

**CITY OF CEDARBURG
PLAN COMMISSION**

**PLN20081103-1
UNAPPROVED MINUTES**

November 3, 2008

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, November 3, 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, Mark Burgoyne, Brook Brown, Joe Emmerich, Keith Kaiman

Excused - Park & Forestry Chairperson James Schara

Also Present - City Attorney Kaye Vance; City Planner Jon Censky; Council Members Noel Jepson and Michael Maher, Economic Development Coordinator Linda Skalecki, 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 Commissioner Brown, seconded by Commissioner Kaiman, to approve the minutes of October 6, 2008 as presented. The motion carried without a negative vote.

COMMENTS AND SUGGESTIONS FROM CITIZENS

Re: N37 W5537 Burr Lane

Gerald Jackson of N38 W5520 Burr Lane stated that the Tamms Lithography site was first rezoned to manufacturing only 10-15 years ago and was the only manufacturing lot in a residential area. The site was then rezoned from manufacturing to single-family with the understanding that Mr. Tamm's had one year to find a reuse of the building. He feels that the property owner has had sufficient time to sell the property where the manufacturing use could have continued. He provided a picture of the site from his living/dining room window and urged Commissioners to retain the residential zoning.

Re: Northwest Corner of Washington Avenue and Lincoln Boulevard

Steve Iggens, agent for GMP, Inc., advised that the property owner was unaware of the proposal to change the zoning to a less intensive use until the previous Friday, which did not allow sufficient time to prepare for the Monday meeting. Mr. Iggens advised that Alan Marcuvitz of Michael Best & Friedrich LLP had been retained and requested that discussion on the rezoning proposal be postponed until they could meet with their legal counsel and the City Planner.

Re: N37 W5537 Burr Lane

Erwin Tamms, property owner of the former Tamms Lithography at N37 W5537 Burr Lane, explained that the building was constructed around 1945 and has been used for light manufacturing for 64 years. The rezoning in 2006 to single-family has caused considerable hardship on the sale of the site. He therefore is requesting to change the zoning from RS-5 Residential to OSLM Office,

Service and Limited Manufacturing District until a comprehensive plan is developed for the entire area.

REQUEST TO MODIFY THE 20-FOOT HEIGHT LIMIT FOR NEW GARAGE PROPOSED FOR HISTORIC SITE AT W65 N733 ST. JOHN AVENUE – JOE AND KAREN LOCHER

Planner Censky advised that Joe and Karen Locher were requesting approval to modify the 20-foot height limit requirement for accessory structures for their proposed garage at W65 N733 St. John Avenue. The garage would replace an existing garage and is part of a larger site improvement project that includes an addition to the existing house, the construction of a pool shed, and the installation of an outdoor pool. Specifically, the applicant is requesting a 4-foot modification so that they can match the roof slope of the garage with that of their historic home in order to maintain consistency in design. Since the home is a designated Local Landmark, the plans were presented to the Landmarks Commission on October 30, 2008. At that meeting, the plans were discussed at length and approved unanimously.

Planner Censky explained 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, the property owners have standing to request this modification. The proposal indicates full compliance with all the other dimensional requirements of the Zoning Code.

Hani Malek of W65 N727 St. John Avenue advised that he had received a postcard advising him of the meeting's discussion, but was not quite sure what was expected of him.

Planner Censky advised that all property owners adjacent to the sites under Plan Commission consideration are now receiving courtesy notices, which is what Mr. Malek had received. The notices state the date, time and location of the meeting and describe the item for discussion. The Planning Department phone number is listed at the bottom of the notice and the property owners are encouraged to contact the City for more information. He then explained to Mr. Malek that the Plan Commission was permitted to only consider a modification to the height of the garage to allow the pitch to match that of the home, which would be 24 feet instead of the 20-foot restriction and that he could speak to that issue if he so desired. Planner Censky explained that because this is a locally designated Landmark, the plans for the home addition were reviewed by the Landmarks Commission and unanimously approved.

Action:

Commissioner Brown moved to approve a modification to the 20-foot height limit to 24 feet for their new garage proposed for this Historic Site at W65 N733 St. John Avenue. The motion was seconded by Commissioner Emmerich.

Further Discussion:

Commissioner Brown advised that he visited the neighborhood and there were three or four other homes that already had garages that exceeded the height limitation, so this garage at 24 feet would be consistent.

Final Action:

The motion carried without a negative vote, with Commissioner Schara excused.

CONSULTATION REGARDING PLANS TO EXPAND THE OUTDOOR MATERIAL STORAGE AREA FOR A LANDSCAPE CONTRACTING BUSINESS LOCATED AT N144 W5800 PIONEER ROAD – MIKE LA ROSA/LA ROSA LANDSCAPE COMPANY, INC.

Planner Censky advised that Mr. La Rosa purchased the site in 2006 and has been operating his landscape contracting business under the terms of a conditional use grant ever since. He is now proposing to expand the outside storage yard into the open area at the southwest corner of the site adjacent to Pioneer Road. Before he completes the final details of his plans and submits an application to amend the conditional use document however, he requested Plan Commissioners' input to incorporate that into the plans.

Planner Censky noted that the proposed expanded storage area would be used to store/display such things as stone, brick, trees, shrubs and a variety of bulk material. To buffer the visual appearance from Pioneer Road, the landscape plant materials will be stored up front and the bulk material will be stored behind. While outside storage in the M-2 Zoning District requires either a 6' to 8' solid fence or an evergreen planting screen not less than six (6) feet tall at the time of planting for typical manufacturing operations, Mr. La Rosa notes that this storage is part of his retail display and such an enclosure is contrary to what he is trying to achieve. Instead, the plan proposes different displays of attractive fencing around the perimeter for security purposes as well as to showcase their landscape products. Since the storage/display area is to be extended to within a few feet of the Pioneer Road right-of-way, Commissioners should discuss whether this highly-visible change is in keeping with the intent of the M-2 District regulations and whether his proposed perimeter landscape fencing and showcase plantings are sufficient to properly buffer/screen the area. If he received favorable feedback, Mr. La Rosa would return for official approval of the plans at a future meeting.

Planner Censky noted that Mr. La Rosa has installed a Quonset hut onsite without Plan Commission approval but added that he has been advised that Mr. La Rosa had checked with the Building Inspection Department and was told that a Quonset hut did not need a building permit. It, however, did not occur to him that it might require approval from the Plan Commission as a modification of his conditional use. Planner Censky asked that the Commissioners discuss whether the Quonset hut was a significant change to the conditional use permit.

Mike La Rosa, president of La Rosa Landscape Company, Inc., assured Commissioners that the display of landscaping materials and plantings would be pleasing to the neighborhood and would also be in his best interest to have the displays appealing.

In response to Commissioners' questions, Mr. La Rosa noted that the plant materials would be around 30 feet from the Pioneer Road right-of-way with decorative displays of landscaping concepts installed along the periphery of the outside display area. He did not expect to be installing berms and the maximum height of the fences would be about 4 feet to 5 feet.

Commissioners' consensus was that the proposal was intriguing and that they would like to see detailed plans at a future meeting. Planner Censky suggested that Commissioners check out the Quonset hut already on the site and be prepared to discuss it when Mr. La Rosa returns.

REQUEST TO AMEND THE CITY OF CEDARBURG LAND USE PLAN AND TO RECOMMEND REZONING PROPERTY LOCATED AT N37 W5537 BURR LANE FROM RS-5 SINGLE-FAMILY RESIDENTIAL TO OSLM OFFICE, SERVICE AND LIMITED MANUFACTURING DISTRICT – EDWIN TAMMS

Planner Censky explained that back in early 2007, at the urging of some adjacent neighbors, former Council Member Sandy Beck initiated and successfully had this Burr Lane site rezoned from M-1 Light Manufacturing to RS-5 Single-Family Residential. The reason this site was targeted for rezoning was because the building, which formerly housed the Tamms Lithography business, had sat vacant for over a year and the neighbors were concerned that future use of the building could be disruptive to the area. The result of that rezoning action was to render the manufacturing building non-conforming and impractical to convert to a conforming residential use. Accordingly, since this building can no longer support a manufacturing use, the consequence of this action was to remove all value from the building and placed a negative value on it because of the need to have it razed before any conforming use can be applied to the site. Because of that hardship, Mr. Tamms is asking for Land Use Plan amendment and rezoning consideration to the OSLM Office, Service, and Limited Manufacturing District which provides for such uses on infill sites near existing residential areas. The primary distinguishing features of this district are the emphasis on indoor services and manufacturing operations, which would minimize the nuisances to nearby residences and a 50% open space requirement to buffer yards.

Planner Censky noted that since that rezoning the applicant has been unsuccessful in his efforts to sell the site and is therefore requesting a rezoning that will allow reasonable use of the building and site. City staff notes that the OSLM District was created in 1998 for situations like this. It is intended to provide for office, service, and limited manufacturing uses which may be on infill sites near existing residential areas and was designed to provide sufficient protection to remedy any potential impact on the neighborhood. Any change to the zoning would require a public hearing before the Common Council.

In response to comments heard earlier, Planner Censky advised that he had researched the site and found that the site was zoned manufacturing as far back as 1965 and that the building, with a few homes nearby, was visible in a 1951 aerial photograph. He also noted that someone was now interested in using the building as a bakery, which would deliver their product off-site.

Mayor Myers noted that the action taken to change the zoning to residential was done to correct a mismatch of zoning and bring the area into conformity.

Planner Censky pointed out that this particular area already has the abandoned Amcast building and Ozaukee Disposal and it would be unlikely someone would build a new home there. Initially, the homes were built for the employees of the local businesses.

Commissioner Kaiman stated that the entire neighborhood is plagued with manufacturing, but has changed to predominantly a residential use. Among those he has spoken with, no one supports the light manufacturing zoning. He did not see any reason to go back on the decision that provided relief the neighborhood was looking for.

Council Member Maher, the Fifth District representative, reaffirmed Commissioner Kaiman's comments. He sees problems with the OSLM zoning, such as a lack of space for the required ample off-street parking. The site is inaccessible to any truck. Council Member Maher also considered the building to be in poor condition.

Commissioner Brown noted that up to a year after the rezoning, the building still could have been sold for manufacturing use. Mayor Myers agreed that the City was fair to the property owner to allow the opportunity for a year to establish that manufacturing use.

Action:

A motion was made by Commissioner Kaiman, seconded by Council Member Kinzel, to recommend that the RS-5 Single-Family Residential zoning remain and that the request for changing the zoning to Office, Service and Limited Manufacturing District be denied.

Further Discussion:

Council Member Kinzel stated that the zoning of the Tamms' site was discussed for a long time and the Plan Commission want to do what is right for the neighborhood.

Final Action:

The motion carried without a negative vote, with Commissioner Schara excused.

REVIEW AND POSSIBLE RECOMMENDATION TO REZONE FOUR PROPERTIES AT THE SOUTHWEST CORNER OF LINCOLN BOULEVARD AND WASHINGTON AVENUE FROM B-2 COMMUNITY BUSINESS DISTRICT TO B-1 NEIGHBORHOOD BUSINESS DISTRICT

Commissioners decided not to defer this discussion to a future date since a public hearing would be required at a Common Council meeting where the developer could be prepared to present their argument.

Planner Censky reported that City staff had been contacted by another developer interested in constructing a Walgreen's store, but proposed it for the northwest corner of Lincoln Boulevard and Washington Avenue. Staff's reaction was to promptly dismiss it as being out of character with the area and inconsistent with the recommendations of the recently-approved Smart Growth Comprehensive Plan. The City has long held that the north corners of the Lincoln Boulevard and Washington Avenue intersection are transitional sites which function as buffers between the more intensive commercial uses south of this intersection and the historic residential neighborhood to the north. A good example of a transitional development is the recently constructed Station Square project on the northeast corner.

Planner Censky continued that while the Walgreen's development is appropriate for the B-2 Community Business District to the south, it would not function as a transitional use here. To the south, the City recognizes that existing commercial development is defined by the vehicle where large parking lots separate the travel lanes of Washington Avenue from the commercial buildings and future development will likely follow that pattern. To the north, however, the character changes dramatically into a quiet historic residential neighborhood. Development of the north corner is expected to reflect that of a traditional neighborhood style where architecture dominates the site and parking is hidden.

Planner Censky explained that the B-2 Community Business District is applied across the entire area extending both north and south of the intersection and that zoning, in and of itself, does not provide the transition that the City is are trying to achieve north of the intersection. With the Station Square project, the Plan Commission, Common Council and City staff worked with the developer and achieved the transitional goal through the PUD Overlay Zoning. To ensure that that goal is achieved at the northwest corner, Planner Censky suggested that Commissioners consider a recommendation to rezone the corner from the B-2 Community Business District to the B-1 Neighborhood Business District.

Council Member Noel Jepson, Third District representative, advised that he had spoken to quite a few neighbors and none would support a development such as a Walgreens and supported a rezoning to B-1 District with less intensive commercial uses.

Planner Censky further noted that the recommendation of the Smart Growth Comprehensive Master Land Use Plan – 2025 (Land Use Plan) is to rezone the site to the B-1 Neighborhood Business District and he has been in the process of rewriting the Zoning Code to conform to the adopted Land Use Plan, but the proposal came before his work was completed.

Action:

Commissioner Emmerich moved to recommend rezoning the four properties on the northwest corner of Washington Avenue and Lincoln Boulevard from the B-2 Community Business District to the B-1 Neighborhood Business District. The motion was seconded by Commissioner Kaiman.

Further Discussion:

Commissioner Brown questioned whether the B-1 zoning was too restrictive, as it was considerably more limiting than the B-2 District. It was noted that a PUD rezoning could be applied for if an acceptable proposal was submitted.

Final Action:

The motion carried without a negative vote, with Commissioner Schara excused.

The audience was advised that the public hearing on the proposed zoning change would be scheduled for the December 8, 2008 Common Council meeting.

MAYOR'S ANNOUNCEMENTS

There were no announcements.

ADJOURNMENT

Commissioner Emmerich moved to adjourn the meeting at 8:10 p.m. The motion was seconded by Commissioner Brown and carried without a negative vote.

Darla Drumel,
Administrative Secretary