personal Appearance Notice
Notification Labels
Speakers' List

Record of Vote:

| | |
|-------------|---------|
| D. Watson | Approve |
| E. Marlin | Absent |
| H. Hogan | Approve |
| T. Bruce | Approve |
| S. Mayer | Approve |
| M. Gaudioso | Approve |
| M. Pichardo | Absent |
| S. Rebholz | Approve |

**CITY OF ROCHESTER
NOTICE OF ENVIRONMENTAL DETERMINATION**

Issued in accordance with Article 8 of the New York State Environmental Conservation Law and Chapter 48 of the Rochester Municipal Code.

NEGATIVE DECLARATION: The proposed action is one which will not have a significant effect on the environment.

ACTION: Classification: Unlisted
Description: Special Permit Determination

PROJECT: Location: 186 Atlantic Avenue
Applicant: Dan Nothnagle, Three Heads Brewing
Description: To establish food trucks and recreational activities in the parking lot of the brewery.

REASON(S) FOR DETERMINATION: The project site does not contain sensitive natural features (e.g. wetlands, steep slopes, erodible soils, wildlife habitat, etc.) No significant impacts are anticipated with respect to water or air quality. Community facilities/services (e.g. water supply, energy supplies, public safety, waste disposal and transportation) are adequate to accommodate and serve the proposed project. The project will not affect historic or archaeological resources. The project is compatible with the area and adjacent uses.

LEAD AGENCY: City Planning Commission

AGENCY CONTACT PERSON: Jill Wiedrick, Senior City Planner
Bureau of Planning and Zoning, (585) 428-6914

DATE ISSUED: April 3, 2017

This declaration and supporting information is on file and available for public inspection with the Bureau of Buildings & Zoning, Room 125-B, City Hall.

FILE REFERENCE NUMBER: E-044-16-17

DISTRIBUTION: Planning Commission
Case File



City of Rochester

Neighborhood and Business Development
City Hall Room 125B, 30 Church Street
Rochester, New York 14614-1290
www.cityofrochester.gov

Bureau of Planning
and Zoning

April 13, 2016

Ms. Karrie Laughton
Lux Lounge
666 South Avenue
Rochester, New York 14620

NOTICE OF DECISION

In the matter of the request for a Special Permit to: establish live entertainment in the existing bar and to consider an Alternative Parking Plan to address the 49 space parking deficit created by the addition of live entertainment.

ON THE PREMISES AT: 666 South Avenue
ZONING DISTRICT: C-2 Community Center District
APPLICATION NUMBER: E-046-16-17
VOTE: 6-0-0

PLEASE TAKE NOTICE that at the City Planning Commission meeting held on April 3, 2017, the City Planning Commission, as lead agency, issued a negative declaration for the proposed action, determining no significant effect on the environment in accordance with Article 8 of the New York State Environmental Conservation Law and Chapter 48 of the Rochester Municipal Code; and said application was **APPROVED**.

Please Note: A live entertainment license, issued by the Rochester Police Department through the City Clerk's Office (Room 100A, City Hall, 30 Church Street), is also required and must be renewed on an annual basis (by January 31st of each year) to retain the rights to this approval. ***If the live entertainment is discontinued for six months or more, this Special Permit approval will become null and void. Please contact Jill Wiedrick at 428-6914 to complete the approval process.***

CITY PLANNING COMMISSION

Zina Lagonegro, AICP, EIT
Secretary, City Planning Commission

RECEIVED
CITY OF ROCHESTER
CLERK/COUNCIL OFFICE
2017 APR 21 PM 3:08



Resolution and Findings of Fact:

This decision was based on the following findings of fact:

Pursuant to Section 120-192B(2) and (3) of the Zoning Code, the Special Permit procedure is intended to provide a means to evaluate any use that is identified as having some special impact or uniqueness which requires a careful review of its location, design, configuration and special impact to determine the desirability of permitting its establishment on particular given site. A Special Permit use may or may not be appropriate in a particular location depending on a weighing in each case, of the public need and benefit against the local impact and effect and with regard to the following five criteria:

A. The proposed use will be in harmony with goals, standards and objectives of the Comprehensive Plan.

- 1) The proposal supports Campaign Six, Economic Vitality, of the City's *Rochester 2010: The Renaissance Plan*, to promote a business support environment that facilitates the expansion and retention of existing businesses, and encourages businesses and individuals to build on our rich entrepreneurial spirit.
- 2) The goals and objectives of the Comprehensive Plan are reflected in the 2003 Zoning Code which requires Special Permit approval for entertainment uses in the C-2 district, subject to sufficient screening of windows facing any adjacent property zoned or developed residentially and to provide off-street parking at a rate of ½ the maximum allowable occupancy.
- 3) Within the 2003 Zoning Code is the potential for an Alternative Parking Plan. An Alternative Parking Plan is a means to meet vehicle parking requirements other than to provide parking spaces on site in accordance with the ratios established in the Zoning Code.

B. The proposal will not have a substantial or undue adverse effect upon adjacent properties.

- 1) The subject property is located on South Avenue between Gregory Street and Hickory Street. The property is legal as a bar/restaurant (Lux Lounge) on the first floor and a one-family on the second floor.
- 2) The applicant is proposing to add live entertainment between the hours of 4:00PM and 2:00AM, daily. According to the applicant, live entertainment will consist of bands, a DJ and trivia. Live entertainment is proposed only indoors.
- 3) At the September 8, 2014 hearing, the City Planning Commission approved outdoor seating until 2:00 a.m. daily and movie night until 12:30 a.m. one night per week at the Lux Lounge until September 30, 2019.

- 4) The applicant submitted the following Alternative Parking Plan:
 - Parking Agreement between BASWA (Business Association of the South Wedge Area) and Postler and Jaeckle Corporation, 615 South Avenue - 44 parking spaces available after 5:00PM;
 - Public parking lot at 713 South Avenue - 15 parking spaces;
 - Walking and skateboarding - a number of patrons get around by these means;
 - Bike racks - a large number of patrons ride their bike to the bar;
 - Bike share program - BASWA is working on the details to have a bike share program and this may be happening this spring or summer;
 - On-street parking - there are over 300 on-street parking spaces within 1,000 feet of the bar;
 - Transit - there are 7 bus stops within 1,000 feet of the bar;
 - Cabs/Carpool - a number of patrons take cabs or carpool.
- 5) As such, the City Planning Commission accepted the Alternative Parking Plan, noting that the applicant has demonstrated that there is sufficient parking in the area should a patron choose to drive. In addition, the City Planning Commission determined that there were several other reasonable means presented that did not involve vehicles, guaranteeing that a patron could make their way to the bar without needing to use a parking space.
- 6) Testimony in support of the application noted that Lux Lounge has contributed to the revitalization of the neighborhood and has been a long standing business in the area. Testimony detailed that as a result of its presence in the neighborhood, more people have visited the South Wedge, and as a result, other businesses in the area. In addition, Lux Lounge and the applicant has put forth effort to support and play an integral part in the community by sponsoring events and fundraisers.
- 7) Further, the immediate neighbors, the Sisters of Saint Joseph, commented in written testimony that the applicant has been very conscientious and lets them know when there may be a large crowd so that they are not wondering what is happening. In addition, the Sisters of Saint Joseph noted that the applicant has started movie night earlier so their sleep time is not impacted.
- 8) The City Planning Commission concluded that the addition of live entertainment to the existing bar will not have a substantial or undue adverse effect upon adjacent properties. As detailed above, the applicant has demonstrated a desire to be part of the neighborhood and community by their actions, and does not intend to attract more patrons to the bar, but rather would like to enhance the bar experience for patrons.

C. The proposed use will be developed so as not to interfere with the development and use of neighboring properties.

- 1) The City Planning Commission determined that establishing live entertainment in the existing bar and accepting the Alternative Parking Plan should have a minimal impact upon the development and use of neighboring properties.
- 2) Oral testimony in opposition expressed concern about the increased parking requirement and the parking challenges that the neighboring property located at 661 South Avenue has experienced. A representative from this property noted that the management of this building often has to have vehicles towed and residents have severed leases because of an inability to find parking at the property lot.
- 3) The City Planning Commission acknowledges that the South Wedge neighborhood is one with numerous shops and other commercial venues that attract people from outside of the neighborhood whom may drive. Many may not be aware of the parking agreement between BASWA and Postler and Jaeckle Corporation or the community parking lot and park their vehicle wherever they may find an open space. Although the City Planning Commission cannot attribute the parking issues at 661 South Avenue to Lux Lounge and the applicant, it is recommended that the applicant communicate to clientele by means of signage and other methods deemed appropriate that parking shall not occur at 661 South Avenue.

D. The proposed use will be served by essential public facilities and services.

The utilities and services available are sufficient to meet the demands of this use.

E. The proposed use will not result in the destruction or damage of any natural, scenic or historic feature of significant importance.

There are no natural, scenic or historic features of significant importance on the site or in close proximity of the subject property that will be affected by this use.

BASED ON THESE FACTS AND FINDINGS, BE IT RESOLVED that the City Planning Commission **APPROVES** application **E-046-16-17** to establish live entertainment in the existing bar and to accept an Alternative Parking Plan to address the 49 space parking deficit created by the addition of live entertainment at **666 South Avenue**.

This decision was based on the following testimony and evidence:

Supporting Testimony

Karrie Laughton
Maureen Malone

Opposing Testimony

Tim Schmitt

Evidence:

Staff Report
Special Permit Application and Standards
Project description
Alternative Parking Plan
Parking Agreement (Postler and Jaeckle Corporation)
Map of Postler and Jaeckle Corporation Parking
Floor Plan of bar
Site Plan
Survey map
Exterior and Interior Photographs
Photographs of Surrounding Properties
Letter in Support from the Business Association of the South Wedge Area, dated March 2, 2017
Letter of Support from the Sisters of Saint Joseph Volunteer Corps, dated March 3, 2017
Letter of Support from Hedonist Artisan Chocolates- Jennifer Posey, dated March 20, 2017
Letter of Support from Vincent Ransom and David Young, undated
Letter of Support from John Rother, John's Tex Mex, undated
Letter of Support from Christopher Henley and Michael Lill, The Christopher Group, undated
Email of Support from Ronald M. Schutt, Sr., PrintRoc, Inc, dated March 1, 2017
Email of Support from Deb Zakrzewski, Zak's Avenue, March 2, 2017
Notice of Environmental Determination dated April 3, 2017
Short Environmental Assessment Form Parts I and II
Personal Appearance Notice
Notification Labels
Speakers' List

Record of Vote:

| | |
|-------------|---------|
| D. Watson | Approve |
| E. Marlin | Absent |
| H. Hogan | Approve |
| T. Bruce | Approve |
| S. Mayer | Approve |
| M. Gaudioso | Approve |
| M. Pichardo | Absent |
| S. Rebholz | Approve |

**CITY OF ROCHESTER
NOTICE OF ENVIRONMENTAL DETERMINATION**

Issued in accordance with Article 8 of the New York State Environmental Conservation Law and Chapter 48 of the Rochester Municipal Code.

NEGATIVE DECLARATION: The proposed action is one which will not have a significant effect on the environment.

ACTION: Classification: Unlisted
Description: Special Permit Determination

PROJECT: Location: 666 South Avenue
Applicant: Karrie Laughton, Lux Lounge
Description: To establish live entertainment in the existing bar and to consider an Alternative Parking Plan to address the 49 space parking deficit created by the addition of live entertainment.

REASON(S) FOR DETERMINATION: The project site does not contain sensitive natural features (e.g. wetlands, steep slopes, erodible soils, wildlife habitat, etc.) No significant impacts are anticipated with respect to water or air quality. Community facilities/services (e.g. water supply, energy supplies, public safety, waste disposal and transportation) are adequate to accommodate and serve the proposed project. The project will not affect historic or archaeological resources. The project is compatible with the area and adjacent uses.

LEAD AGENCY: City Planning Commission

AGENCY CONTACT PERSON: Jill Wiedrick, Senior City Planner
Bureau of Planning and Zoning, (585) 428-6914

DATE ISSUED: April 3, 2017

This declaration and supporting information is on file and available for public inspection with the Bureau of Buildings & Zoning, Room 125-B, City Hall.

FILE REFERENCE NUMBER: E-046-16-17

DISTRIBUTION: Planning Commission
Case File



April 13, 2017

Ms. Aera Lee
127 Sunset Street
Rochester, New York 14606

NOTICE OF DECISION

In the matter of the request for a Special Permit to: legalize the existing 13 unit rooming house, whose previous Special Permit has lapsed.

ON THE PREMISES AT: 1259 Lyell Avenue
ZONING DISTRICT: C-2 Community Center District
APPLICATION NUMBER: E-047-16-17
VOTE: 6-0-0

PLEASE TAKE NOTICE that at the City Planning Commission meeting held on April 3, 2017, the City Planning Commission, as lead agency, issued a negative declaration for the proposed action, determining no significant effect on the environment in accordance with Article 8 of the New York State Environmental Conservation Law and Chapter 48 of the Rochester Municipal Code; and said application was **APPROVED ON CONDITION THAT:**

- 1) **The two (2) spaces up against the east wall of the building which block vehicular circulation from Lyell Avenue to Fairgate Street shall be eliminated.**
- 2) **The four (4) space diagonal parking area located in the front yard setback along Fairgate Street shall be eliminated or legalized by area variance by the Zoning Board of Appeals.**

Please Note: Pursuant to Section 120-192B(7) of the City Code, a Special Permit shall become null and void one (1) year after the date on which it was issued unless a Building Permit is obtained and maintained. **Please contact Jill Wiedrick at 428-6914 to complete the approval process.**

CITY PLANNING COMMISSION

Zina Lagonegro, AICP, EIT
Secretary, City Planning Commission

RECEIVED
CITY OF ROCHESTER
CLERK/COUNCIL OFFICE
2017 APR 21 PM 3:08



Resolution and Findings of Fact:

This decision was based on the following findings of fact:

Pursuant to Section 120-192B(2) and (3) of the Zoning Code, the Special Permit procedure is intended to provide a means to evaluate any use that is identified as having some special impact or uniqueness which requires a careful review of its location, design, configuration and special impact to determine the desirability of permitting its establishment on particular given site. A Special Permit use may or may not be appropriate in a particular location depending on a weighing in each case, of the public need and benefit against the local impact and effect and with regard to the following five criteria:

A. The proposed development will be in harmony with the goals, standards and objectives of the Comprehensive Plan:

- 1) The goals and objectives of the Comprehensive Plan are reflected in the 2003 Zoning Code that requires Special Permit approval to establish a rooming house in a C-2 Regional Destination Center District.
- 2) The C-2 Regional Destination Center District provides diverse commercial development along gateway transportation corridors and neighborhood or village centers with a dense mixture of uses such as housing, retail and other complementary uses that serve the adjacent neighborhood and the community at large. The C-2 District is preserved through appropriate design elements, amenities and treatments that create, enhance and reinforce the design relationships between the buildings, sites and streets and still establish an ambience that is uniquely urban and pedestrian oriented.

B. The proposed use will not have a substantial or undue adverse effect upon adjacent properties:

- 1) The subject property is located on Lyell Avenue between Mt. Read Boulevard and Fairgate Street. The most recent Certificate of Occupancy indicates that the property is legal as first floor - 2 offices and 5 sleeping rooms; second floor - one studio and 7 sleeping rooms.
- 2) At the March 13, 2006 hearing, the City Planning Commission approved two offices, one apartment and twelve sleeping rooms, a rooming house use, for two years on condition that the applicant return for renewal to evaluate any operational problems associated with the rooming house. The applicant was also to perform all staff recommendations relating to parking and sign removal.
- 3) The applicant then returned before the City Planning Commission at its April 7, 2008 hearing. A renewal was granted for a period of 5 years on condition that:
 - a) The two (2) parking spaces up against the east wall of the building which blocks vehicular circulation from Lyell Avenue to Fairgate Street need to be eliminated.

- b) The first two (2) parking spaces along the frontage of Lyell Avenue will need to be excavated and replaced with a ten (10) foot wide landscape treatment to comply with Section 120-173 relating to parking lot design, which requires a landscape treatment between a parking lot and a street frontage.
- c) The four (4) space diagonal parking area long Fairgate Street is located in the front yard setback of Fairgate Street and must be either eliminated or legalized by area variance by the Zoning Board of Appeals.

Condition #2 is the only condition that has been met to date.

- 4) The applicant did not return in 2013 to renew the temporary permit, therefore, this application shall be evaluated as a new application.
- 5) The applicant proposes to add an additional sleeping room on the first floor where a sitting room previously existed, for a total of 13 rooming units. The studio apartment on the second floor will remain.
- 6) Oral testimony indicated that many of the residents are long term and have found it to be a very comfortable and secure environment. The property manager spoke in support of the application and concurred with the above, noting that he has lived on the premises for the last 12 years.
- 7) Based on the above information, the City Planning Commission determined that the proposed use is unlikely to have a substantial and undue adverse impact on adjacent properties, and therefore granted approval on condition that:
 - 1) The two (2) spaces up against the east wall of the building which block vehicular circulation from Lyell Avenue to Fairgate Street shall be eliminated.
 - 2) The four (4) space diagonal parking area located in the front yard setback along Fairgate Street shall be eliminated or legalized by area variance by the Zoning Board of Appeals.

C. The proposed use will not dominate the immediate vicinity nor interfere with the development and use of neighboring properties:

The proposed use will not dominate the immediate vicinity nor interfere with the development and use of neighboring properties. The City Planning Commission noted that this property had been used as a rooming house for at least 50 years and saw no reason to discontinue the use.

D. The proposed development would be served by essential public facilities and services:

The utilities and services available are sufficient to meet the demands of the proposed use.

E. The proposed use will not result in the destruction or damage of any natural, scenic or historic feature of significant importance:

The proposed rooming house will not result in the destruction or damage or any natural, scenic or historic feature of significant importance.

BASED ON THESE FACTS AND FINDINGS, BE IT RESOLVED that the City Planning Commission **APPROVES ON CONDITION** application **E-047-16-17 by Aera Lee**, to legalize the existing 13 unit rooming house, whose previous Special Permit has lapsed **at 1259 Lyell Avenue.**

This decision was based on the following testimony and evidence:

Supporting Testimony:

Aera Lee
William J. Bauman
Bennie J. Kommer

Opposing Testimony:

None

Evidence:

Staff Report
Special Permit Application and Standards
Notice of Decision dated March 14, 2006
Notice of Decision dated April 17, 2008
Survey Map
Floor Plans
Exterior and Interior Photographs
Aerial Photograph of Site
Location Map
Zoning Map
Notice of Environmental Determination dated April 3, 2017
Short Environmental Assessment Form Parts I and II
Personal Appearance Notice
Notification Labels
Speakers' List

Record of Vote:

| | |
|-------------|----------------------|
| D. Watson | Approve on Condition |
| E. Marlin | Absent |
| H. Hogan | Approve on Condition |
| T. Bruce | Approve on Condition |
| S. Mayer | Approve on Condition |
| M. Gaudiso | Approve on Condition |
| M. Pichardo | Absent |
| S. Rebholz | Approve on Condition |

CITY OF ROCHESTER
NOTICE OF ENVIRONMENTAL DETERMINATION

Issued in accordance with Article 8 of the New York State Environmental Conservation Law and Chapter 48 of the Rochester Municipal Code.

NEGATIVE DECLARATION: The proposed action is one which will not have a significant effect on the environment.

ACTION: Classification: Unlisted
Description: Special Permit Determination

PROJECT: Location: 1259 Lyell Avenue
Applicant: Aera Lee
Description: To legalize the existing 13 unit rooming house, whose previous Special Permit has lapsed.

REASON(S) FOR DETERMINATION: The project site does not contain sensitive natural features (e.g. wetlands, steep slopes, erodible soils, wildlife habitat, etc.) No significant impacts are anticipated with respect to water or air quality. Community facilities/services (e.g. water supply, energy supplies, public safety, waste disposal and transportation) are adequate to accommodate and serve the proposed project. The project will not affect historic or archaeological resources. The project is compatible with the area and adjacent uses.

LEAD AGENCY: City Planning Commission

AGENCY CONTACT PERSON: Jill Wiedrick, Senior City Planner
Bureau of Planning and Zoning, (585) 428-6914

DATE ISSUED: April 3, 2017

This declaration and supporting information is on file and available for public inspection with the Bureau of Buildings & Zoning, Room 125-B, City Hall.

FILE REFERENCE NUMBER: E-047-16-17

DISTRIBUTION: Planning Commission
Case File