

**CITY OF CEDARBURG  
PLAN COMMISSION**

**PLN20080707-1  
UNAPPROVED MINUTES**

**July 7, 2008**

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, July 7, 2008 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 Gregory Myers.

Roll Call: Present - Mayor Gregory Myers, Council Member Kip Kinzel, Brook Brown, Keith Kaiman

Excused - Mark Burgoyne, Joe Emmerich, Park & Forestry Chairperson James Schara

Also Present - Council Member Michael Maher, City Attorney Kaye Vance; City Planner Jon Censky; Administrative Secretary Darla Drumel; interested citizens

**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 Council Member Kaiman, seconded by Commissioner Brown, to approve the minutes of June 2, 2008 with the following corrections:

- It was noted that Vice Chairperson Burgoyne called the meeting to order.
- Correct the spelling of the Mayor's name on the last page under ADJOURNMENT.

The motion carried without a negative vote, with Vice Chairperson Burgoyne and Commissioners Emmerich and Schara excused.

**COMMENTS AND SUGGESTIONS FROM CITIZENS**

Council Member Maher received clarification that no parking would be eliminated with the installation of a temporary classroom trailer as proposed for St. Francis Borgia School.

**PUBLIC HEARING ON REQUEST TO OPERATE AN EARLY CHILDHOOD PROGRAM FROM EXISTING MULTI-TENANT BUILDING AT N19 W6717 COMMERCE COURT – CEDARBURG SCHOOL DISTRICT**

Mayor Myers declared the public hearing open at 7:07 p.m. Administrative Secretary Drumel confirmed that proper legal notice had been given.

Planner Censky reported that the Cedarburg School Board recently established an optional full day kindergarten, which has created a problem as to where to house their existing Early Childhood Program due to space deficiency. To resolve this problem, the District is proposing to lease space

within the existing multi-tenant building at N19 W6717 Commerce Court in the City's Business Park and relocate that program to this space. While the Early Childhood Program is technically an educational use, it has similar characteristics to a daycare and therefore has been categorized accordingly in order to be processed as a conditional use in the M-3 Business Park District.

Planner Censky explained that the Early Childhood program is for students, age three to five, that may have developmental speech/language or other special educational needs. They expect to serve approximately 35 full-time students during the day with 20 in the morning and 15 in the afternoon. They also potentially have an additional 9 students that arrive intermittently during the day for speech therapy. The Early Childhood program runs weekdays from 9:00 a.m. to 3:30 p.m. with staffing from 7:00 a.m. to 4:30 p.m. Students will come and go by small bus or parental vehicle. Staffing for this program includes three teachers, three aides, two speech pathologists, one occupational therapist, a secretary and the administrator. Since the staff travel to other locations within the district, they will not all be on site all times.

John Koster, Director of Maintenance & Facilities for the Cedarburg School District, advised that the glass patio doors to replace the overhead door on the eastern-most portion of the building would be installed to allow for more natural light and to provide an entry point. Director Koster responded to Commissioner questions that no outdoor activities are proposed for the operation; there currently is very little traffic at the east end of the building; and that 30 parking spaces are available though only 5 may be used at any one time.

No public comment was offered.

**Action to Close Public Hearing:**

Commissioner Brown moved to close the public hearing at 7:15 p.m. The motion was seconded by Commissioner Kaiman and carried without a negative vote, with Vice Chairperson Burgoyne and Commissioners Emmerich and Schara excused.

**Continued Discussion:**

Commissioner Brown advised that he would support the conditional use request provided there were no outside activities and that the conditional use grant is reviewed in a year. Mayor Myers noted that the tax status would remain the same.

**Action:**

A motion was made by Commissioner Brown to approve the conditional use grant provided there were no outside activities and that the conditional use grant is reviewed in a year. The motion was seconded by Commissioner Kaiman and carried without a negative vote, with Vice Chairperson Burgoyne and Commissioners Emmerich and Schara excused.

**PUBLIC HEARING TO CONSIDER CONDITIONAL USE AMENDMENT REQUEST TO MOVE BREWING EQUIPMENT FROM THE BREW PUB INTO A PORTION OF THE AREA FORMERLY OCCUPIED BY DON'S RESALE WITHIN THE CEDARBURG MILL AT N57 W6172 PORTLAND ROAD – SILVER CREEK BREWERY**

Mayor Myers declared the public hearing open at 7:17 p.m. Administrative Secretary Drumel confirmed that proper legal notice had been given.

Planner Censky reported that Silver Creek Brewery was requesting conditional use amendment to expand their brewing operation by increasing the size of their leased area with the Cedar Creek Mill. The Brewery proposes to expand their operation by relocating the fermentation, aging and brewing tanks into a portion of the space previously occupied by "Don's Resale Shop" to separate the brewing operation from the customer area. The area vacated by the tanks will be used for their evening entertainment activities and storage. There will be no change to the exterior of this building and it is not expected there would be any additional impact on the neighborhood with this expansion.

Planner Censky explained that microbreweries are classified as a conditional use in the B-3 District, which requires a public hearing before action is taken. The original conditional use for the Silver Creek Brewery was granted approval in June of 2000, and since this is an amendment to that original grant, the approval process is the same: a public hearing is required followed by action.

Todd Schneeberger, president of Silver Creek Brewery, assured Commissioners that the aesthetics of the brew pub and the brewing process were not changing. There may be room for 5 or 6 more people, but most of the cleared space would be used for the stage and storage.

Council Member Maher reported that he received calls, including concerns related to Silver Creek Brewery patrons utilizing a nearby parking lot and that the door to the pub is propped open allowing noise to disturb nearby residents.

Sue Goetzinger, N60 W6099 Columbia Road, explained that the noise from the door being propped open and the beer garden as late as 1:00 a.m. are issues that concern her. They have stopped calling to complain because it does not seem to get anywhere but are concerned the additional space would allow for larger bands.

Mr. Schneeberger responded that the band would be recessed even further into the building with the expanded space and that he would address the noise issue with the beer garden. He would also make sure that the beer garden operation was in compliance with their license.

Paul Boyer of 1969 Lakefield Road questioned why the door would be propped open. Mr. Schneeberger advised that those serving the beer garden do so to prevent any accidents with the constantly swinging open.

**Action to Close Public Hearing:**

Commissioner Brown moved to close the public hearing at 7:35 p.m. The motion was seconded by Commissioner Kinzel and carried without a negative vote, with Vice Chairperson Burgoyne and Commissioners Emmerich and Schara excused.

**Continued Discussion:**

Mayor Myers acknowledged the difficulty of balancing the needs of a viable downtown business with the needs of the residential neighbors. Keeping the door closed could be a good step to being a good commercial neighbor.

**Action:**

A motion was made by Commissioner Brown, seconded by Mayor Myers, to grant the Conditional Use Amendment subject to:

1. Addressing the noise issues in the beer garden.
2. Closing the brew pub door to minimize the spillover of music from the bank playing inside the building.
3. Encouraging patrons to utilize street parking only and to not park in the adjacent private parking lots.

Mayor Myers noted that parking is an issue everywhere in Downtown Cedarburg. Mr. Schneeberger advised that this is the first he had heard of the parking complaint and would post notices in the Brew Pub as part of a good neighbor policy.

The motion carried without a negative vote, with Vice Chairperson Burgoyne and Commissioners Emmerich and Schara excused.

**CONSULTATION REGARDING PROPOSED 6-LOT SINGLE-FAMILY CONDOMINIUM DEVELOPMENT LOCATED ON THE VACANT LAND BEHIND W61 N378-N392 WASHINGTON AVENUE – ROBERT ZELLMER/TIM GESCHKE**

Planner Censky noted that the applicant has been before the Plan Commission for consultation a couple of times in the past and continues to revise plans to reflect the comments and direction he received. He was before the Plan Commission again for consultation and if a favorable response is received, he will be returning with a rezoning request to apply a PUD overlay to the RS-5 base zoning district.

Planner Censky noted that the RS-5 District requires a minimum lot width of 50 feet and lot size of 8,400 square feet and establishes a minimum front yard of 25 feet, a rear yard of 25 feet and side yards of 4 feet. The applicant has decided on 6 new homes and the removal of one existing home along Hilbert Avenue. According to the City Assessor's records, this building at W59 N367 Hilbert Avenue was constructed in 1895 and is assessed at \$177,600.

Planner Censky described the project consisting of single-family cottages in a "village"-like setting with highly-detailed small homes having large front porches and private yards. As noted, the PUD Overlay District provides the flexibility needed to reduce lot sizes, cluster them together in an attractive design and preserve open space. The Zoning Code requires a 25-foot setback from a public street, but since this project will be supported by a private road, the applicant is proposing a reduced setback from that road. Staff recommends, however, that a 25-foot setback be maintained for the house directly north of proposed private road/Hilbert Street intersection. Staff notes that reduced setbacks were approved through the PUD zoning for the Bridge Commons Condominium development where those setbacks range between 16 feet and 25 feet from their private road. Since the developer also owns the four duplex residences along Washington Avenue, it is requested that the setback be reduced on the two buildings along the proposed private road.

Planner Censky explained that at the direction of our City Engineer, the width of the proposed private road will be 29 feet, which is consistent with that which was approved for the Bridge Commons Road. The applicant will be required to install curb and gutter and to submit his storm water management plans as these plans go forth.

Planner Censky concluded that if Commissioners provided support for this project, the applicant will then return for Planned Unit Development (PUD) rezoning recommendation before this Commission, followed by a public hearing before the Common Council.

Tim Geschke of ASI General noted that the stormwater management plan eliminated a possible building site to make room for a dry retention pond. The developer owns all four lots on Washington that are adjacent to this project and one on Hilbert Avenue. They propose new two-story homes of approximately 2,000 square feet with attached garages. Soils borings as yet have not indicated there is bedrock under the site and the homes probably would have basements. In response to a concern expressed by Mayor Myers, Mr. Geschke advised that the maintenance of the private road would be the responsibility of the owners association, probably through a contract with a private company.

Commissioner Brown asked if the existing duplexes on Washington Avenue were part of the PUD. Planner Censky responded that they would have to be in order for the setbacks to be reduced. Mr. Geschke noted that sidewalks would be installed so it would not be necessary to walk on the drive.

Council Member Kinzel advised that he was not in favor of an access from the development to Washington Avenue, due to the volume of traffic and conflicts that already exist.

Mayor Myers suggested that one solution could be to make the private road a one-way from Washington Avenue with egress on Hilbert Avenue. He believed 6 homes were not going to cause any significant traffic impact. Council Member Kinzel suggested that a one-way road could be narrower and address setback issues.

Commissioner Brown noted that discussions on this parcel of land began in June of 2004 and the issues have always been the traffic on Washington Avenue and density. This proposal substantially addresses these issues and the 6-lot plan is very nice. He still has an issue with Washington Avenue access and thought maybe a right-turn in and right-turn out only might be acceptable.

Council Member Noel Jepson, representing District 3 in which the project is proposed, expressed concern with allowing a private road and then the City having to eventually take it over when it is not properly maintained. Although the density issue has been resolved and the architectural style fits in, he has a big reservation concerning a Hilbert Avenue access. This private road would be right next to the bedroom windows of the existing homes which would significantly affect the residents' quality of life. He questioned where snow would be plowed and that stormwater would increase the flooding problems experienced by the existing residences on Hilbert Avenue.

Bob Zellmer, the developer, noted that he has complied with everything requested of him and has expended considerable funds doing so. He pointed out that property owners in other developments have taken care of their private roads and added that the City has been seeking higher-density developments near the downtown and this project is in keeping with that goal.

Mr. Geschke advised that, as part of the development plans, stormwater will be managed. There will also be an effort to buffer adjacent properties with landscaping.

Commissioner Kaiman advised that he would not support the project because he did not feel it was a good fit for the location.

Mayor Myers stated that the Plan Commission has told the petitioner for years that if he met certain criteria, the project would be acceptable. In his opinion, the petitioner has complied with the Commission direction and has submitted a project that will have minimal impact on traffic and fits in with the neighborhood.

Council Member Kinzel advised that he liked the proposed density and architectural styles; however, wanted to make sure the buildings would be dissimilar. He also suggested that there may be another solution for the private road.

Planner Censky noted that the City would not enforce a one-way private roadway and therefore suggested that right-turn in and right-turn out would be more appropriate.

Judy Jepson, W61 N358 Washington Avenue, expressed concern that fire equipment would not be able to turn onto Hilbert Avenue from the private street, particularly if cars were parked on both sides of Hilbert Avenue. She questioned whether parking would have to be removed from Hilbert Avenue. Planner Censky reported that the Fire Department is part of the review process.

Matt Anderson, W59 N363 Hilbert Avenue, advised that he and his wife had recently purchased their property and have been updating the home. Their house would be right next to the private driveway. He expressed concerns with the traffic that would be generated by the development, drivers disobeying roadway rules, drivers using the private drive as a cut through to and from Washington Avenue, the increased foot traffic, the potential for individuals to hang around the retention pond, lack of consideration of new neighbors and having to keep their kitchen windows closed due to the new private road. They were shocked to learn of the proposal.

Council Member Jepson stated that none of the people in the area were aware of what was being proposed. He added that in the future, the private drive would become a non-conforming City street where vehicles would be unable to turn around and difficult for large vehicles to navigate. Roadway drainage would have to be addressed to avoid flooding problems in the neighborhood.

In response to a question from Commissioner Brown, Planner Censky advised that there are several private streets in the City and he has no knowledge of the City ever taking responsibility for a private road. If that were to occur, the roadway would have to be brought up to City standards at the expense of the adjacent property owners.

Mr. Geschke noted that the entryway would be nicely landscaped to mitigate any negative affects the private drive would cause.

Planner Censky reported that, if the petitioner wishes to proceed, the next step is for the petitioner to submit detailed plans for a rezoning recommendation from the Plan Commission. Then a public hearing would be scheduled at a Common Council meeting. Mayor Myers advised that the Common Council would be making the final decision.

**TEMPORARY USE REQUEST TO LOCATE A MOBILE CLASSROOM TRAILER BEHIND ST. FRANCIS BORGIA SCHOOL AT N43 W6005 HAMILTON ROAD – ST. FRANCIS BORGIA SCHOOL**

Planner Censky advised that the ongoing growth in the enrollment at St. Francis Borgia Elementary School has resulted in need to study their options to address the current space deficiencies and future needs. While their long term space needs will be addressed with the construction of a new elementary school directly north of the Divine Word Church, the timing of the construction of that school may be several years away. Since they are currently busting at the seams and need to resolve their problem sooner, they are requesting approval to install a temporary portable classroom trailer to satisfy their current needs. This trailer is proposed to be located out of view behind the school towards the south end of the site. The trailer measures 23.5 feet x 56 feet and stands 10.5 feet high.

Planner Censky noted that according to Section 13-1-22(f), temporary uses of this nature may be permitted with conditions following review and approval by the Plan Commission. While this is considered temporary, these mobile classroom trailers could remain on site several years pending commencement and ultimate completion of their new school. St. Francis Borgia has been working with our building inspector to address building Code issues and staff review indicates compliance with zoning standards.

Sue Bradley, Principal of St. Francis Borgia School, responded to Commissioner questions. She advised that the trailer would not be connected to the building, appropriate access is part of the design of the trailer that is made specifically for classroom use.

Commissioner Brown stated that he would prefer a review of the use after one year before it could continue.

**Action:**

Commissioner Brown moved to approve the Temporary Use for a mobile classroom trailer to be located behind St. Francis Borgia School at N43 W6005 Hamilton Road for one year, until July 7, 2009. The motion was seconded by Commissioner Kinzel and carried without a negative vote, with Vice Chairperson Burgoyne and Commissioners Emmerich and Schara excused.

**REVIEW AND POSSIBLY RECOMMEND CHANGES TO SEC. 13-1-63(G)(2) (INSTITUTIONAL DISTRICT BUILDING AREA REGULATIONS), SEC. 13-1-63(F)(1) AND SEC. 13-1-63(F)(3) (INSTITUTIONAL DISTRICT STREET YARD AND REAR YARD SETBACK REGULATIONS) AND SEC. 13-1-82(H)(6)B (PARKING REGULATIONS FOR LIBRARY USES)**

Planner Censky reported that the planning and design work for the library has been underway for some time and preliminary plans have now been submitted for review and to secure a Record of Decision from the EPA approving the remedial action plan for handling the contamination on this site. Because the intent is to limit the disturbance and/or removal of the onsite contaminants, it is critical to secure a long-term use that could use the existing foundation and concrete slab where possible to ensure that an impermeable surface would always cover the site. They have achieved that goal with the public library use as it is viewed as long-term with a building and parking lot that will cover the site well into the future.

Planner Censky continued that in order to pursue the EPA's approved remedial action plan, which recognizes the utilization of the existing foundation and concrete slab, certain Code changes are necessary for the proposed library plans to be considered. Since the former Mercury Marine building preceded our current zoning regulation, it violates the City's setback and offset

requirements. Consequently, for the proposed library to use the existing foundation, those setback regulations will need to be modified accordingly. Because of this unique situation, the intent of this proposed ordinance change is to be specific to redevelopment of a contaminated site and allow for Plan Commission and Council consideration of the remediation/library plans as approved by the EPA.

Planner Censky noted that while the proposed library plans comply with the I-1 Institutional and Public Service District's building-to-lot area ratio requirement, there is little room for future expansion. The existing Code provides for a maximum building size not to exceed 40% of the lot size and our calculation indicates that the proposal is at 36.5%. Since the proposed library plans reflect a potential future expansion, the Code amendment proposed also reflects an increase in the building size from the existing 40% ratio to 50% for the I-1 Institutional and Public Service District.

Planner Censky added that the proposed site plan is non-compliant in regards to the onsite parking requirement for library uses as our Code requires 1 parking stall per 250 square feet of gross floor area plus 1 per employee for a total of 120 stalls. The preliminary plans show 38 stalls plus available street parking. In order to resolve this issue and establish whether our standards are comparable with those of other communities, staff conducted a survey other communities. This survey revealed that while some communities have standards similar to Cedarburg's, others either require far less parking or have no standard at all for library uses. Our analysis also reveals that those land rich communities, such as Mequon, Brookfield and Grafton, have standards consistent with ours while the pedestrian-oriented communities where land is at a premium, like Port Washington and Stevens Point, the standards are far less. He also spoke with the City Planner from Port Washington where no standard applies and was informed that their library was approved with only a small 10-stall parking lot in the rear. He indicated that people can either walk to the library or those that do drive utilize the available street parking or off-street parking in the area. That library, however, is located near their downtown where street parking is more readily available. Stevens Point standard is 1 space for every 400 square feet of gross floor area. Accordingly, to reflect the pedestrian-oriented characteristic of Cedarburg, coupled with the uniqueness of this project, a library-specific off-street parking count requirement reduction from 1 space per 250 square feet of gross floor area to 1 space per 500 square feet is proposed for Plan Commission consideration. This amendment will result in a reduction in the number of stalls required that is in line with the number shown on the preliminary plans plus adjacent street parking. It should be noted, however, that this site is in a residential area where parking has been an issue in the past and, therefore, staff will work with the architect to maximize the number of on-site parking stalls.

Planner Censky concluded that this is typically why changes are made to the Code in order to promote a public purpose. These changes would specifically affect libraries in institutional districts. A public hearing would be scheduled before the Common Council on the proposed changes.

**Action:**

A motion was made by Council Member Kinzel, seconded by Mayor Myers, to recommend the proposed changes to the Common Council.

**Continued Discussion:**

Commissioner Brown advised that he was opposed to all of the changes. He pointed out that the Stevens Point library has a three-story parking garage nearby and the Port Washington library has a City parking lot close by. The Cedarburg library is proposed in a residential area and parking is a

major issue. He questioned whether people will really walk to the library. Commissioner Brown also opposed a 50% lot area coverage because of its application to different institutional uses. In his opinion, changing the Code that deals with contaminated sites is not good planning.

Commissioner Kaiman agreed with Commissioner Brown that the Code should not be changed for one particular contaminated site that would apply to the entire City.

Mayor Myers supported the changes because the City is trying to take a site that is contaminated and make it usable again, instead of one big contaminated site sitting vacant in perpetuity in a residential neighborhood. If minor adjustments have to be made to the Code in order to achieve that goal, it is good public policy.

Council Member Jepson, the representative for the district where the proposed site lies, said that he has been talking to a lot of people, and though originally opposed to the library, felt it is time to go forward and make the project successful.

**Final Action:**

The motion to recommend the changes failed with Mayor Myers and Council Member Kinzel in favor; and Commissioners Brown and Kaiman against.

**CONSIDER LANDMARKS COMMISSION RECOMMENDATION TO DESIGNATE THE STONE OUTBUILDING LOCATED AT W51 N1077 KEUP ROAD AS A LOCAL LANDMARK – DAVID BOYLES**

Planner Censky reported that on May 22, 2008, the Landmarks Commission conducted a public informational meeting to solicit input to help determine whether or not this stone structure qualifies as a Local Landmark. When considering such a designation, the Landmarks Commission refers to the Criteria for Evaluation manual which they adopted in 2004 wherein a systematic process is defined to help in such a determination. In order to qualify, the structure must meet one of the following criteria:

- That the structure is associated with events that have made a significant contribution to the broad patterns of the City's history; or
- That the structure is associated with the life of a person significant in the City's past; or
- That the structure embodies the distinctive characteristics of a type, period or method of construction, or that represents the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- That the structure yields, or may be likely to yield information important in history.

Planner Censky noted that in their review, the Landmarks Commission noted that this structure is one of only a few such stone structures that remain in this area and that stone structures were very important to the original settlers of this area. The Commission also noted that the structure was original to the Keup family who settled this area and that the farmstead remained in the Keup family until only a few years ago. Accordingly, the Landmarks Commission has recommended that it be designated as a Local Landmark.

**Action:**

**PLAN COMMISSION**  
**July 7, 2008**

**PLN20080707-10**  
**UNAPPROVED MINUTES**

Commissioner Brown moved to accept the recommendation of the Landmarks Commission to designate the stone outbuilding located at W51 N1077 Keup Road as a Local Landmark. The motion was seconded by Council Member Kinzel and carried without a negative vote, with Vice Chairperson Burgoyne and Commissioners Emmerich and Schara excused.

**MAYOR'S ANNOUNCEMENTS**

There were no announcements.

**ADJOURNMENT**

Commissioner Brown moved to adjourn the meeting at 8:50 p.m. The motion was seconded by Council Member Kinzel and carried without a negative vote, with Commissioners Burgoyne, Emmerich and Schara excused.

Darla Drumel,  
Administrative Secretary