

**CITY OF CEDARBURG  
PLAN COMMISSION**

**PLN20081006-1  
UNAPPROVED MINUTES**

**October 6, 2008**

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, October 6, 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, Park & Forestry Chairperson James Schara

Also Present - City Attorney Kaye Vance; City Planner Jon Censky; Council Members Noel Jepson and Paul Radtke, Public Works Superintendent Jeff Boerner, Cedarburg Light & Water General Manager Dale Lythjohan, 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 Council Member Kinzel, to approve the minutes of August 4, 2008 as presented. The motion carried without a negative vote.

**COMMENTS AND SUGGESTIONS FROM CITIZENS**

No comments or suggestions were offered.

**PUBLIC HEARING TO CONSIDER REQUEST TO AMEND CONDITIONAL USE PERMIT TO REPLACE EXISTING CANOPY AND GAS DISPENSERS, AND TO EXPAND BUILDING BY CONNECTING THE CAR WASH TO THE CONVENIENCE STORE AT W62 N174 WASHINGTON AVENUE – DOUG GALL/SUPER SALES**

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

Planner Censky advised that Mr. Gall is seeking conditional use/site plan amendment approval to improve his business site by replacing the existing canopy, installing new state-of-the-art gas dispensers and constructing a 750-square foot addition to the convenience store connecting it to the car wash. He was also proposing a new monument sign, however, that will require approval from the Design Review Board. While the existing canopy covers only two of the four gas dispensers, the new canopy will cover all dispensers. Due to Building and Fire Code issues, the design of the new canopy will change from the existing wooden, sloped roof design which matches the look of their existing building to the flat-roof style typical of most modern gas station canopies. The exterior of the canopy will be of E.I.F.S. material and will be supported by white painted steel

tube columns. There will be no signage on the new canopy. According to the lighting plan, the lights under the canopy will illuminate the sales area only with intensity levels dropping off from the canopy to the property line. Finally, all four existing gas dispensers will be replaced with new ones.

Planner Censky reported that the proposed building addition was designed to match the style and use of materials of the original building. The plan shows a 5:12 roof pitch with matching dimensional shingles and building materials will be of decorative block to match existing materials. The purpose of this addition is to expand his commercial retail use by 750 square feet. The dumpsters would be relocated to the north of the building and screened by a wooden fence.

Planner Censky continued that because it is the end of this year's construction season, the applicant proposes to complete this project in two phases. The first phase, to be completed this fall, will include the new gas dispensers and canopy. The second phase will be the construction of the addition which will be undertaken next summer. Staff's review indicates full compliance with the dimensional requirements of the B-2 Zoning Code and some conditions if approved were recommended.

**Close Public Hearing:**

Commissioner Brown moved to close the public hearing at 7:09 p.m. Vice Chairperson Burgoyne seconded the motion and it carried without a negative vote.

**Action:**

A motion was made by Vice Chairperson Burgoyne, seconded by Commissioner Brown, to approve the requested Conditional Use Amendment to replace the existing canopy and gas dispensers this year and expand their building connecting the car wash to the convenience store next spring at W62 N174 Washington Avenue, with the following conditions:

1. The applicant secure a building permit prior to any construction activity.
2. The signage plan be approved by the Design Review Board.
3. Engineering Department Review and approval of the grading, drainage and erosion control plans.
4. Phasing approved as proposed with the gas dispensers, canopy and signage being replace this year and the building addition next year.
5. Completion of the entire project by October 6, 2009.

The motion carried without a negative vote.

**PUBLIC HEARING TO CONSIDER REQUEST FOR CONDITIONAL USE PERMIT TO INSTALL A 13-FOOT BY 17-FOOT TRACKING SOLAR PANEL IN FRONT OF THEIR FACILITY AT N30 W5926 LINCOLN BOULEVARD – CEDARBURG LIGHT & WATER**

Mayor Myers declared the public hearing open at 7:10 p.m. Administrative Secretary Drumel confirmed that proper legal notice had been given.

Planner Censky noted that at the last Plan Commission meeting the Commissioners recommended a change to the I-1 Institutional District allowing solar panels on publicly-owned sites as conditional uses with the stipulation that they would not be subject to the distance and yard requirements. That recommendation was subsequently considered by the Common Council. Following a public hearing,

the Ordinance was unanimously approved and following that approval, Council Members took a vote in support of the proposed solar panel installation at the Cedarburg Light & Water facility as proposed and that passed by a vote of 4-3.

Planner Censky explained that Cedarburg Light & Water is now officially pursuing approval of the solar panel to be located as previously proposed on the island within their circular drive in the visible front yard of their facility at the northwest corner of Lincoln Boulevard and Johnson Avenue. The Utility is seeking approval to install the solar panel in this visible location for two reasons; first, it is intended to show customers that they are pursuing alternative forms of energy and, second, it is the only area on site where the sun is not blocked by existing trees for the better part of the day.

Planner Censky reported that, because of the concerns previously expressed by the Plan Commission and by some Council Members, Cedarburg Light & Water is proposing to install this panel on a trial basis for no more than 12 – 18 months. If it turns out to be highly controversial or aesthetically unacceptable, they would relocate it to a less visible, more acceptable location.

Planner Censky reported that this panel will be 17.3-foot wide by 13.3-foot high and will be mounted on a 20-foot high pole, which puts the lower edge of the panel at about 13 feet off the ground. The whole panel rotates on two axes; left to right and up and down as it follows the sun across the sky.

Planner Censky advised that while State law allows local communities to establish a permit process for such installations, it limits the City's authority to place restrictions. Section 66.0401(1) of the Wisconsin Statutes states that:

No county, city, town, or village may place any restrictions on the installation or use of a solar energy system unless the restriction satisfies one of the following conditions:

- (a) Serves to preserve or protect the public health or safety,
- (b) Does not significantly increase the cost of the system or significantly decrease its efficiency,
- (c) Allows for an alternative system of comparable cost and efficiency.

Planner Censky stated that, procedurally, Section 13-1-226 (e) of the City's Zoning Code states, "On city-owned property, the Plan Commission shall make a recommendation to the Common Council concerning the applications of conditional use permits, and the Common Council shall have the final approval regarding conditional use permit applications". Accordingly, any Plan Commission recommendation would go to the Council at their next meeting. Planner Censky then made recommendations on conditions to be placed on any approval.

Light & Water General Manager Dale Lythjohan responded to Commissioner questions. He advised that the proposal would demonstrate the technology available and get people thinking about alternative energy sources as the cost of the technology drops. He noted that the tracking solar panel was the most cost-effective, providing one-half to two-thirds the energy for a single-family home. A typical building roof would not support a tracking unit. There are about 12 other communities that have installed similar equipment. Manager Lythjohan suggested that an 18-month temporary permit be approved, which would expire if the solar panel was deemed inappropriate.

Mayor Myers stated that concerns included the size of the panel and its imposition on the surrounding area.

John Kuerschner, N30 W6078 Lincoln Boulevard, referred to his letter of September 15, 2008 to Council Members and the Plan Commission, that opposed the proposal. He objected to the size, the fact that it would be unattractive, would have little practical use and would be funded by the public.

Kerry Wilger, N30 W6030 Lincoln Boulevard, agreed with Mr. Kuerschner's comments, noting that although she supports new ways of creating energy, this project would not be cost-effective when the country's current economic situation is creating hardships for rate payers.

Council Member Radtke agreed the size was imposing and since the tracking solar panel would produce so little electricity, a reduction in production of 25% for a roof-mounted panel may be a viable option. As far as an 18-month temporary permit is concerned, he believed that it was unlikely that people would voice their concerns after the installation has occurred. However, he spoke to six people and only one was opposed to the proposal.

**Close the Public Hearing:**

Commissioner Brown moved to close the public hearing at 7:25 p.m. The motion was seconded by Commissioner Emmerich and carried without a negative vote.

**Continued Discussion:**

Commissioner Brown advised that he applauded the idea of alternative energy sources but the solar tracking panel was being proposed for the wrong site, not to mention that it would require the removal of a beautiful birch tree. The public would be looking to install roof-mounted panels and that would make more sense at the Light & Water site.

In response to a question from Vice Chairperson Burgoyne regarding where he thought these panels would be appropriate, Manager Lythjohan advised that the tracking solar panels would be more suitable for commercial and institutional sites and it would be logical to install flat panels on residential roofs. Vice Chairperson Burgoyne agreed with the aesthetic concerns and suggested that a different location would be more desirable.

Commissioner Emmerich also opposed the proposal on the aesthetic and economic issues.

Commissioner Kaiman advised that the energy produced by the proposed tracking solar panel would provide only about one-fifth of his household energy needs. He opposed the proposal because of the economic and aesthetic issues and suggested that the large panel may actually discourage people from considering alternative energy sources.

Commissioner Schara opposed the proposal because of its size, the site and the lack of feasibility for residential use.

Mayor Myers did not support the proposal due to the economic aspects and no cost benefit. The project would not lose much with an alternate site.

Manager Lythjohan advised that he understood that this was not the site and not the time to install the solar tracking panel and withdrew his petition.

**CONSULTATION REGARDING PROPOSED CHANGES TO PRIVATE ROAD LAYOUT FOR PROPOSED SINGLE-FAMILY DEVELOPMENT LOCATED BEHIND W61 N378-N392 WASHINGTON AVENUE – TIMOTHY GESCHKE & ROBERT ZELLMER**

Planner Censky noted that, at a recent meeting, the majority of Commissioners were satisfied that all previous issues had been addressed and indicated support for the project as proposed. Since that meeting however, Tim Geschke met with Council Member Jepson and the Fire Department in an attempt to reach a compromise that would satisfy the neighborhood's concerns while maintaining acceptable access for fire protection. Of particular concern to neighbors is having a through-street through this project from Washington Avenue to Hilbert Avenue, which they feel will add traffic and change the character of the neighborhood. Based on input from Alderman Jepson and the neighbors, the new plan eliminates direct traffic to Hilbert Avenue, but does provide emergency access only over the driveway of the existing home on Hilbert Avenue. The previous plan called for removal of that home while the new plan does not. Before pursuing PUD rezoning recommendation from the Plan Commission, to be followed by a public hearing before the Common Council, Plan Commission feedback on the new roadway configuration was being requested.

Vice Chairperson Burgoyne pointed out that a lot of feedback has been received from the neighborhood throughout the years when reviewing proposals for this property. The developer listened to the neighbors and the Plan Commission to progress to a plan that was acceptable.

Mayor Myers noted that the developer has been provided guidelines which have been followed.

Tim Geschke, representing property owner, outlined the new roadway plan that would maintain the residence on Hilbert Avenue. Stormwater must be managed on site and details would be worked out while finalizing the plans.

Council Member Jepson advised that he had spent a lot of time with the neighbors, especially the owners of the key house on the corner of Hilbert Avenue and Wurthmann Street who object to a roadway next to their home. The new plan satisfies most concerns and the neighbors would reluctantly not oppose the development.

Council Member Kinzel suggested that light spillage be controlled and was pleased the roadway was private.

Commissioner Kaiman objected to the new roadway configuration as it would provide access only to a narrow stretch of Washington Avenue.

**Action:**

A motion was made by Vice Chairperson Burgoyne, seconded by Commissioner Brown, to reaffirm approval of the former concept with a through-street from Washington Avenue to Hilbert Avenue.

**Continued Discussion:**

Commissioner Brown noted that density and access have been the main issues of prior discussion that resulted in their support of the development. The new proposal decreases the water retention area and increases the paved area.

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**Call the Question:**

Vice Chairperson Burgoyne moved to call the question. The motion was seconded by Commissioner Brown.

**Continued Discussion:**

Mayor Myers argued that the new roadway configuration had merit because it satisfied the developer, the neighbors, the Fire Department and the Police Department. Twelve cars entering and exiting on Washington Avenue will not, in his opinion, cause traffic problems. He did not feel it was fair to the developer or neighbors to reject the compromise plan.

**Action to Call the Question:**

The motion to call the question failed with Vice Chairperson Burgoyne and Commissioner voting in favor and Mayor Myers, Council Member Kinzel and Commissioners Emmerich, Kaiman and Schara voting against.

**Additional Continued Discussion:**

Council Member Jepson suggested that left turns to and from the development be prohibited. Mr. Geschke suggested that the intersection be revisited after a year to see if problems persisted.

The property owner, Robert Zellmer, advised that he lived in a 100-unit development in Glendale for many years and there were never more than a couple of cars using the intersection at any one time. No problems existed.

**Action:**

The motion to reaffirm the plan labeled A-1 that was distributed at the July 7, 2008 Plan Commission meeting providing access both to Washington and Hilbert Avenues carried with Vice Chairperson Burgoyne and Commissioners Brown, Kaiman and Schara in favor and Mayor Myers, Council Member Kinzel and Commissioner Emmerich opposed.

**CONCEPT REVIEW AND CONSULTATION REGARDING PROPOSED WALGREEN DRUG STORE AT THE FORMER RUSS DARROW SITE AT THE CORNER OF WASHINGTON AVENUE AND ZEUNERT STREET – MRED-CUMMINGS COMMERCIAL**

Planner Censky advised that MRED-Cummings Commercial Development Corporation was requesting concept review/consultation for their plans to redevelop the former Russ Darrow site into a Walgreen's pharmacy/retail use. Before investing any more into the details and proceeding with final plans, they want to present their preliminary plans and solicit your feedback. The applicant will then generate fully detailed plans and submit those along with a petition for conditional use for the drive-through window at an upcoming meeting.

Planner Censky noted that the concept plans showed a 14,550 square foot stand-alone Walgreen's drug and variety store situated approximately 132 feet back from the Washington Avenue right-of-way supported by a 75-stall onsite parking lot. While the current Code requires 94 stalls for this use, it also provides flexibility if that parking count is not warranted. The applicant owns the property to the south, which provides them the ability to share parking with that site if necessary. Two ingress/egress drives are shown; one from Washington Avenue that will be shared with the site to the south and a second from Zeunert Street at the east end of the site. The plan also shows a drive-

thru window on the south elevation of the building with one-way traffic directed around the back of the building to the Zeunert Street driveway.

Planner Censky described the two architectural options submitted for review. Each option proposed all brick buildings with accenting decorative block courses and columns typical of a Walgreen's design. At the northwest corner, over the main entrance, the plans showed an elevated tower with either a parapet wall design or a roofed tower with a prairie-style finish. The height of the building steps down in elevation as you proceed south and east from the entrance tower. The Walgreen's wall sign is integrated into the façade design of the west and north elevations with the lighter colored block backing on one option and the red brick on the other. The sign must be reviewed and approved by the Design Review Board before it can be incorporated as proposed.

Planner Censky explained that with this request, five existing legal non-conforming lots will be combined into two; one conforming and the other non-conforming due to width. This does not result in a land division but public right-of-way would be dedicated so Plan Commission and Council action are necessary.

Planner Censky further explained that pharmacies with drive-through facilities are classified as conditional uses in the B-2 Zoning District. If the applicant receives a favorable response, they will return for public hearing and final approval at the November Plan Commission meeting.

Mark Lake, representing MRED-Cummings, was available to answer questions.

Vice Chairperson Burgoyne recalled that the Plan Commission denied the request for a tower for the M&I building across from this location and, to be fair, cautioned against allowing one for the proposed Walgreen Drug Store.

Council Member Radtke, representative of the district in which the store is proposed, found the use to be a good fit for the area and the building to be a high-quality.

Commissioners determined that the architectural columns at the front entrance did not constitute towers. They concurred that the option showing lighter color brick, the signage without the beige backing and with the flat roofs was the more desirable option.

Mr. Lake advised that they would also be considering operating 24 hours a day/seven days a week. Planner Censky reported that he was unaware of any Code provision that would restrict the hours the store could be open.

**CONSULTATION REGARDING PROPOSED TWO-FAMILY USE OF PARCEL OF LAND LOCATED AT THE NORTHEAST CORNER OF PIONEER ROAD AND EVERGREEN BOULEVARD IN THE TOWN OF CEDARBURG – DUEY STROEBEL**

Planner Censky advised that the vacant site is currently located in the Town of Cedarburg, zoned single-family residential and is shown on the Town's Comprehensive Plan as a future annexation site to the City. Mr. Stroebel is requesting consultation to insure that his proposal for three lots, with a two-family structure on each, would be acceptable if the land is annexed into the City of Cedarburg. If this request receives positive feedback, Mr. Stroebel will submit his annexation

petition to the Common Council soon. However, if he doesn't receive support, he would then consider developing the site in the Town.

Planner Censky noted that Commissioners should be aware that sewer and water pipe were installed by the City in front of this property along Evergreen Boulevard financed through TID #1. The result of this installation is a special assessment of over \$70,000 payable upon annexation into the City. If the site developed in the Town, the recoveries of the cost of that installation and future tax dollars that will be generated by development of the site are lost.

Planner Censky explained that the property directly north of this site is vacant and is part of the City's TID #1 Business Park, which is zoned M-3 Business Park where light manufacturing uses can be expected in the future. Typically, incompatible uses are separated to prevent future complaints about noise, traffic and operation issues which lead to zoning enforcement challenges. While the sites directly across Evergreen Boulevard and further to the northwest are zoned for and support two-family residential housing, they are seemingly buffered with distance from the existing manufacturing uses. If Commissioners felt comfortable with this use here, City staff suggested that substantial landscape berms be required to buffer and deflect the noise impacts of the existing light manufacturing uses to the north.

Vice Chairperson Burgoyne cautioned that the lot is at the entryway of the Business Park and architectural design will be important.

The consensus of the Plan Commissioners was that the use was compatible with the neighborhood to the east and the two-family structures on the west side of Evergreen Boulevard and offered their support.

**CONSULTATION REGARDING REQUEST TO ADD AN APARTMENT WITH A TWO-CAR GARAGE BELOW IT AT THE BACK (WEST) SIDE OF EXISTING MULTI-USE BUILDING AT W63 N541 HANOVER AVENUE – BRANDON GOLDBECK**

Planner Censky advised that Brandon Goldbeck, the property owner, was requesting concept review/consultation for plans to add an attached two-car garage with an upper level apartment to his existing office/residential building on Hanover Avenue. The addition is proposed off the rear elevation of the building and is designed to reflect the same style and use of material. While this addition will displace two existing surface parking stalls, it results in two covered stalls.

Planner Censky reported that City staff's review of the proposal indicated full compliance with the dimensional requirements of the B-3 Zoning District. If Mr. Goldbeck receives positive feedback, he would submit detailed plans for approval for the November Plan Commission meeting.

Brandon Goldbeck, the property owner, advised that he needed covered space for his private vehicle and for storage of items such as health care files, a snowblower and a lawnmower. The apartment over the garage was included in the design to be consistent with the design of the existing building.

Plan Commissioners concurred that it would be appropriate to support the addition with final design submittal and approval at a future meeting.

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**MAYOR'S ANNOUNCEMENTS**

There were no announcements.

**ADJOURNMENT**

Vice Chairperson Burgoyne moved to adjourn the meeting at 8:55 p.m. The motion was seconded by Commissioner Brown and carried without a negative vote.

Darla Drumel,  
Administrative Secretary