

**CITY OF CEDARBURG  
PLAN COMMISSION**

**PLN20100301-1  
UNAPPROVED MINUTES**

**March 1, 2010**

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, March 1, 2010 at Cedarburg City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. The meeting was called to order at 7:00 p.m. by Mayor Greg Myers.

Roll Call: Present - Mayor Gregory Myers, Mark Burgoyne, Brook Brown, Joe Emmerich, Keith Kaiman

Excused - Council Member Chris Reimer, Park & Forestry Chairperson James Schara

Also Present - Council Members Paul Radtke and Michael Maher, City Attorney Kaye Vance, City Planner Jon Censky, Economic Development Coordinator Linda Skalecki, Administrative Secretary Darla Drumel

**STATEMENT OF PUBLIC NOTICE**

Administrative Secretary Drumel confirmed that the agenda for the meeting had been posted and distributed in compliance with the Wisconsin Open Meetings Law.

**APPROVAL OF MINUTES**

A motion was made by Commissioner Brown, seconded by Vice Chairperson Burgoyne, to approve the minutes of February 1, 2010 as presented. The motion carried without a negative vote, with Council Member Chris Reimer and Commissioner Schara excused.

**COMMENTS AND SUGGESTIONS FROM CITIZENS**

No comments or suggestions were offered at this time.

**PUBLIC HEARING REGARDING CONDITIONAL USE REQUEST FOR A TAVERN AT W63 N140 WASHINGTON AVENUE – FINECO, LLC dba GRAPES AND TASTES**

Mayor Myers declared the public hearing open at 7:04 p.m. Administrative Secretary Drumel confirmed that proper legal notice of the public hearing had been given.

Planner Censky reported that Grapes and Tastes is a retail wine and beer seller, and a grocery store, that opened November 2009 in the southernmost tenant space of the Echo Plaza Shopping Center. They originally operated under a Class A liquor license to sell beer and wine in original packages for off-premise consumption, and offered small samples to help customers decide on brand. They now wish to sell glasses of wine and beer to be consumed on-site which, by State law, requires a Class B liquor license. Joan and Brad Fine applied for such a license, and after review and discussion, the Common Council voted approval at their January 25, 2010 meeting. According to Code, the granting of the Class B liquor license results in the reclassification of the establishment from a permitted use by right in the B-2 Community Business District to a conditional use because the operation changes from a retail sales

establishment to a tavern. Accordingly, because of the reclassification, the applicant must now secure a conditional use permit.

Planner Censky noted that even though the liquor license allows for the sale of hard liquor, the applicants advise that their intent is to only sell wine and beer for consumption on site. The retail sales of wine and beer element of their business will continue along with sales of grocery products as before. Except for the sale of alcohol for on-site consumption, the operation of this business will remain the same with daily hours from 11:00 a.m. to 8:00 p.m. Planner Censky suggested that if approved, the conditional use permit be drafted specific to Fineco, LLC dba Grapes and Tastes and not be transferable.

Brad Fine, one of the owners of the Grapes and Tastes business, advised that his intent is only to allow more sampling choices. He stated that if the Class A Liquor License allowed customers to sample one ounce each of six different wines, he would not have sought the Class B liquor license, but the Class A only allows for two six-ounce samples per customer per day. Joan Fine added that the Class B would allow them to organize and charge for wine tasting events, which would make their store more inviting.

Commissioners discussed the ability to limit the hours of operation with the Class B liquor license but City Attorney Vance directed that the hours were set by State regulations. Commissioners then discussed whether the grocery aspect of the conditional use permit would allow them to restrict hours of operation but City Attorney Vance further explained that the tavern use could not be restricted by the grocery retail business. Joan Fine, the owner who holds the Class B license for the Grapes and Tastes store, confirmed that her preference was to allow leeway with the hours so that they do not have to chase customers out of the store at 8:00 p.m.

**Motion to Close Public Hearing:**

Commissioner Brown moved to close the public hearing at 7:20 p.m. The motion was seconded by Commissioner Kaiman and carried without a negative vote, with Council Member Chris Reimer and Commissioner Schara excused.

Mayor Myers opined that the location seemed inappropriate for a full-fledged tavern.

Commissioner Kaiman advised that he has met the petitioners and believed they would conduct their business to the benefit of the City. Their location is adjacent to a laundromat, restaurants, George Webb and a gas station, and no residential development is nearby. Due to the small tenant space, and the open area that is easy to police and secure, he felt the location was appropriate.

Commissioner Emmerich also expressed reservations about the location.

Commissioner Brown questioned whether the tenant space was set up for a tavern use. Mr. Fine advised that they have been in contact with the State Health Inspector and the City Building Inspector, and already have purchased items in anticipation of approval of the use.

**Action:**

A motion was made by Commissioner Brown to approve the conditional use request for a tavern/grocery use to allow on-site consumption of alcohol at the Grapes and Tastes tenant space at W63 N140 Washington Avenue with the following conditions:

1. Any substantiated material problems with the tavern operation shall be corrected immediately upon notification.
2. This conditional use permit is not transferable and is specific to the Grapes and Tastes business at its current location of W63 N140 Washington Avenue.

**Continued Discussion:**

Mayor Myers advocated including a limit on the hours of operation for the conditional use, as the petitioners presented, and see if it is ever challenged. Commissioner Brown expressed surprise that grocery store regulations that restrict the hours for sale of alcohol does not affect the Grapes and Tastes business, but did not believe it was unreasonable to allow a wine tasting event to last until 10:00 p.m.

**Continued Action:**

Commissioner Kaiman seconded the motion, without the restriction on hours.

**Continued Discussion:**

Planner Censky confirmed that a conditional use can be reviewed by the Plan Commission at any time if a substantiated problem with the operation exists. The annual renewal of the liquor license by the Common Council is automatic unless there are issues.

Commissioner Emmerich asked Brad and Joan Fine if they were looking for flexibility in hours when they stated their hours would be 11:00 a.m. to 8:00 p.m. in their petition. Mr. Fine responded that he would prefer not to turn away business, but reiterated that there were no plans to operate a night club at their Echo Plaza location. They have generally closed up around 8:00 p.m. weeknights, and could operate with a closure at 9:00 p.m.

Vice Chairperson Burgoyne stated he was uncomfortable with the location for a tavern and would vote against the motion.

**Call the Question:**

Vice Chairperson Burgoyne moved to call the question. The motion was seconded by Commissioner Kaiman and carried without a negative vote, with Council Member Chris Reimer and Commissioner Schara excused.

**Final Action:**

The motion to grant the conditional use request carried with Mayor Myers and Commissioners Brown, Emmerich, and Kaiman voting in favor; and Vice Chairperson Burgoyne voting against, with Council Member Chris Reimer and Commissioner Schara excused.

**EXTRATERRITORIAL LAND DIVISION APPROVAL TO SPLIT EXISTING 6.5-ACRE PARCEL LOCATED AT 496 DOUGLAS LANE INTO TWO PARCELS OF 1.4 ACRES AND 5.1 ACRES – MATT AND MINAL HAHM**

Planner Censky explained that Minal and Matt Hahm were requesting approval to split an existing 6.5-acre parcel of land located in the Town of Cedarburg into two separate lots of 1.4 acres and 5.1 acres each. While this parcel is located in the Town, it is within the City's extraterritorial plat approval jurisdiction and requires Plan Commission approval. The existing parcel is oddly shaped and somewhat disjointed, with the improved portion at 496 Douglas Lane (on the corner of Western Road and Douglas Lane) connected to the vacant five acres located to the southeast by a narrow strip of land. The potential buyers of this property propose a logical division to split the improved lot with home from the unimproved 5.1 acres, with access to their future home to be provided to Douglas Lane over the narrow connecting strip of land.

Planner Censky noted that the unimproved 5.1-acre parcel is directly adjacent to the recently-approved Prairie View Subdivision, wherein the City had established a roadway system that could be extended through this site if it is ever annexed into the City. In the initial discussion with the applicants, City staff asked that the future roadway extension option be maintained and they agreed to this. Review of their information verifies that the option is open and this land division will not adversely impact the potential for a future roadway extension. This parcel is within the City's Sanitary Sewer Service Area and options remain open for future sewer service if ever needed. For now, the existing and future homes will be served by private onsite soil absorption systems and private wells.

Planner Censky advised that City staff review certifies compliance with the intent of the City's Smart Growth Comprehensive Land Use Plan - 2025 and therefore staff has no objection. If approved by the Plan Commission, this request will then go on to the Town Board for their consideration. Planner Censky noted that while the applicant has submitted a 10-lot concept plan for the vacant 5.1-acre remnant parcel, action on this land division should not be interpreted to approve that concept.

In response to a Commissioner question, Matt Hahm reported that the strip of land proposed for a drive connecting the 5.1-acre parcel to Douglas Lane was sixteen feet wide. Planner Censky advised that while he does not know the required Town of Cedarburg setbacks, a ten-foot wide driveway could fit within that strip of land.

**Action:**

Commissioner Brown moved to approve the proposed land division as presented. The motion was seconded by Mayor Myers and carried without a negative vote, with Council Member Chris Reimer and Commissioner Schara excused.

**RE-APPROVE CERTIFICATE OF APPROPRIATENESS WITH SOME EXTERIOR BUILDING MATERIAL CHANGES FOR THEIR FACILITY LOCATED AT N50 W5050 PORTLAND ROAD – WISCONSIN QUILT HISTORY PROJECT, INC.**

Planner Censky noted that the Quilt Museum was granted a Certificate of Appropriateness in February 2009 to convert the existing on-site barn into usable space and to construct an addition off its north elevation. That approval was valid for one year and since they failed to

acquire a building permit in time, the approval has lapsed and their plans must now be re-approved before the City can release a building permit. Coupled with that request, they are asking for approval of some minor modifications to the approved plans. It was found necessary to modify the barn's foundation walls to maintain its structural integrity, and to save cost some exterior materials have changed. The following more specifically summarizes the proposed changes:

1. The stone foundation walls of the barn are being replaced with CMU (a masonry product) and concrete footings. The stone from the existing foundation will be salvaged and used as a veneer on the new foundation wall to achieve the look of the original foundation.
2. The corrugated metal canopies over the north entrances are being eliminated to save cost.
3. To save cost, the corrugated metal siding on the north addition is being replaced with 6" horizontal fiber cement lap siding to match the siding material of the west addition.
4. The railing along the outdoor deck on the west side of the building will be of rough sawn cedar instead of the form metal rail to save cost.

Planner Censky reminded Commissioners that the proposal included use of the entire barn, with the lower level being converted to office and classroom space and the upper level to a gallery. The addition will include bathroom facilities, a kitchen and a gift shop. New access drives, a drop-off drive and a parking lot are proposed in front of the Museum and an outdoor patio will wrap around the addition from the north side to the front. Construction is expected to begin during the summer of 2010.

Planner Censky added that the revised plans went before the Landmarks Commission on Thursday, February 25, 2010 and they recommended re-approval with the material changes. However, they denied the request to replace the foundation and suggested exploring alternative methods to support the structure.

**Action:**

A motion was made by Vice Chairperson Burgoyne, seconded by Commissioner Emmerich, to re-approve the Certificate of Appropriateness for the Wisconsin Quilt History Project, Inc. at N50 W5050 Portland Road with the elimination of the proposed corrugated metal canopies over the north entrances, replacing the corrugated metal siding on the north addition with 6" horizontal fiber cement lap siding to match the siding material of the west addition, construct the railing along the outdoor deck on the west side of the building with rough sawn cedar instead of the form metal rail, and with the following conditions:

1. The plans being revised to include a 25' setback for the south parking area.
2. The south parking lot being paved as part of the first phase of this project.
3. Engineering Department approval of the grading, drainage and storm water management plans.
4. In accordance with Section 14-1-68 of the Code, the applicant extending the sewer and water system located in Struck Lane to the north property line of their site as part of this project.
5. The conditions as set forth by the Landmarks Commission on February 25, 2010.

6. The Museum work with the Landmarks Commission to secure approval of the barn foundation walls.

The motion carried without a negative vote, with Council Member Chris Reimer and Commissioner Schara excused.

**REVIEW AND DISCUSS POSSIBLY CHANGING THE SMART GROWTH COMPREHENSIVE LAND USE PLAN – 2025 MAP AND ZONING FOR PROPERTY LOCATED ALONG THE WEST SIDE OF CARDINAL AVENUE BETWEEN ZEUNERT STREET AND PIONEER ROAD AND AT THE NORTHEAST CORNER OF PIONEER ROAD AND CARDINAL AVENUE FROM MANUFACTURING (M-2 GENERAL MANUFACTURING DISTRICT) TO OFFICE AND SERVICE (B-4 OFFICE AND SERVICE DISTRICT)**

Planner Censky advised that no action was being sought at this time, but rather this item is scheduled for discussion only. He advised that Council Member Paul Radtke asked the Economic Development Board (Board) to study the Land Use Plan and zoning status of property located along the west side of Cardinal Avenue between Zeunert Street and Pioneer Road, and the site at the northeast corner of Cardinal Avenue and Pioneer Road, to consider whether or not changes are needed to better guide future development/redevelopment opportunities. Currently that area supports a number of buildings that seem underutilized, one that is visually unattractive and appears in disrepair, and other sites that are vacant. The area is currently zoned M-2 General Manufacturing District and the Board was asked to study the area to determine whether that zoning continues to be appropriate, or whether a different zoning district would better serve this transition area and provide more future redevelopment opportunities.

Planner Censky noted that the Board recognized that if a zoning change was considered, some of the existing uses in the area would be rendered legal non-conforming. However, the Board knew that uses impacted in such a way would have certain legal rights to continue with no change to the operation required. The Formart Container industry, for example, would be so impacted but the Board felt that the current condition of the Formart building would likely limit any expansion thereof regardless of the change in its use status. The building appears in such rough shape that it is hard to imagine an addition thereto could be justified. The other buildings in the area appear in better shape and could be remodeled and renovated to support the conforming uses of a change in zoning. Accordingly, the Board felt that a change in zoning would be appropriate to encourage a new opportunities by promoting a slightly different look and feel to the area. Specifically, the Board recommends that the Smart Growth Comprehensive Land Use Plan - 2025 be amended from Industrial and Manufacturing to Office and Service, and that the area be rezoned from M-2 General Manufacturing to B-4 Office and Service District. While this change will reduce the area available for future manufacturing uses, the Board believes that it would provide more business options and a better transition from the heavier manufacturing uses east of Cardinal Avenue and south of Pioneer Road to the business uses along Washington Avenue. The Board was unanimous in its recommendation.

Vice Chairperson Burgoyne asked for a copy of the Board's study in order to determine how they came to their conclusion and recommendation, and would also like to consider the input of the affected property owners. Planner Censky advised there was no official study, but he would compile the information that the Board considered in its deliberations. Vice Chairperson

Burgoyne then noted that the huge vacant former International Paper plant is adjacent to this area, which he hopes will soon be utilized. He suspected that surrounding manufacturing zoning would be more compatible with the uses appropriate for that building. Vice Chairperson Burgoyne added that other office spaces in the City are not occupied and those existing uses should be protected.

Planner Censky noted that the area was targeted because it appears to be in transition. Two buildings in the area appear underutilized, one of which has been for sale for years. Because of that and the fact that there are vacant sites, the Board's intent was to change the feel of the area and provide better opportunities for future business development.

Planner Censky advised that the Board considered the Formart Container location at the northwest corner of Cardinal Avenue and Pioneer Road to be a trophy corner because of its prominence at the curve in Pioneer Road. The revised zoning was considered a better transition to the manufacturing to the south.

Commissioner Brown asked if other manufacturing space was available in the City. Planner Censky noted Weil Pump, International Paper, that Doerr Electric may have some space available, and that the southernmost parcel in the Business Park at Evergreen Boulevard and Pioneer Road is vacant and available for new business development.

Phil Sipusic, owner of Formart Container at the northwest corner of Pioneer Road and Cardinal Avenue, stated he received notice of the discussion late the Friday afternoon prior to the Monday night's meeting. He had not been contacted about any proposed changes to his property and wondered how the issue started. Mr. Sipusic suggested that the City should not be concerned if the property owners continue to pay their taxes.

Mayor Myers advised that no action would be taken until input was received from the property owners and their neighbors, and until the Plan Commission has more information. Discussion would continue at a future Plan Commission meeting and all affected property owners would be notified.

**REVIEW AND DISCUSS ZONING CODE CHANGES BEING PREPARED AS PART OF THE RECODIFICATION OF THE ENTIRE ZONING CODE – P99014**

Planner Censky asked Commissioners to review the B-1 Neighborhood Business District, B-2 Community Business District, and the B-3 Central Business District noting that since the B-1 District was revised last year when it was applied to the northwest corner of Lincoln Boulevard and Washington Avenue, there is no change from that revision. The most significant change to the B-2 and B-3 Districts is the removal from both Districts of "Adult Entertainment Establishments" as a conditional use and shifting that use over to the M-2 General Manufacturing District. In the revised code, Adult Entertainment Establishments will require issuance of a license from the Common Council prior to being introduced anywhere within the M-2 District. As with the residential districts, each business district will also include a table to clearly show the minimum standards of the district, which can easily be made available as a public handout. No recommendation was being sought; just feedback to be included in the final draft.

**PLAN COMMISSION**  
**March 1, 2010**

**PLN20100301-8**  
**UNAPPROVED MINUTES**

Planner Censky noted that the B-2 Community Business District zoning was mainly applied to Washington Avenue between Pioneer Road and Lincoln Boulevard. The B-3 District zoning covered the downtown area of Cedarburg.

The Commissioners discussed the lot coverages, and suggested that it might make sense to make the percentages higher to utilize what developable land is still available. Planner Censky will provide graphics demonstrating the effect of the different lot percentages suggested. He added that the proposed codes incorporate the suggestions from the Downtown Master Plan Committee.

**MAYOR'S ANNOUNCEMENTS**

Commissioners Brown and Kaiman advised that they would not be able to attend the Plan Commission meeting scheduled for April 5, 2010. It was decided that no meeting would be scheduled unless a petition is received that requires action in April, 2010.

**ADJOURNMENT**

Commissioner Emmerich moved to adjourn the meeting at 8:14 p.m. The motion was seconded by Commissioner Brown and carried without a negative vote, with Council Member Chris Reimer and Commissioner Schara excused.

Darla Drumel,  
Administrative Secretary