

**PLANNING COMMISSION MEETING**  
**May 2, 2006**

**MEMBERS PRESENT:** Bob Craggs, Richard Glasgow, Sharon Lee, Joe Paiement, Chris White, Diane Wirth

**STAFF PRESENT:** Chris Wallberg

**OTHERS PRESENT:** Al Bergevin, Bob Livingston, Dottie Mau, Gary Mau, Mary Pulse, Tracy Salzl, Jim Stanton

1. **CALL TO ORDER** by Chair Joe Paiement at 7:02 p.m.
2. **PLEDGE OF ALLEGIANCE** was said.
3. **MEETING MINUTES** – White had following changes: (1) Agenda Item 3 should reference White requested, not Lee, (2) Agenda Item 5 - construe to construct, (3) ~~but~~ notions. **M/S/P (Craggs/Lee) to approve the April 4, 2006 PC meeting minutes as amended. Motion passed.**
4. **VARIANCE APPLICATION FOR PATIO BY GARY & DOTTIE MAU**

**A. Public Hearing on an Application by Gary & Dottie Mau for a patio at 16777 7<sup>th</sup> Street North**

- 1) **Call to Order** at 7:04 p.m.
- 2) **Introduction of Application** – Wallberg summarized application result of complaint received last summer regarding construction in process; patio being installed on west side of physical structure of property; impervious surface limited to 20%, and while there are number of different calculations, it is at least 60%; went through series of meetings and applications with CC directing Mau's make application for variance to address whether patio should remain and to have review of Colonial Eco Square paving materials used for project; application for variance, but necessary to review and make recommendation regarding product and whether material should remain in existing patio.
- 3) **Public Comments** – none
- 4) **Written Comments** – [All copies on file at City Hall]
  - Letters from Gary and Dottie Mau dated 1/21/06, 3/09/06, and 3/30/06
  - Memorandum from David Simons, City Engineer dated 4/27/06
  - Correspondence from Molly Shodeen (DNR)
- 5) **Hearing Closed** at 7:08 p.m.

**B. Discussion & Recommendation**

Motion by Glasgow to recommend the application by Gary & Dottie Mau for a patio at 16777 7<sup>th</sup> Street North be tabled until July 2006 PC, at which time Planning Commission will submit full report of findings as well as recommendations. White seconded. Craggs asked background for reasoning Glasgow has for recommending this approach. Glasgow received meeting packet Saturday, April 28, read through Sunday, April 29 and felt too much information to digest and verify in short period of time; main questions to be answered are whether to consider installed pavers pervious/impervious; talked to Dave Simons who relayed question hasn't been answered. Craggs confirmed that is basically the question before them. Glasgow also discussed whether pavers installed correctly with some solutions for that and Simons agreed; need to investigate how to insure proper maintenance of pavers continues throughout City also discussed; patio in since last summer, so another two meetings won't make big difference time-wise; assured within 60 days, PC can have very thorough report to provide CC; Simons agreed with him on basic concept of doing testing in an area with water, using 1-1/2" as standard which is normal rainfall, and monitoring absorption and length of time – and then doing an existing approved site using same procedure, comparing the two to provide some indication if draining properly; his hope is that by next summer DNR will have permanent solution and more definite methods to insure maintenance done on pavers - critical to pavers. Paiement offered it also appears from packet information that depending on what PC decides, the patio either stays or the City adopts recommendation not to grant variance with likely outcome removal of patio which seems, since completed, a rather drastic measure; he understands Glasgow wants to insure he has all information needed before PC recommendation. Lee noted they have discussed issue previously, and again, it comes down to maintenance issue; no matter how much someone indicates they will take maintain, there is no way to guarantee that a future owner will until City decides on monitoring plan; not sure she wants her taxes going to maintain someone's sidewalk, etc.; doesn't think waiting until July will make any difference to this discussion. Glasgow stated Dave Simons provided him suggestions of things they could do; one he brought up was making pavers a permit and every three years need to be tested; homeowner required to pay

nominal fee to have roads commissioner or someone do test and affirm properly draining; right now, nothing in place. Lee brought up issue when someone sells their property, they will guarantee they tell new buyer they have to have permit for pavers on their patio. Glasgow confirmed just like any other City ordinance. Wirth agrees with delaying decision but thinks this will come up again; need standards; according to Shodeen's letter, Afton looking at contracting out inspections; not just Lakeland, but every City will have to deal with this issue; maybe it would provide them time to discuss with other cities for unified approach. Wallberg provided from process perspective, what they are talking about is really laying out policy how this would be handled administratively in future; her advice is they not address specific application in context of that; two separate things and should be handled separately; CC has also directed there be discussion about policy – to address products and accept the City is willing to part of growth of the nature of that product; administrative piece of that is policy decision; suggested they be careful not to address this in context of that policy decision. Paiement thinks there is already policy decision the City is going to move forward with notion these kinds of pavers can be pervious. Wallberg wouldn't indicate it characterized that way in previous variances; residents allowed to use based on their being installed and maintained properly; didn't say they are pervious; no one knows enough about these products until they have been around for awhile; particularly if they postpone, needs more direction – City Engineer has provided what they have – DNR has given what they have – needs to know specifically what is it they need her to provide in addition to that, because she doesn't think additional information available. Paiement disagrees; thinks additional information they could get would be pertaining to this particular application itself; could find out whether its been maintained under guidelines for product, whether or not there has been drainage issues on this property as result of use of it because it has been in there almost a year; thinks they can learn more. Craggs added what makes this situation different is that in other variances applications, pavers had not been installed; for pavers to be considered pervious, they need to be installed and maintained appropriately; in variances granted, they specified need to be installed per specs with maintenance requirements; in this situation, pavers installed and then after-the-fact variance requested; they do not know if they have been installed appropriately or chance to even address issue; consequently, CC has brought back to PC to put perimeters around what should be done in this particular situation; there is policy in place - policy is that you bring these particular items proposing to CC for consideration as variance; in this particular instance, pavers installed, and they are getting it after the fact, so very unusual situation. Paiement understands but thinks issue is (1) can they find out how it was installed and maintained now that it has already been installed, and (2) is that their charge; if he gets complicit in what Craggs saying, it has already been done, they haven't followed process, therefore, they don't get benefit of determination whether installed and maintained correctly. Craggs agrees with everything Paiement saying until end; CC suggestion to Mau's is they need variance for this to continue as is based on present policy; consequently, it goes back to PC. Paiement said, based on motion, they can't make that determination until they know how installed and maintained. Craggs said one option is to require a segment of pavers uninstalled to look how they were installed to make determination and find how they are being maintained; based on information provided, and he disagrees with Glasgow and thinks they had adequate time to review, it specifies how they should be installed; one of the things the City Engineer suggested is pulling a portion of pavers out, access how installed, and whether installed per specs; if they want to delay to do that, he is supportive; bottom line is they don't know whether they are pervious; to not take any action with assumption they will not be doing anything more than they are doing to him is irresponsible; motion to gather more information - no specifics offered; suggesting that portion of pavers be pulled and looked at how installed; should be some discussion about how being maintained. Lee said even if down the road they were proven to be pervious, this was work done on a property way over 20% allowed; shouldn't have been anything done; basically, that is bottom line; this product and any other paver products are going to be long term test; doesn't think Lakeland should be test ground; area along River is one of the most sensitive to River; on Lower St. Croix Partnership Advisory representative of every city down Mississippi and on up, both sides of River; they have discussed these products, rain gardens, all types of ways mitigating runoff; none have been proven to really work – sediment issues; the minute it gets impacted, its impervious and there is no way at this point to keep track on maintenance; until something can be worked out as to how maintained, who pays, it should be considered an impervious surface, and she would recommend denying variance.

Dottie Mau, 16777 N. 7<sup>th</sup> Street. Has prayed to the Lord she can say this right; area they are talking about on their property is behind home and very small; in 1993, area had retaining wall installed to keep hill from falling down on house; at that time, there was brick sidewalk that went through middle of area; she decided to put plastic down and stone; definitely impervious; weeds came up through plastic; when originally done, subject of pervious/impervious never came up; they gradually improved area in back as they could afford, put rocks to keep hill from falling, and last year replaced black plastic which was impervious with something they very clearly thought pervious allowing the water to drain into ground versus what they had; it's not a new patio, but existing area they changed how it was covered; didn't realize, and apologized for, they were doing something wrong; obviously they were, but did not realize and didn't think permit needed to improve what you already had; have had

much rain in past three days, and no water has drained off surface to River; has never seen puddles since they installed pavers, unlike drainage from City's culvert allowing all rainwater and stuff that comes off people's yards to flow straight down their hill, across their personal property, into River; their property is not draining into River; parking lot doesn't even drain into River but soaks into ground too; but that is considered pervious, because it's sand and somebody parks on it; she is in shock and can't believe; would like to invite every one of them to go down and look at this; the only person who has actually physically seen this, other than the person who trespassed on their property to look over their fence to see what they were doing - and she is okay with that as she is not trying to do anything behind anyone's back and neither is Gary - Glasgow is the only one; feels this is harassment 1,551; ever since they have been residents, it's been nonstop; she struggles with this one; they aren't perfect and don't do everything right, but they try as hard as they can to be good citizens of the City of Lakeland; struggling with this and just doesn't understand why somebody would think this detrimental to that absolutely fabulous River out there; the last thing they would ever do is harm that River. Lee asked Mau what she thinks would be accomplished by their looking at site. Mau responded she would pour buckets of water on pavers and they will see the water drain into ground, doesn't go down into River which she guesses they are concerned about here. Paiement thanked Mau for her comments; whether they like it or not, there is an ordinance in the City, one of them the way they install patios in a certain way creating impervious/pervious surfaces; that is the reason she is present, not to harass or threaten; the very fact she feels that way is personally disturbing to him and he doesn't like it and will do whatever he can to stop it. Wallberg informed if they are going to postpone additional discussion until July, the City needs to respond to this application within 120 days; would suggest they postpone until June for timing. Glasgow thought about that; planned in June to come back to PC with preliminary report; at July meeting, he wants completely done, no more discussion, and settled what findings are and recommendations; from that meeting, it will go right to CC. Craggs voiced need to take action; if they are not going to take action until July, then they have to address process because time expires. Glasgow asked if City could extend; Wallberg said Mau's could request.

Gary Mau, 16777 N. 7<sup>th</sup> Street. Perhaps since patio has existed for 15 years, they could change something in wordage because they did not build a patio; only what you walk on that changed, the surface of patio. Craggs would draw their attention to April 22, 2006 memorandum from City's Engineer; last paragraph on first page reinforces what he expressed before, "...the installation specifications for the Interlock Colonial Eco Square Paver from the manufacturer's website...recommends a coarse ¾" washed base, a coarse 3/8" washed bedding sand, sub-drains in heavy soil conditions, installation on relatively flat grades, and periodic maintenance to clean silt and debris from the drainage openings."; to allow this to continue without actively assessing whether installed and maintained properly, he doesn't think appropriate; would ask Glasgow in his motion to be more specific what will take place between now and when they revisit issue. Glasgow envisions chair appointing two members of PC to determine whether pervious/impervious; knows that no matter what their determination, Mau's have changed look; if determined impervious, all they have done was to change look and it impervious to begin with, they made it less impervious which is plus; also need to make determination if pavers installed correctly; talked to City Engineer and suggested they remove four pavers, take a post hold digger with him standing there, and look at what dirt and material comes out to make determination; he said that would be extremely helpful in determining what is underneath; if they then did perk test, he indicated that would really help out too for determinations. Paiement asked clarification, as packet doesn't indicate preexisting patio impervious. Glasgow said it had black plastic underneath. Paiement followed replacing impervious patio with new patio that may or may not be pervious; question is, they are going to dig up new patio to determine whether or not it was installed correctly, so they can determine if pervious after replacing an impervious patio. Glasgow agreed; where system went wrong is procedure wasn't followed by Mau's which is their mistake; doesn't believe Mau's did it on purpose, but situation there and now they have choice of ripping it out, give them permit, and they can put it back in same way; they don't know if it has been installed correctly; if they make determination it wasn't correctly installed, then yes, they will probably have to take it out and reinstall. Wallberg referred to City record; applicants in 2004 submitted survey drawing that showed impervious surface on property; that area showed to be pervious; that is process she followed, taking information provided by Mau's to determine area now patio was indeed pervious surface before. Paiement questioned pervious or impervious, was it pervious before patio went in. Wallberg said absolutely. Paiement continued pervious despite what Mau just told them, which means he is lying. Wallberg not suggesting that, but that the City record she used when this matter came forward was survey provided by Dottie and Gary Mau showing that area as pervious; that is all she suggesting. Craggs confirmed routine; that information would have to be submitted.

Gary Mau, 16777 N. 7<sup>th</sup> Street. When original map submitted, whether by oversight – patio area never even addressed; however, when dug up this past summer, the contractor said area definitely pervious as did the building inspector who was there; when asked to submit a new map based on a new survey, he submitted two,

one, how it was in 2004 and how it looks in 2006; Wallberg agreed; they cleared that up and that is map they will use, the new 2004 map he submitted month or two ago.

Tracy Stazi, City Building Inspector. Went out on complaint and only there few minutes; paver blocks on skids, not unloaded, that she believes someone noticed; she told him she wasn't familiar with pavers, wasn't sure, and had to check with DNR and Wallberg (Friday); they had every opportunity to wait, but went ahead; by the time she came back Monday, patio done. Paiement stated two issues here (1) whether they want to punish them for not getting permit, and (2) whether they are entitled to variance; if this surface impervious to begin with and now pervious/impervious, in his mind that changes complexion of application; if that is not the case as Wallberg indicates, that survey shows actually pervious to begin with and now either pervious/impervious depending on nature of product, that in his mind is separate issue and they should deal with differently. Wallberg said that is position that brought them here; process the City follows; best information they had showed it pervious. Lee disagreed with Paiement's first issue - punishing somebody for doing something wrong; not part of this; this is deciding whether this product should be in or needs to come out if it shouldn't be there. Paiement respectfully disagreed; thinks that is way they are considering it; whether they did it intentionally, unintentionally, whatever, he doesn't care; they are there to determine whether or not this application meets requirements for variance or they should grant variance; would like to limit to that. Craggs stated point of order and asked Glasgow to restate his motion since he [Craggs] requesting it be modified; staff had asked for more direction, and he had talked about more options. Glasgow said at chair's discretion, he would Paiement to appoint two members to make basic determinations; do they consider pavers pervious/impervious; were pavers installed correctly; insure proper maintenance of pavers continues; issues will haunt City forever; so many questions they can debate all night; called question to move one way or other.

**M/S/F (Glasgow/White) that a committee of two be appointed by the Planning Commission to recommend to the City Council if pavers installed at 16777 N. 7<sup>th</sup> Street pervious/impervious, if installed correctly, and if proper maintenance continues. Paiement and Glasgow voted aye. Craggs, Lee, White, and Wirth nay. Motion failed.** White totally comfortable with June date; would like to see motion more complete because matter of deciding whether impervious/pervious and part of that installation; regarding installation, if City Engineer willing to check out, that would incur cost to City; not sure City should incur cost, as this could have been taken care of beforehand; maybe cost should be incurred by Mau's in order to help them decide that.

**M/S/A (White/Craggs) to table the variance application for patio by Gary & Dottie Mau at 16777 7<sup>th</sup> Street North until the June PC meeting; prior to that meeting, the City Engineer, along with two appointed members of the Planning Commission will dig up a portion of the Mau's patio to determine if installation was according to manufacturer's suggestions and report back to the PC at the June meeting to consider if it was properly installed and also whether pervious/impervious.** Glasgow said cost usually incurred by applicant on a variance application. Wallberg confirmed they will have two PC members and City Engineer and/or agent. Paiement asked how this different than original motion; modified so that instead of July they are talking June. Dottie Mau asked if City Engineer had come down to her house and seen patio; if he did, he did it without anyone's knowledge. Craggs said Simons knows name of paver and information they have is attached to letter describes it; doesn't indicate he made site visit; City hasn't asked him to make site visit. Mau continued they have already paid \$350 for this variance. Wallberg confirmed that certainly would include initial cost for review by City Engineer/City Attorney that is routine; if PC now wishes to incur more cost by Engineer than they have at this point, that would be included. White implied it could be engineer or someone Mau comes up with acceptable by City Engineer. Mau curious to know because way she was hearing discussion, it sounded like City Engineer had been down to her property. White confirmed he indicates in his letter SEH has not done site assessment. Paiement questioned assuming testing happens, and after inspection there is determination it installed incorrectly and not properly maintained, what happens; wanting to insure reason for doing this. White said if not properly installed, that negates pervious surface; because it then impervious surface and not acceptable, it would probably need to be removed. That is where Paiement respectfully disagrees; willing to go along with motion, but not to go along with consequences of finding that determination; if it comes back it installed incorrectly or has not been maintained correctly, he is not so sure he cares in terms of this variance; to him hardship of them digging patio up again doesn't outweigh detriment to City. White thinks he has to understand ordinances, and fact they do have a Building Inspector visit who made statement about waiting, and yet it was done; he has to consider ordinances the City has, and that is what they are required to follow. Craggs made point of order; going beyond motion; many options available. Paiement appreciates point - if other options in background. Dottie Mau made point of clarification; Building Inspector said she told them to wait; there were five people there and no one heard her say that. Wallberg said from process point of view, she's not sure having their City Engineer establish who should make decision in scope of what they would expect of their City Engineer; thinks he needs to do that, and they need to be clear because City doesn't hire him to come and decide who, other than himself or his firm, good representative. White amended motion; maintenance will be addressed separately. Craggs seconded. **Craggs,**

**Glasgow, Paiement, White, and Wirth voted aye. Lee nay. Motion passed.** Craggs requested addressing appointment of two PC members - recommended Glasgow and White. White affirmed that Mau's understand that cost incurred by City Engineer will be their cost.

#### **5. MEETING WITH LAKELAND CUP HOLDERS**

Paiement confirmed meeting location at fire station, letters sent to Lakeland businesses, date Thursday, May 25, 2006 at 7:00 p.m., with next step follow up calls to CUP holders. Wirth would like everyone to call from their list; would like map available, CUP process presentation, talk on signage, CSAH 18, and everyone with information available. Craggs said by time they have this meeting, he is expecting they will have formal request from Plaza to realign 4<sup>th</sup> Street; asked if Wirth looking for discussion from Plaza ownership of their long term plans or more in terms of realignment of 4<sup>th</sup> Street. Wirth said all-inclusive; suggested contacting them. Craggs recommendation that PC Chair kick off meeting, talk about purpose and have general topic issues discussed, with open forum following. Paiement further discussed plan and who would be covering following issues: CSAH 18 (Glasgow), CUP process (Paiement), signage (Wirth), and Lakeland Plaza (Craggs will contact management/otherwise will talk where they are at in planning process relative to realignment). Phone calls to be done by May 17.

#### **6. 2008 COMPREHENSIVE PLAN**

Wirth, Glasgow, and Paiement will compose committee. Craggs also recommended identifying or recruiting intern to move forward. White suggested checking with AMM who might be able to recommend intern; will facilitate. Craggs suggested committee meet before next month and come up with plan or key issues - understanding timeline, determining who will be doing writing/otherwise having intern, how plan changed in terms of its requirements as compared to what they already have on table, obtaining copy of old plan, because way to begin is to update inventory information in terms of land use and small piece considered implementation portion, and using White and her resources as reference. Wallberg raised issue of land use; Washington County Conservation District has land use that CC would still need to approve, but attended workshop on it a while ago and thought would be huge tool to use in this planning.

#### **7. CSAH 18 UPDATE**

Craggs requested this on agenda to provide as much information as he has; at last CC, Cory Slagle and he met regarding design process; Washington County provided update to CC; they are highly likely to receive Federal Funding that reduces cost to City for project as well as to County; downside is construction doesn't begin until summer 2007; Slagle conveyed they would like final design completed by November; two outstanding issues being addressed based on present discussions (1) drainage options – CC approved drainage study of portion of Lakeland that could be impacted by water draining from CSAH 18 into City; overlap with what SEH has been doing in terms of its work for County but CC felt important the City understand if that option selected they understand how it impacts present drainage within that area; work to be done before June CC meeting; (2) access – layout has preferred option of adding additional access to Plaza; County's policy is if you put in or approve another access point, you need to take one away; policy in terms of this portion of CSAH 18; conceptual design suggests preferred option to realign 4<sup>th</sup> Street, the road that runs in front of Plaza, so there is an access point in middle of Plaza off CSAH 18 - and to close or vacate portion of 5<sup>th</sup> Street South; CC wish to approach from procedural prospective where they get formal request from Plaza ownership which he alluded to previously; his understanding they will receive written request from them asking that particular access point be part of final plan; for that to take place, CC would go forward with its process of getting public input to include public meeting that would likely take place at PC's next meeting; challenge schedule – at CC meeting, what was laid out was all needed to be done by May which is not feasible for most part; after subsequent conversations, appears they have until June to address access question with hope they have drainage study information this month so CC able to make recommendation.

#### **8. MEMBER REPORTS**

Glasgow advised Wirth she constructed great letter. Wallberg asked they make decision when to hold July meeting as 4<sup>th</sup> on regular schedule; consensus to hold meeting July 11, 2007; plea for data practices of City of Lakeland – when they gather paperwork, they should also provide a spare copy to City Hall; Data Practices Statutes require everything must be accessible for convenient use, and generally speaking, for her to have someone come in from outside asking for information that she has to track down, it's not readily accessible for use; Chapter 13 in Statutes.

#### **9. ADJOURN - M/S/P (Glasgow/Craggs) to adjourn meeting at 8:31 p.m. Motion passed.**

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Joe Paiement, Chair

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Kate Piscitello, Recording Secretary