

**VILLAGE OF LAKE ODESSA  
PLANNING COMMISSION**

**AGENDA**

**MONDAY, MARCH 27, 2023 - 7:00 P.M.  
PAGE MEMORIAL BUILDING  
839 FOURTH AVENUE  
LAKE ODESSA, MI 48849**

1. Call to Order / Roll Call
2. Approval of Agenda
3. Public Comment  
*Under the Open Meetings Act, any citizen may come forward at this time and make comment on items that appear on the agenda. Comments will be limited to five minutes per person. Anyone who would like to speak shall state his/her name and address for the record. Remarks should be confined to the question at hand and addressed to the chair in a courteous tone. No person shall have the right to speak more than once on any particular subject until all other persons wishing to be heard on that subject have had the opportunity to speak.*
4. Minutes
  - a. Approval of Planning Commission Meeting Minutes from:
    - i. January 23, 2023 Planning Commission meeting
5. Public Hearing
  - a. Proposed Amendment to the Village Ordinance Chapter 36 – Zoning, Article IV – Supplemental Use Regulations, Section 36-94 – Planned Developments of the Village’s Zoning Ordinance
6. Action and Discussion items:
  - a. Discussion: Update on Master Plan review
  - b. Discussion: Update on Food Trucks
7. Board Member Comments
8. Adjournment

VILLAGE OF LAKE ODESSA  
PLANNING COMMISSION

**DRAFT**

MINUTES  
JANUARY 23, 2023 REGULAR MEETING  
Page Memorial Building  
Lake Odessa, Michigan

Present: Karen Banks, Beth Barrone, Meg Wheeler, Patrick Reagan, Martha Yoder  
Absent: Al Hamp  
Staff: Jeanne Vandersloot, Kathy Forman  
Visitors: None

Meeting called to order by Chairperson Wheeler at 7:00 p.m.

**APPROVAL OF AGENDA:** motion by Banks, supported by Barrone, to approve the agenda as amended. Voice vote. Approved 5-0.

**PUBLIC COMMENT** – No public comment.

**MINUTES** – Motion by Barrone, supported by Banks, to approve the following Planning Commission meeting minutes:

1. September 26, 2022 Planning Commission meeting minutes

Voice vote. Approved 6-0.

**PUBLIC HEARING** – None

**ACTION & DISCUSSION ITEMS:**

- a) Discussion and Action: Proposed Zoning Ordinance Amendment 2022-06, an Ordinance to Amend the Code of Ordinance of the Village of Lake Odessa by Amending Article II, Section 24-36

Discussion of the amendment took place.

Motion by Banks, supported by Reagan, to set a public hearing for Monday, 2/27/2023.  
Voice vote. Motion approved unanimously, 5-0.

- b) Discussion and Action: Village of Lake Odessa Master Plan Update

A discussion of the need to update the master plan was held. At the March 27, 2023, meeting the commission will configure an RFP.

DRAFT

**ELECTION OF OFFICERS:**

- a) Motion by Banks, support by Reagan to retain the same slate of officers, Chairperson Meg Wheeler and Vice-Chairperson Beth Barrone. Voice vote. Motion approved unanimously, 5-0.

**BOARD MEMBER COMMENTS:** Barrone stated that it has been a pleasure to work with outgoing Village Manager, Patrick Reagan. She said he was the best village manager she has worked with.

**ADJOURNMENT:** Motion by Barrone, support by Reagan, to adjourn the meeting. All ayes; motion carried, 5-0. Meeting adjourned at 7:15 p.m.

Respectfully submitted,

Kathy Forman  
Village Clerk / Treasurer

**VILLAGE OF LAKE ODESSA  
IONIA COUNTY, MICHIGAN**

Trustee \_\_\_\_\_, supported by Trustee \_\_\_\_\_, moved the adoption of the following ordinance:

**ORDINANCE NO. 2023-01**

**AN ORDINANCE TO AMEND THE CODE OF  
ORDINANCES OF THE VILLAGE OF LAKE ODESSA BY  
AMENDING CHAPTER 36-ZONING, ARTICLE IV-  
SUPPLEMENTAL USE REGULATIONS, SECTION 36-94**

**THE VILLAGE OF LAKE ODESSA ORDAINS:**

**Section 1.** That Section 36-94 of the Code of Ordinances, Village of Lake Odessa, Michigan, is hereby amended to read as follows:

Sec. 36-94 – Planned Developments

- a) *Intent and purpose.* Planned developments are provided herein by special use permit in order to allow for flexibility in design of residential areas, economy in the usage of land, and conservation of sensitive physical and environmental features. Based upon the standards and criteria contained in sections [36-67](#) and [36-94](#), the village may review, and permit with conditions, a modification in bulk requirements in order to allow residential development containing both privately owned sites and common property, and which are planned collectively as a single unit. The planned development section of this chapter is provided in order that the growing demands for housing for young married couples, senior citizens and existing residents (who no longer wish to maintain a large one-family house) may be met by a greater variety of innovative housing types, and by planning and design of structures with the benefit of cost effective land utilization in such developments.
  
- (b) *Cluster development.* In any district in which single-family detached dwellings are a use permitted by right, the minimum required lot areas for such use, as set forth in the bulk regulations of this chapter, may be reduced by an amount not to exceed 50 percent; provided that a quantity of land at least equivalent to the total amount deducted from all lots shall be dedicated for open space so that the overall gross density for the entire area shall not exceed that permitted in the applicable zoning district.
  - (1) Compliance with subdivision regulations. Any such plan for cluster development shall be subject to the provisions for special use permit approval by the planning commission and must be in accordance with all of the procedures and provisions set forth in the subdivision regulations of the village.
  
  - (2) *Site eligibility.* The minimum area necessary to qualify as a cluster development shall not be less than ~~five~~ **three** contiguous acres of land.

- (c) *Residential planned unit development.* A residential planned unit development (residential PUD) may be applied for through the special use permit procedure. The granting of a special use permit for a residential PUD is permitted only for R-1 and MF zoning districts.
- (1) *Site eligibility.* The minimum area necessary to qualify as a residential PUD shall not be less than ~~five~~ **three** contiguous acres of land. However, an owner of land less than the minimum required area may apply if his land is adjacent to a proposed or constructed residential PUD.
  - (2) A minimum of 20 percent of the property shall be dedicated as open space. Open space includes natural areas and parks. Public and private streets, any rights-of-way, the area of any lot or unit, and 25 percent of streams, lakes, ponds, and wetlands shall not be included in the open space calculation and shall not be counted as open space.
  - (3) Density on the remainder of the property may be increased up to 1.75 times the maximum number of dwelling units per acre permitted under R-1 zoning. The density increase shall be applied to the remnant acreage of the property after the proposed open space acreage, which shall be a minimum of 20 percent, has been deducted.
  - (4) A further density increase may be granted by the planning commission at the specific request of the applicant if the planning commission finds that the density increase would:
    - a. Result in a recognizable benefit to the village and residents of the PUD;
    - b. Provide additional amenities; and
    - c. Preserve additional open space or natural features.
  - (5) The dwelling units in the residential PUD may be constructed in any combination of housing types, except for mobile homes.
- (d) *Preapplication conference with planning commission for concept review.* Prior to formal application submission for a proposed planned development, the developer/applicant shall be required to make a presentation to the planning commission in order to discuss initial design concepts and the application of said concepts to the land in question. The purpose of the pre-application conference is to inform the planning commission of the proposal and to receive preliminary review comments in connection with the standards of this section.
- (e) *Standards and considerations.* In addition to complying with the standards for special use permits, the following special standards for a cluster development or a PUD must be met:
- (1) *Ownership.* The tract of land may be owned, leased or controlled by a single person, partnership, corporation, cooperative association, or association of individual owners (condominium). An application may be filed by the owner, jointly by the owner of all

property to be included, or by a person, persons, corporation, or corporations, with an option to buy said property. A plan, once approved, shall be binding.

- (2) *Utilities.* A cluster development and a PUD shall connect to public water and sewer provided by the developer, and must be approved by all legal state, county and local agencies (health, conservation, etc.) which are in authority and have jurisdiction.
- (3) *Permitted residential housing types and uses.* The following are considered eligible for inclusion in an application:

a. *Primary uses:*

1. Single-family detached homes.
2. Two-family houses.
3. Single-family attached homes (such as row houses and town houses) of eight dwelling units or less per building.
4. Multiple-family structure (apartments) of ten dwelling units or less per building.

b. *Accessory uses and amenities:*

1. Open space - passive and active.
2. Indoor and outdoor recreational facilities, decks, gazebos, children's playhouses or similar typical uses.
3. Carports, garages, and personal storage facilities for use by residents of the development.
4. Community building and meeting halls.
5. On-premise laundry facilities for use by residents of the development.

- (4) *Site design standards.* Unless modified by the ~~council~~ **planning commission** in writing at the time of application approval, compliance with the following design standards is required:

- a. Minimum yard requirements and building setbacks from the exterior perimeter of the development property lines shall be ~~30~~ **20** feet.
- b. Maximum building height, 2½ stories or 35 feet (excludes antennas, steeples, spires, etc.) measured from the average existing topography (no grade mounding).

- c. Minimum spacing between single-family attached homes and multiple family structures shall not be less than the building height of the tallest building. Bulk regulations shall be determined by the planning commission after reviewing the proposed site plan. Criteria to use for making the determinations shall include the following:
1. Granting of the PUD will result in a recognizable and substantial benefit to the ultimate users of the project and to the community where such benefit would otherwise be unfeasible or unlikely to be achieved.
  2. In comparison to the bulk regulations ordinarily applied, the proposed type and density of uses shall not result in a material increase in the need for public services, facilities, and utilities, and shall not place a material burden upon the subject or surrounding land or property owners and occupants or the natural environment. Fire safety shall not be compromised and fire hydrants shall be located to adequately serve the site.
  3. The proposed development shall be compatible with the master plan of the village and shall be consistent with the intent and purpose of a PUD as expressed in [section 36-94\(a\)](#).
  4. The PUD shall not change the essential character of the surrounding area.
  5. High quality building materials shall be provided.
- d. All sensitive natural features such as drainage ways and streams, wetlands, lands within the 100-year floodplain, and stream or river banks (which by virtue of soil and slope may create highly erodible hazards to the public health and safety) shall remain unencumbered by residential buildings and structures except for approved docks, boardwalks, benches and access stairs.
- e. All access and egress easements and street openings from the development onto public or private roads shall be in accordance with the regulations and standards of the appropriate agency having jurisdiction over the proposed entrance areas (Ionia County Road Commission, Michigan Department of Transportation and/or Village of Lake Odessa).
- f. Within the required ~~30-foot~~ **20-foot** perimeter setback, a planted or landscaped buffer area is required along all exterior perimeter boundaries of the proposed property area to be developed. The following requirements for plantings in the buffer areas shall be met:
1. Two evergreen trees and two deciduous trees shall be required for every 50 linear feet of buffer area, or fraction thereof.

2. Evergreen trees shall be a minimum of six feet in height at time of planting; and deciduous trees shall be a minimum of eight feet in height at time of planting.
  3. Existing trees within the ~~30-foot~~ 20-foot perimeter setback may count toward the planting requirements, as long as the existing trees meet the minimum height requirements in subsection 2.
- g. Drainage requirements shall be reviewed and approved by the village engineer.
  - h. Permanent conservation easements or other forms of equivalent irrevocable conveyance shall be created and recorded to protect required open space areas from future development.
  - i. Off-street parking is required at the rate of two parking spaces per dwelling unit.
- (5) *Applicable standards.* All applicable standards of the zoning ordinance outside of this section must be met, unless waived by the planning commission in consideration of the standards set forth in subsection (4)c.1. through 5.
  - (6) *Public easements on common property which is privately owned.* When common property exists in private ownership, the owners shall grant easements, over, under and through such property, to the village as are required for public purposes.
  - (7) *Common property in the planned unit development.* Common property in the PUD is a parcel or parcels of land, a privately owned road or roads, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. When common property exists, the ownership of such common property shall be private. When privately owned, arrangements must be made for the improvement, operation, and maintenance of such common property and facilities, including private streets, drives, service parking and recreational areas. A proposed maintenance agreement to permanently protect and provide for future maintenance of the common areas shall be reviewed and approved by the village attorney prior to issuance of any village permits. The approved agreement shall be recorded at the Ionia County Register of Deeds.
  - (8) *Dimensional variances prohibited.* After approval of planned development under [section 36-94](#), no dimensional variances may be granted to the approved application.
- (f) *Appeals.* Any and all administrative interpretations, decisions, and requirements of the planned development provisions shall be appealed within 15 days to the zoning board of appeals. Except for the prohibited granting of dimensional variances after planned development approval, the zoning board of appeals shall exercise all its power and duties as provided for in sections [36-137](#) and [36-138](#).



(g) *Public hearing.* A public hearing is required for all planned developments in accordance with Section 103 of the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended.

(Ord. No. 119, § 5.3, 8-1993; Ord. No. 2008-6, § 1, 12-15-2008)

**State Law reference**—Planned unit development, MCL 125.584b.

**Section 2.** Conflict and Repeal. All ordinances or parts of ordinances in conflict with this ordinance are repealed.

**Section 3.** Effective Date. This ordinance shall take effect seven days following publication in a newspaper circulated within the Village.

**Section 4.** Publication. After its adoption, this ordinance or a summary thereof, as permitted by law, shall be published by the Village Clerk in a newspaper of general circulation in the Village.

Ayes:

Nays:

Abstain:

Absent:

**ORDINANCE DECLARED ADOPTED.**

Dated: April 17, 2023

\_\_\_\_\_  
Karen L. Banks, Village President

\_\_\_\_\_  
Kathy Forman, Village Clerk

**CERTIFICATION**

I, the undersigned duly appointed Village Clerk of the Village of Lake Odessa, Ionia County, Michigan, do hereby certify that the above ordinance, or a summary thereof, was published in the Lakewood News, a newspaper of general circulation in the Village, on \_\_\_\_\_ and that such ordinance was entered into the Ordinance Book of the Village on \_\_\_\_\_.

Date: \_\_\_\_\_

\_\_\_\_\_  
Kathy Forman, Village Clerk



TO: Downtown Development Authority

FROM: Gregg Guetschow, Village Manager

SUBJECT: Regulation Food Trucks

DATE: March 8, 2023

The purpose of this memorandum is to elaborate on matters discussed during the Downtown Development Authority's February 14, 2023 meeting related to food trucks.

BBQ Trailer, 1409 Jordan Lake Street. During its October 18, 2021 meeting, the Village's Planning Commission approved a special use permit application submitted by Michael Mouch to allow the temporary location of a BBQ trailer on the east side of the structure housing Cobb's Quick Lube and Wash.

This application was accepted for review based on an August 6, 2021 email from Zoning Administrator Jeanne Vandersloot to Village Manager Patrick Reagan. Ms. Vandersloot confirmed that there was no language in the zoning ordinance addressing food trucks or trailers. She wrote "We could write language to add to the ordinance food trucks and trailers to allow them which is the best legal way."

Elsewhere in the email, however, she indicated that Mr. Mouch could "apply for a special use permit as a restaurant second use on the property." This was based on two interpretations that, I believe, are not especially straightforward.

Ms. Vandersloot cites a section of the zoning ordinance that she described as permitting a restaurant as a second use on the site. The provision that addresses this, Section 36.63 (c) (4) reads as follows: "*Erection of more than one principal structure on a lot.* In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot ..." There are a couple of problems with the use of this language to support a food trailer. One is that there is a mixture of zoning terms of art. Uses are typically referred to as principal permitted uses (uses permitted by right), uses subject to special conditions (conditional uses), and accessory uses. In the Highway Commercial zoning district, restaurants are a conditional use. It appears that the term "permissible principal use" conflates terms in a way that allows for interpretation that would include conditional uses. If that was the intent, it would have been clearer had they used that term. Because that clarity was absent, Ms. Vandersloot's guidance on the matter is understandable.

Another more consequential problem is that the language permits two structures. The presumption of this language is that each of the uses is housed within its own building. A BBQ wagon is not a structure.

A stipulation that customer transactions must take place within completely enclosed buildings is common in many zoning ordinances, although I could find no similar language in Lake Odessa's ordinance. The problem with using the cited language as the basis for allowing a second use on the property is that it opens the door to many other types of temporary uses. For example, florist shops are permitted uses in the Highway Commercial district. Using the same logic as for the BBQ trailer, this would allow someone to show up with a van full of flowers for sale.

The second area of misinterpretation relates to defining "restaurant" to include a BBQ trailer. The zoning ordinance offers some guidance here. "Restaurant" is defined as "an establishment where food and drink are prepared, served and consumed." Because the zoning ordinance refers to take-out restaurants in another section, one need not interpret this definition as requiring that food be consumed on the premises. On the other hand, the use of the term establishment would appear to contemplate that the food preparation takes place within a building.

Equally problematic in evaluating the conditional use application is the requirement that "restaurants must front on M-50 or Jordan Lake Avenue." Once again, it appears that in drafting the zoning ordinance, the Planning Commission had in mind the typical restaurant configuration of a building with the front parallel to the adjacent street. Mr. Mouch's trailer was located alongside the existing building. It does not face the street.

The agenda packet for the Planning Commission meeting at which Mr. Mouch's application was considered did not contain a written report from either Ms. Vandersloot or Mr. Reagan addressing any of these background issues, nor does it appear that the Commission was provided a copy of Ms. Vandersloot's August 6 email. The Commission, then, may be forgiven for failing to take up Ms. Vandersloot's suggestion for additional language or the concerns I have raised. Mr. Mouch has relied upon the approval granted by the Commission in operating the BBQ trailer on his premises. It would seem to be bad faith on the part of the Village to subsequently deny him that use.

Nevertheless, that action should not be relied upon as precedent for similar requests that might arise in the future. Particularly concerning in that respect is the fact that the Central Business zoning district allows restaurants as a permitted use. If the logic that allowed Mr. Mouch's request to be approved was applied to similar requests in the CBD, it is conceivable that many would be allowed without the necessity for Planning Commission review.

The decision to approve Mr. Mouch's application, in my view, was an unforced error on the Village's part. Mr. Mouch had indicated he was uncertain he would operate the BBQ trailer until 2022. That allowed adequate time to take up the question of drafting appropriate zoning

ordinance language to address the issue. In the following paragraphs, I will suggest some areas where language might be added to more definitively address this subject.

Temporary Uses. I have been able to identify only one section of the zoning ordinance that explicitly allows for temporary uses. The Public Recreational District, the zoning district for park areas and the fairgrounds, includes as uses permitted by right, “temporary or seasonal uses fitting the intent and purpose of the district, including circuses, carnivals or fairs; and associated activities, buildings and structures, for a period not to exceed seven days.”

I can find no similar language applicable to any other zoning district. The conclusion to be drawn from this is that the Planning Commission and the Council intended temporary uses, such as food trucks, to be rare and limited both in scope and duration.

I suspect there have been temporary uses that have occurred outside of the Public Recreational District that were allowed without giving consideration to whether the zoning ordinance permitted them. It is not uncommon, for example, for a business to set up a tent in a parking lot for a grand opening or a special promotion. At times, those businesses might also wish to have a food vendor on site. At present, there is no allowance for such temporary uses.

Accessory Uses. Zoning ordinances frequently include among permitted uses those that are customarily incidental to the main use of the property. In the Highway Commercial district, the only permitted accessory uses are parking lots and on-site storage. In the Central Business district, only parking lots are permitted accessory uses. This language might be stricter than desirable. It is easy to imagine a BBQ restaurant that would wish to have a wagon used to smoke its meat. Setting that aside, however, the important issue to note is that the accessory uses must be customary for a business of the type that is on the site.

Licensing of Peddlers. The Village’s Code of Ordinances includes language requiring the licensing of peddlers. There is an important exception, however, that could apply to food trucks:

Any person selling items, good, wares, services, merchandise, food or produce from a stand, booth, display case or other temporary or portable structure or fixture, which is at all times located upon private property with the express approval and invitation of the owner of such property.

I refer to this as the lemonade stand provision. I believe it is likely those who drafted the ordinance had something of this nature in mind when they included the language. Food trucks were not especially common in small towns until recently but lemonade and produce stands have been around for a long time. It is also likely that some version of this provision predated the adoption the zoning ordinance.

Because a zoning ordinance now exists, any commercial use that would fall under the peddlers provisions of the code, whether or not exempt from licensing, must comply with zoning regulations. I suspect that need has been overlooked in the past in order to accommodate food vendors for community events. This oversight is one that could easily be

corrected by adding language to the zoning ordinance that sets out standards for temporary uses.

Recommendation. In summary, there are a number of obstacles to allowing food trucks and the like to operate legally in Lake Odessa, even to the limited extent supported by those restaurants that submitted responses to the recent survey. I think it would be prudent for the Downtown Development Authority to ask that the Planning Commission and the Village Council to institute a moratorium on the granting of licenses or other permits for food trucks and similar temporary businesses until such time as appropriate zoning ordinance language can be drafted and adopted.