

**CITY OF CEDARBURG
PLAN COMMISSION**

**PLN20100405-1
UNAPPROVED MINUTES**

April 5, 2010

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, April 5, 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, Council Member Chris Reimer, Mark Burgoyne, Joe Emmerich, Park & Forestry Chairperson James Schara

Excused - Brook Brown, Keith Kaiman

Also Present - City Attorney Kaye Vance, City Planner Jon Censky, 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 Vice Chairperson Burgoyne, seconded by Commissioner Emmerich, to approve the minutes of March 1, 2010 as presented. The motion carried without a negative vote, with Commissioners Brown and Kaiman excused.

COMMENTS AND SUGGESTIONS FROM CITIZENS

No comments or suggestions were offered at this time.

PUBLIC HEARING REGARDING CONDITIONAL USE REQUEST FOR AN INDOOR ATHLETIC FACILITY WITH MARTIAL ARTS CLASSES, ADULT FITNESS (KICKBOXING) AND PERSONAL TRAINING AT N19 W6733 COMMERCE COURT – GREGORY CHAY dba CHAY’S TAE KWON DO

Mayor Myers declared the public hearing open at 7:02 p.m. Administrative Secretary Drumel confirmed that proper legal notice of the public hearing had been given.

Planner Censky advised that Gregory Chay was requesting conditional use approval to operate Chay’s Tae Kwon Do from the multi-tenant building at N19 W6733 Commerce Court, where he will offer martial arts classes, adult fitness and personal training. Mr. Chay has operated his Tae Kwon Do martial arts athletic facility at various locations in Cedarburg for the last nine years. He first opened his business as a conditional use at W62 N214 Washington Avenue in October 2002 and after three years moved it to his current location on Cardinal Avenue. He is now moving to the Commerce Court site where he will occupy the space previously occupied by Lakeshore Newspapers Inc. The site is zoned M-3 Business Park District and indoor athletic facilities are classified as conditional uses.

Mr. Chay proposes hours on Monday through Friday 3:00 p.m. to 8:30 p.m. and Saturday from 8:00 a.m. to noon. He also offers private one-on-one classes on Tuesdays and Thursdays

between the hours of 7:00 a.m. and 3:00 p.m. and two kickboxing classes at 9:00 a.m. The number of students per class is as follows:

<u>Class</u>	<u>Students</u>
1. Ninjas	30
2. Beginners	5 – 15
3. Advanced	25
4. Adults	5 – 15
5. Kickboxing	40
6. Tues and Thurs morning classes	15

Planner Censky noted that the tenant space is near the west end of the building. He has visited the site several times and there appears to be sufficient parking in the area to support this use and adjacent uses. Since most of the activity associated with this use will be late afternoon into the evening, staff does not anticipate a problem with parking. Mr. Chay has provided this service over the last nine years without any problems. The following are the conditions of their previous approval with a slight adjustment to the hours to reflect their current schedule, and should be considered for this location:

1. The hours of operation shall be 7:00 a.m. to 9:00 p.m. on Monday through Friday, and 8:00 am. to noon on Saturday.
2. Any substantiated material problems associated with this use shall be corrected upon notification, and if left uncorrected may result in the revocation of this Conditional Use Permit.
3. The Conditional Use Permit is issued to Gregory Chay's Tae Kwon Do at the subject premises.

Mayor Myers opened the floor to questions from the Plan Commissioners. There were none. Mayor Myers then opened the floor to questions from the public. There were no questions from the public.

Action to Close Public Hearing:

Commissioner Emmerich moved to close the public hearing at 7:04 p.m. Commissioner Schara seconded the motion and it carried without a negative vote, with Commissioners Brown and Kaiman excused.

Action on Conditional Use Request:

A motion was made by Vice Chairperson Burgoyne, seconded by Commissioner Emmerich, to approve the conditional use request to permit an indoor facility at N19 W6733 Commerce Court where martial arts classes, adult fitness (kickboxing) and personal training will be offered, with the following conditions:

1. The hours of operation shall be 7:00 a.m. to 9:00 p.m. on Monday through Friday, and 8:00 am. to noon on Saturday.
2. Any substantiated material problems associated with this use shall be corrected upon notification, and if left uncorrected may result in the revocation of this Conditional Use Permit.
3. The Conditional Use Permit is issued to Gregory Chay's Tae Kwon Do at the subject premises.

The motion carried without a negative vote, with Commissioners Brown and Kaiman excused.

REQUEST FOR A PERMIT TO PAVE THE EXISTING GRAVELED PARKING LOT LOCATED BETWEEN W63 N698 WASHINGTON AVENUE AND N69 W6333 BRIDGE ROAD – NORBERT KULTGEN

Planner Censky advised that Mr. Kultgen is requesting approval to pave the existing gravel parking lot located between his commercial buildings at W63 N698 Washington Avenue and N69 W6333 Bridge Road. According to Section 13-1-82(a) of the Zoning Code, the applicant must obtain a parking lot permit after Plan Commission review and approval when constructing, resurfacing, reconstructing or expanding an existing parking lot. Furthermore, because this parking lot is located in the Historic Preservation District, Landmarks Commission approval is also needed.

Section 13-1-82(3) a. of the Zoning Code requires a perimeter and interior lot line greenbelt of at least five-feet in width along the street frontage and interior lot lines. In order to achieve as many parking stalls as possible, Mr. Kultgen is proposing to pave the existing graveled area between his two buildings that extends up to the south edge of the public sidewalk along Bridge Road. The south end of the parking lot is needed for snow storage. He further notes that he is not expanding the existing parking lot but only paving that which is graveled already.

As indicated in the attached legal opinion, the Plan Commission has the authority to approve this proposal absent the required greenbelt following Landmarks Commission review. At their April 25, 2010 meeting, the Landmarks Commission felt that the appearance and function of a paved parking lot improved the lot within the context of the Historic District and voted unanimously to approve the request.

City Attorney Vance opined that the Code did not require a five-foot greenbelt around the parking lot.

Action:

Council Member Chris Reimer moved to approve the parking lot permit request to pave the existing gravel parking lot between W63 N698 Washington Avenue and N69 W6333 Bridge Road as requested. The motion was seconded by Vice Chairperson Burgoyne and carried without a negative vote, with Commissioners Brown and Kaiman excused.

EXTRATERRITORIAL PLAT APPROVAL REQUEST FOR 7-LOT KAEHLERS MILL RESERVE SUBDIVISION LOCATED DIRECTLY NORTH AND WEST OF 8372 KAEHLERS MILL ROAD IN THE TOWN OF CEDARBURG – DUEY STROEBEL

Planner Censky advised that Mr. Stroebel was out of town but asked that the Plan Commission consider the request for approval in his absence. The Town of Cedarburg recently granted preliminary plat approval for the Kaehlers Mill Reserve Subdivision, which proposes seven single-family lots ranging in size from 4.23 acres to 5.68 acres that would be accessed by a private shared driveway, and served by private onsite septic systems and wells. This proposed subdivision is located within the City's three-mile extraterritorial jurisdiction; therefore, the City of Cedarburg is also an Approving Authority. This property is located approximately two miles north and west of the City limits, outside the City's Sewer Service Area, and beyond the limits of the Agricultural/Open Space preservation limits as set forth in the Comprehensive Land Use

Plan – 2025. Staff noted that the City has an established policy of having no objections to the plats that are located beyond the limits of our Sewer Service Area.

Planner Censky reported that staff reviewed the plat and concluded it is consistent with typical Town of Cedarburg development in the area. He provided conditions that he recommended the Commissioners consider.

Council Member Chris Reimer asked if the established policy of having no objections to plats outside the City's Sewer Service Area is in writing. Planner Censky explained that there was no formal document. If the Plan Commission were to deny approval, it must provide a rational basis for the denial. Planner Censky reminded Commissioners that the City's comprehensive plan only addresses land use issues within the Sanitary Sewer Service Area. It does not establish limitations beyond those limits.

Mayor Myers questioned the appropriateness of establishing a formal policy that plats would automatically be approved. The Plan Commission should have the discretion, unless the Common Council establishes a written policy, to approve or to not approve development even if it is beyond the Sanitary Sewer Service Area.

Vice Chairperson Burgoyne noted that the Extraterritorial Jurisdictional Approval Authority provides a safeguard in the event something peculiar is presented and could possibly be a small negotiating tool.

It was determined that the policy statement would not be included in future communications.

Action:

A motion was made by Council Member Chris Reimer, seconded by Commissioner Emmerich, to approve the Kaehlers Mill Reserve seven-lot Subdivision as presented with the following conditions:

1. Developer shall be responsible for conducting the necessary tests to determine the appropriate onsite soil absorption system and a safe water supply.
2. The City of Cedarburg shall not be responsible for safe water or required to extend its water service to this project.

The motion carried without a negative vote, with Commissioners Brown and Kaiman excused.

DISTRIBUTION OF MANUFACTURING AND BUSINESS DISTRICTS FOR REVIEW THAT WERE PREPARED AS PART OF THE RECODIFICATION OF THE ENTIRE CODE

Planner Censky advised that Commissioners were provided copies of the **existing** B-4 Office and Service; B-5 Business Park; B-6 General Business and Warehousing; OSLM Office, Service and Limited Manufacturing; M-1 Limited Manufacturing; M-2 General Manufacturing; and M-3 Business Park Districts and the **proposed** B-4 Office and Service, B-5 Business Park, M-1 Limited Manufacturing and the M-2 General Manufacturing Districts for review. Since a number of Commissioners were not able to attend the meeting, the intent was to distribute this information and discuss it at the May meeting.

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Planner Censky explained that because the City's Zoning Code includes some duplicative districts and other districts that have never been applied to any site in the City, this recodification will serve to eliminate certain districts. For example, the list of districts identified above includes two Business Park Districts (i.e. the M-3 and B-5) and the B-6, which has never been used. By combining the Business Park Districts into one and eliminating the B-6 District, the total number business/ manufacturing districts were reduced by two.

Planner Censky added that the "Adult Entertainment Establishments" have been moved from the B-2 and B-3 Districts and placed as a conditional use in the M-2 General Manufacturing District. In the revised code, Adult Entertainment Establishments will now require a license from the Common Council prior to being considered anywhere within the M-2 District.

No recommendation was being sought, just feedback to be included in the final draft.

MAYOR'S ANNOUNCEMENTS

No announcements were made.

ADJOURNMENT

Commissioner Emmerich moved to adjourn the meeting at 7:14 p.m. The motion was seconded by Commissioner Schara and carried without a negative vote, with Commissioners Brown and Kaiman excused.

Darla Drumel,
Administrative Secretary