

**CITY OF CEDARBURG
PLAN COMMISSION**

**PLN20090504-1
UNAPPROVED MINUTES**

May 4, 2009

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, May 4, 2009 at Cedarburg City Hall, W63 N645 Washington Avenue, in the Council Chambers. The meeting was called to order at 7:00 p.m. by Mayor Myers.

Roll Call: Present - Mayor Gregory Myers, Council Member Chris Reimer, Brook Brown, Mark Burgoyne, Joe Emmerich, Keith Kaiman, Park & Forestry Chairperson James Schara

Also Present - Council Member Ron Reimer, County Supervisor Kathy Geracie, Lasata Administrator Ralph Luedtke, Lasata Assistant Administrator Mark Vogel, 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 Commissioner Brown, seconded by Commissioner Schara, to approve the minutes of April 6, 2009 as presented. The motion carried without a negative vote.

COMMENTS AND SUGGESTIONS FROM CITIZENS

Lasata Crossings

Dave Larson of 650 Williams Drive stated that he in no way objects to senior assisted living. However, he wished the record to reflect the dissatisfaction of the residents on Williams Drive because their first notice of the proposed addition was for a public hearing, at which it appeared the proposal was finalized and destined for approval. His property and that of his neighbors, John and Kathy Brisky, will be seriously impacted by a three-story building only 82 feet from their property, with a drive between. He urged the Plan Commission to reconsider its approval and, if unwilling to do so, consider requiring Lasata to provide an allowance to the Williams Drive residents so that they would be able to install plantings on their own properties to provide adequate screening at the County's expense.

Light & Water's Fair Street Lot

Rosalie Kopplin of N82 W6770 Fair Street asked how a home could be built on the Fair Street lot if it is sold. This lot contained an abandoned Light & Water well and the underground power for their adjacent home runs through it. She also did not believe a home could be built on a lot that small that would be compatible with the existing homes in the neighborhood.

Mayor Myers advised Ms. Kopplin that the discussion at the Plan Commission was limited only to whether or not to recommend sale of the land. Answers to her questions would be available at a future meeting if the lot was proposed to be developed.

Lasata Crossings

Kristin Summerfield of 7901 Bridge Road noted she also has no objections to senior housing. However, her property is directly north of the proposed Lasata Crossings addition and she has been greatly affected by the existing Lasata Heights facility. At the last meeting with Lasata, it was agreed that, in addition to replacing the two trees that would be removed for construction, three more would be transplanted along her lot line. She argued that landscaping should be part of the cost of development and that the neighbors should not have to fight for it.

Michelle Larson of 650 Williams Drive advised that she had submitted an e-mail requesting the Plan Commission reconsider its approval of the current building location because of the negative impact on the Williams Drive properties. She also believed adjoining neighbors should have been notified earlier in the process. Ms. Larson invited the Plan Commissioners and supporters of the Lasata Crossings addition to visit her property to obtain a clearer perspective. She provided pictures that she requested from Lasata's architects to demonstrate the view from her property once the building is constructed, but did not believe it was a true perspective. She recognized that additional landscaping on the County property was limited, so she requested that Lasata provide a landscape allowance to the residents on Williams Drive to provide some relief.

RECOMMENDATION TO SELL PUBLICLY-OWNED PROPERTY AT N82 W6788 FAIR STREET AND N143 W6688 LAYTON STREET – CEDARBURG LIGHT & WATER

Planner Censky explained that Cedarburg Light & Water has two sites that are no longer any use to Light & Water and are proposing to sell them for private development. One site is located in a residential area at the corner of Fair Street and Evergreen Boulevard across from Centennial Park and the other is located in an industrial area at the west end of Layton Street adjacent to the Interurban Trail. According to Section 2-4-5(e)(2) of the City's Code of Ordinances, the Plan Commission must provide a recommendation to the Common Council before any publicly-owned land can be sold to a private party.

Planner Censky reported that the Fair Street property is an abandoned well site. The pump station had been removed and the site is zoned Rs-5 Single-Family Residential District. According to the Assessor's records, this lot is 5,557 square feet in size and, while it is less than the 8,400 square-foot minimum required in the Rs-5 District, the Code does allow development of a substandard site of this size subject to meeting the setback and offset requirements. In addition, since the site is smaller than 7,200 square feet in size, the Code requires a variance from the Board of Appeals before any development can occur. This site will also be treated as an infill lot, so after securing the variance, any future building plans will require Plan Commission approval. Finally, since the status of this site is changing from a public non-taxed site to a buildable one, the necessary impact fees will be assessed at the time of a building permit.

Planner Censky noted that the Layton Street property is a former transformer station site that is no longer being used by Cedarburg Light & Water and is zoned M-2 General Manufacturing District. According to the Assessor's records, this site is 27,000 square feet in size, which is also less than the required size limit for the district it is in. Accordingly, development of this site is also subject to meeting the setback and offset requirements, but since it is larger than 7,200 square feet, a variance from the Board of Appeals is not necessary. Again, since the status of this site is changing from a public non-taxed site to a buildable one, the necessary impact fees will be assessed at the time of a building permit.

Utility Manager Dale Lythjohan confirmed that the well on the Fair Street had been removed over 20 years earlier. In the 1980s, the City's planning consultant determined that the Fair Street lot was unbuildable; however, City staff recently re-reviewed the site and determined that it could be developed if all requirements are met.

In response to an inquiry from Vice Chairperson Burgoyne, Planner Censky advised that development of vacant parcels in established neighborhoods are classified as infill lots and require Plan Commission review to make sure they are consistent with the character of the neighborhood. Immediate neighbors will receive a courtesy notice of that meeting. The Fair Street lot will also require Board of Appeals approval, which requires a public hearing for which all property owners within 300 feet will receive notification.

Commissioner Kaiman expressed concerns about recommending sale of property without having more information.

Action:

Commissioner Kaiman moved to require more information for both the Fair Street and Layton Street publicly-owned parcels before the Plan Commission makes a decision. The motion died due to the lack of a second.

Additional Action:

A motion was made by Commissioner Brown to postpone action on the requests until Commissioners receive more information from a Phase 1 Environmental Impact Statement. The motion was seconded by Commissioner Kaiman.

Further Discussion:

Manager Lythjohan stated he preferred to expend the funds for a Phase 1 on these properties after the Commission and Council make their decision on whether or not to sell them, but would obtain a Phase 1 prior to approval if so directed.

Vice Chairperson Burgoyne asked for clarification on what a Phase 1 assessment would be. Manager Lythjohan responded that he understood it is a review of public records and interviews of the use of the site, and then a report is generated. There will be neither soil sampling nor testing of the sites.

Amended Motion:

Commissioner Brown moved to amend his motion to include receipt of information relating to the abandoned well site on Fair Street that would include what happens when it is developed, how deep it is, how long ago it was filled in, whether contaminants would leach into the well water, etc. The motion was seconded by Commissioner Kaiman.

Continued Discussion:

Manager Lythjohan advised that this type of report also is typically prepared after receiving permission to sell, but he would provide a report to the Plan Commission on the well site that would include a response from DNR on whether special requirements will be placed on the parcel prior to development.

Mayor Myers explained that he is constrained by Open Meetings Law to discuss only what is noticed on the agenda and his responsibility as Chairperson is to make sure the discussions strictly adhere to the agenda. His interpretation of this agenda item does not allow discussion of future possible uses or specific conditions of each site at this meeting.

Final Action:

The motion, as amended, carried without a negative vote.

LANDSCAPE PLAN FOR RECENTLY-APPROVED LASATA CROSSINGS RESIDENTIAL CARE APARTMENT COMPLEX OFF THE WEST SIDE OF THE LASATA HEIGHTS RETIREMENT CENTER AT W78 N675 WAUWATOSA ROAD – RALPH LUEDTKE/OZAUKEE COUNTY

Planner Censky advised that at the April 6, 2009 meeting, Commissioners approved the Conditional Use Permit for the three-story sixty-unit residential care addition to the Lasata Heights Retirement Center subject to an amended landscaping plan returning for separate approval. The County completed those plans, which take into consideration the revised grading plan showing an undulating berm extending from the retaining wall located along the west side of their drive to the south and east. The retention ponds that were previously shown south of the drive toward the west end of the site have now been shifted to the east to accommodate the berms. Along the top of the berm, the plans show staggered rows of Eastern White Pine, Fat Albert Spruce and Austrian Pine. When mature, the White and Austrian Pine will reach a height of 50 feet and a width of 20 feet and the Spruce a height of 20 feet and width of 15 feet. In addition to these landscaped berms, they will be relocating existing spruce trees, that would otherwise be lost to this project, to fill in areas along the west property line that are scarce of year-round screening vegetation.

Planner Censky reported that the landscape plan was otherwise unchanged from the previous submission and is designed to aesthetically enhance the looks of the building while functioning to screen certain impacts of the site.

Kim Hassell of Plunkett-Raysich Architects introduced County Supervisor Kathy Geracie, Lasata Administrator Ralph Luedtke, Lasata Assistant Administrator Mark Vogel, Brian Boeding of Paragon Design Group and Ryan Raskin from the construction management firm. He reported that since the Plan Commission's April 6, 2009 meeting, the landscape plan was amended, and then augmented again after receiving comments from the Williams Drive residents at a meeting held on April 15.

Mr. Boeding advised that a number of existing trees will be relocated to accommodate the improvements rather than just removing them. These trees will need to be transplanted immediately to areas along the perimeter of the site where they would be of most benefit for screening. Trees removed at the north parking lot would be replaced with new trees. Three trees would be transplanted along the north property line to enhance the screening of the Summerfield property. In addition, the existing vegetation would remain. At the west property line, the size of the proposed tree installations have been increased in height from six feet to eight feet to provide more immediate screening, ten evergreens would be transplanted, and eight evergreens have been added to the berm along the west side of the site to maximize year-round screening. At the neighborhood meeting, concerns were expressed that the proposed screening was not enough, so three additional evergreen trees are proposed for the far southern edge of the berm plantings. These plants will be placed as close to the pinnacle of the berm as possible, staggered for a natural look.

Mayor Myers stated that sometimes it is problematic transplanting non-nursery stock and asked if they would be replaced with nursery stock of the same size if the transplanted trees die. Mr. Boeding advised that the sixteen- to twenty-four foot high transplanted trees would include a one-year guarantee. When asked if the trees are likely to survive if they live for one year, Mr. Boeding responded that the first year is the most critical.

Vice Chairperson Burgoyne asked if the neighbors had reviewed the plan being presented. Mr. Boeding responded that he thought they had.

Mr. Hassell advised that the new plantings increased the landscaping budget \$20,000 to \$30,000 in addition to the landscape allowance that was initially allocated.

In response to a question from Vice Chairperson Burgoyne, Mr. Boeding advised that the spacing between the trees proposed for the berm would range from five to six feet. If they were planted closer together, the growth that overlaps would die due to lack of sunlight. Initially there would be gaps between the trees. Vice Chairperson Burgoyne asked the Williams Drive residents what they felt was needed to provide a better buffer.

Kathy Brisky of 654 Williams Drive and Michelle Larson of 650 Williams Drive recognized that there is not enough room to plant any more trees on the Lasata site and that is why neighbors are asking for the landscaping allowance from the County to plant screening on their own properties. No relief would be provided unless trees are put on the private properties. Ms. Larson also requested that the warranty on transplanted trees be extended beyond one year.

In response to a question from Commissioner Emmerich, Mr. Hassell advised that the retaining walls needed to construct the drive to the back of the proposed addition were each three feet high. The road would be six feet lower than the adjoining property line, so it was concluded that headlights would not be glaring into the Williams Drive properties.

Construction manager for the project, Ryan Raskin, reported the north corner of the Lasata site is fifteen feet higher than the first floor of the new building, which also would provide a buffer from the roadway. He noted that the trees would be transplanted using a ninety-inch tree spade that offers the best chance for survival and the transplanted trees are native to the area, which may increase their chances of establishing themselves successfully. He also reported that they left the meeting with the neighbors with everyone understanding that they would not be able to screen everything right away.

Commissioner Brown wondered if it would make more sense to plant the trees in a configuration other than a straight line. Mr. Raskin advised that they would be consulting with property owners to determine the best location of the plantings on the berm that is approximately 25 feet from the lot line.

Commissioner Brown had left last month's meeting with the impression that two rows of trees would be installed on top of the berm and believed a second row could be accommodated. Mr. Boeding responded that the existing vegetation, mainly deciduous, comes up to the retaining wall and the goal was to retain it rather than removing and replacing it with new plantings. A very narrow area is left then to utilize for new evergreen plantings.

Commissioner Brown asked if the project could continue without landscaping approval and Mr. Hassell advised that the first bid opening for the project was on May 12 and the second was scheduled for June 1. There are concerns about the timing for the transplanted trees, however.

Commissioner Brown suggested that the Plan Commissioners walk the site to achieve a greater understanding of the proposed landscaping plan. In the interim, the trees proposed to be transplanted could be moved. Vice Chairperson Burgoyne agreed, providing the developer conduct the tour so that questions could be answered. He asked Ms. Brisky and Ms. Larson if additional height on the eight-foot evergreens would be more effective; Commissioner Brown asked if a second row of evergreens on the berm would work. Vice Chairperson Burgoyne was inclined to think the neighbors deserved more of a buffer and would like to extend the warranty periods to be two years on the transplanted trees. Commissioner Kaiman asked that the proposed berm be staked.

Council Member C. Reimer asked what the cost would be to install a second row of evergreens on the berm. Mr. Boeding estimated it would be about \$150 per tree installed. Mr. Hassell noted that the budget for the addition is \$1 million and in February 2009 the costs were at \$1.8 million. They have been paring down on everything else, but the landscaping costs have increased in an effort to accommodate the adjacent landowners' requests.

Mayor Myers asked if the single row of Arborvitaes would be touching at maturity and the response was that they would. He then asked what benefit a second row of trees would provide. Mr. Boeding responded that, in the long term, there would be none. Initially, the spaces between would be covered from a perfect 90-degree perspective, but there would still be gaps depending on the angle of view.

Kristin Summerfield of 7901 Bridge Road expected that there will be added traffic and lights will be shining into her property from the new parking lot that is at the same elevation as her property. She requested more evergreen plantings along her south lot line and that the warranty on the transplanted trees be extended.

Mayor Myers advised that he thought it was time to make a decision. The Plan Commission has thoroughly reviewed the plans and heard the comments of the public. The current plan was developed in consult with the neighbors and was agreed upon by a majority of the adjacent property owners. He did not feel it was appropriate to delay the project when the County reached out to the neighbors to put together a plan that does work and maximizes shielding of building.

Action:

Council Member C. Reimer moved to approve the landscaping plan based on any stipulations. Mayor Myers seconded the motion.

Continued Discussion:

Commissioner Kaiman believed the Plan Commission should walk the property before making a decision. Adding \$1,900 in landscaping costs to the west and \$1,900 in landscaping costs to the north would not adversely affect a \$10 million project. The additional landscaping could possibly create some relief for a neighborhood being greatly affected. He would vote against the motion.

Council Member C. Reimer advised that he did not see the purpose of another row of plantings that only achieve a band aid effect for a couple years, when the final result is to have the trees grow together.

Continued Action:

The motion failed with Mayor Myers and Council Member C. Reimer voting in favor; and Vice Chairperson Burgoyne, Commissioners Brown, Emmerich, Kaiman and Schara voting against.

Continued Discussion:

Mayor Myers asked the Commissioners to walk the property prior to the June meeting. Commissioner Brown stated that he has walked the site, but it was difficult to determine the locations of the proposed features.

REQUEST FOR CERTIFICATE OF APPROPRIATENESS AND HEIGHT MODIFICATION FOR A NEW TWO-CAR GARAGE AT W61 N459 WASHINGTON AVENUE – WILLIAM BUJANOVICH

Planner Censky reported that Mr. Bujanovich was requesting Certificate of Appropriateness for a new garage on his residential property located within the Historic Preservation District at W61 N459 Washington Avenue. He is also asking for a height modification to allow the proposed garage to be four feet higher than the twenty-foot maximum limit allowed by Code. This two-car garage would be constructed off the south side of the existing garage and would measure twenty-four feet by twenty-eight feet. Mr. Bujanovich is proposing vertical Hardi Board and batten siding material and the garage would be covered with a dimensional shingled roof. Since this is located within the Historic District, the plans were presented to the Landmarks Commission on April 30, 2009 and received unanimous approval.

Planner Censky noted that, according to Section 13-1-70(o)(1)d of the Zoning Code, lots on which a locally-designated landmark is located, the maximum height restriction of the accessory structure(s) may be modified on a case-by-case basis by the Plan Commission upon referral to and receipt of a recommendation from the Landmarks Commission when necessary to maintain the character and historic integrity of said landmark. Since this is an officially-designated Local Landmark site, Mr. Bujanovich has standing to request the height modification. Staff review otherwise indicated full compliance with the dimensional requirements of the Zoning Code.

Mr. Bujanovich advised that the design is meant to include the existing lean-to, but it would be removed if its structure does not accommodate the modification. Then a new lean-to would be built on the south side of the new two-car garage.

Commissioner Brown objected to the cupola, as it would extend an additional three to four feet above the modified twenty-four foot roof peak. He asked if the cupola was necessary. Mr. Bujanovich responded that the cupola was not necessary to the structure, but was an essential architectural element of the building.

Mr. Bujanovich reported that, in reviewing the existing Victorian home on the property, it was determined the first floor wall height is actually ten feet on the exterior, so they are thinking of dropping the first floor height of the garage from twelve to ten-feet. The whole proposed building

would then drop down two feet to a twenty-two foot building height. The cupola would be about thirty-two inches above the ridge line.

Planner Censky noted that the modification then would be for two feet, not four feet. If the Plan Commissioners chose to accept the cupola, it would be a two-foot modification plus the cupola as presented.

Action:

A motion was made by Commissioner Kaiman, seconded by Council Member C. Reimer, to approve the two-foot height modification plus the cupola as presented.

Additional Discussion:

Commissioner Brown advised he would vote against the motion. Although the cupola may have aesthetic value, a two-foot modification already creates a building higher than it should be and would not fit the neighborhood.

Council Member C. Reimer thought it would be more compatible with the cupola. The proposed garage is a great design and would enhance the neighborhood.

Final Action:

The motion carried with Mayor Myers, Council Member C. Reimer, Vice Chairperson Burgoyne and Commissioners Emmerich, Kaiman and Schara voting in favor; and Commissioner Brown voting against.

REVIEW AND CERTIFY THE CODE OF ETHICS

Commissioners acknowledged receipt of the Code of Ethics and stated their intent to comply.

MAYOR'S ANNOUNCEMENTS

No announcements.

ADJOURNMENT

Commissioner Kaiman moved to adjourn the meeting at 8:29 p.m. The motion was seconded by Commissioner Emmerich and carried without a negative vote.

Darla Drumel,
Administrative Secretary