

**CITY OF CEDARBURG
PLAN COMMISSION**

**PLN20070205-1
UNAPPROVED MINUTES**

February 5, 2007

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, February 5, 2007 at Cedarburg City Hall, W63 N645 Washington Avenue, in the Council Chambers. The meeting was called to order at 7:03 p.m. by Mayor Gregory Myers.

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

Also Present - 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 Beck, seconded by Commissioner Brown, to approve the minutes of January 8, 2007 with the following corrections:

- Change the word "principals" in the last paragraph on the first page to "principles."
- Change the word "where" to "whether" on page 5 in the first paragraph under "Continued Discussion."

The motion carried without a negative vote.

COMMENTS AND SUGGESTIONS FROM CITIZENS

No comments or suggestions were offered at this time.

PUBLIC HEARING ON REQUEST TO USE THE FAIRGROUNDS LOCATED AT W67 N886 WASHINGTON AVENUE FOR A 4-H "HAUNTED FAIRGROUNDS" ACTIVITY DURING THE MONTH OF OCTOBER – NANCY AND DAVE SALKOWSKI

Mayor Myers declared the public hearing open at 7:05 p.m. Administrative Secretary Drumel confirmed that proper legal notice of the public hearing had been given.

Planner Censky explained that the Ozaukee County 4-H Club was requesting conditional use approval to operate a "Haunted Fairgrounds" activity in 2007 and, if successful, years to follow. The 4-H Club was proposing this as a community fundraising event to be held during the month of October leading up to Halloween.

Planner Censky advised that the County Fairground was zoned CEG Community Exhibition Grounds District, which is intended for uses of an active recreation nature conducted by community

groups or civic entities. The proposed use was viewed as an expansion of a Fair, which requires a conditional use permit. According to the applicant's information, the "Haunted Fairgrounds" activity would operate during the month of October on Thursday, Friday and Saturday evenings with one family matinee from 1:00 p.m. – 4:00 p.m. the Saturday before Halloween. The Horse Barn would be used for sorting groups of patrons and the Dairy Barn for the haunting activities. The Youth Building and the rabbit/poultry buildings would be used for staging actors and for the restrooms. Planner Censky then suggested conditions the Commissioners might consider if the conditional use were approved.

In response to questions from Commissioners, Dave Salkowski, petitioner for the 4-H Club, advised that on-site parking would be used and there would be no charge for the parking at Police Chief Frank's request. Although his letter states otherwise, Mr. Salkowski advised that the Haunted Fairgrounds would operate only the last two weekends of the month and the first two weekends of October would be used to set up for the activity. This was changed because it was determined that four weeks was too much to ask of volunteers. The intent would be to have the ticket sales cease at 9:30 p.m. so that everyone would be out by 10:00 p.m., with volunteers staying to about 11:00 p.m. to clean up. There has been over a year of planning for this County-wide fundraiser for the twelve 4-H Clubs within Ozaukee County.

Council Member Beck expressed her support for the project, noting that the loss of the Haunted House at the former Retzlaff property was a great loss to the community.

Andy Lyneis advised that he was a long-time member of 4-H, which is an organization committed to keep kids busy and entertained, and he felt this proposed haunted house activity will become a popular community event.

Action to Close Public Hearing

Commissioner Brown moved to close the public hearing at 7:20 p.m. The motion was seconded by Vice Chairperson Burgoyne and carried without a negative vote.

Continued Discussion:

Commissioner Kaiman pointed out that the activity would be new to the area and that the opposition expressed by Mr. and Mrs. Pfister in their letter of February 2, 2007 should be considered. Mr. and Mrs. Pfister wrote about their loss of piece and quiet, and the precedent that would be set for allowing a commercial enterprise in the 4-H buildings. Parking is a problem with other activities on the Fairgrounds, and people walk through their yard to attend those activities. They did not believe the 4-H Clubs or any other organization should have the expectation that they have the right to disrupt the piece and privacy of the neighborhood.

Planner Censky also pointed out that an e-mail was received from Mr. and Mrs. Vey in an adjacent neighborhood that expressed support for the Haunted Fairgrounds.

Council Member Beck noted that conditional use permits can be revoked if problems occur.

Action:

A motion was made by Vice Chairperson Burgoyne, seconded by Council Member Beck, to approve the conditional use to allow the Ozaukee County 4-H organization to conduct a "Haunted Fairgrounds" activity during the last two weeks of October, subject to the following conditions:

- Granting approval with an automatic renewal provided no problems occur.
- Any substantiated material problems with noise, health, safety, traffic circulation, parking, or any other Code violation associated with the operation of the 4-H Haunted Fairgrounds activity shall be the responsibility of the owner to correct. Failure to correct the problem in a timely manner may result in the partial or complete revocation of the grant.

Continued Discussion:

In response to questions from Commissioner Kaiman, Council Member Beck advised that the conditional use could be granted for one year. Planner Censky noted that it would automatically continue year after year unless there were problems, when it would come back to the Plan Commission for review.

Commissioner Kaiman asked that specific hours of operation be included in the conditional use approval.

Continued Action:

Vice Chairperson Burgoyne and Council Member Beck agreed to amend the motion to include the following hours of operation:

- Hours of Operation: Thursday, Friday and Saturday 5:00 p.m. to 10:00 p.m.
Matinee the Saturday before Halloween 1:00 p.m. to 4:30 p.m.

The motion as amended carried without a negative vote.

REQUEST TO RELOCATE TRASH RECEPTACLES TO THE NORTH END OF THE CEDAR CREEK SETTLEMENT SITE, CONSTRUCT A WOOD ENCLOSURE, PAVE OUTDOOR SEATING AREA AND PROVIDE AN ENTRY TRELIS AT N60 W6340 BRIDGE ROAD – JAMES PAPE

Planner Censky reminded Commissioners that they withheld action at the January meeting on the proposed relocation of the dumpster to verify that the applicant had met with the adjacent neighbor and addressed any concern the neighbor might have had. Also, some Commissioners questioned the proposed dumpster location so far from the onsite commercial activity and felt it would be better located directly behind one of the commercial buildings. Additionally, Commissioners wanted assurance that trash pickup was being conducted at a reasonable hour.

Planner Censky advised that Mr. Pape had been in contact with the adjacent neighbor and had addressed their concerns with landscaping and screening. A landscape plan that was approved by the neighbor was submitted for Plan Commission approval. Commissioners were also provided with a letter from the adjacent neighbor indicating their support and another from Waste Management advising that they will not pick up trash earlier than 7:00 a.m.

Planner Censky added that since the proposed outdoor seating area is within the Flood Fringe Overlay District (100-year floodplain), the plans were submitted to the DNR for their review and, accordingly, any action to approve should be conditioned on DNR approval.

Action:

Commissioner Brown moved to approve the proposed site modifications to relocate the dumpster, construct a dumpster enclosure and a pergola, pave an outdoor seating area, and install landscape

screening, all pursuant to plans dated December 13, 2006 and January 22, 2007, for the Cedar Creek Settlement located at N70 W6340 Bridge Road, subject to DNR approval. The motion was seconded by Commissioner Burgoyne.

Continuing Discussion:

In response to questions from Commissioner Kaiman, property owner James Pape advised that the arborvitae would be 10 feet high at planting, but he was not sure of the height of the lilac bushes. He did not expect to encounter any more illegal dumping at the new location than what currently occurs.

Mr. Pape told Commissioner Brown that a planting bed is in front of the descending staircase, and there was no danger to pedestrians in any case.

Continuing Action:

The motion carried without a negative vote.

CONSIDER APPROVAL TO INSTALL EQUIPMENT ON AN OPEN CONCRETE PAD AT THE BASE OF THE WATER TOWER LOCATED AT N49 W6411 WESTERN ROAD – T-MOBILE

Planner Censky explained that the request was back for reconsideration of the ground equipment placement at the base of the water tower. He reminded Commissioners that this request was approved in December with the stipulation that T-Mobile was required to pursue use of the AT&T equipment shelter that was to be abandoned. While T-Mobile and AT&T have agreed to this, it was discovered that the AT&T equipment was not located in a shelter but instead was simply mounted on an open concrete pad at the southwest corner of the fenced area. Cedarburg Light & Water has also discovered that a watermain exists directly below the existing concrete pad, which prevents the introduction of a new enclosed shelter at that location.

Planner Censky noted that T-Mobile was proposing to forgo a shelter and mount their equipment on a concrete pad similar to that of the AT&T pad but oriented 90 degrees to the existing pad. The realignment was necessary because of the watermain. Cedarburg Light & Water had been working with T-Mobile and had no problem with the new location. Since the equipment would be within the existing fenced area and out of view from the general public and no air conditioning equipment would be required, staff had no objection. Planner Censky suggested contingencies if approved.

Action:

A motion was made by Commissioner Brown, seconded by Commissioner Emmerich, to approve the location of the T-Mobile equipment on a concrete pad pursuant to plans dated February 5, 2007, subject to the following:

- The Conditional Use Permit being subject to the terms and conditions of a lease agreement for the subject facility approved by the Common Council.
- The equipment placement shall be on a concrete pad in accordance with the approved site plan.
- Noise emanating from the equipment shelter shall comply with the performance standards as set forth by City of Cedarburg Zoning Code and/or Nuisance Code.

- Exterior lighting or signage not permitted unless specifically approved by the appropriate approving authority.
- All cable wires are to be securely and tightly attached to the tower legs.

The motion carried without a negative vote.

REVIEW AND POSSIBLE RECOMMENDATION TO AMEND THE LAND USE PLAN FROM INDUSTRIAL/MANUFACTURING TO MEDIUM-DENSITY SINGLE-FAMILY RESIDENTIAL AND REZONING FROM M-1 LIMITED MANUFACTURING TO RS-5 SINGLE-FAMILY RESIDENTIAL FOR PROPERTY OWNED BY ELMER TAMMS LOCATED AT N37 W5537 BURR LANE

Planner Censky advised that staff was asked to add the item to the agenda for Plan Commission consideration and action. The site was zoned M-1 (Light Manufacturing) in an area that is predominantly residential and where all surrounding lots are zoned RS-5. The site supported a manufacturing building, currently vacant but which previously housed the Tamms Lithography business. Reportedly, the owner has had the site up for sale for over a year. Since the manufacturing operations have ceased, Commissioners were being asked to consider amending the Land Use Plan and rezoning the site to a district consistent with the surrounding area.

Planner Censky reported that the City Assessor's records revealed that the 2006 estimated fair market value was \$135,200 (land = \$30,000 and improvements = \$99,600). If the property was rezoned, the manufacturing use would be rendered legal non-conforming and subject to the restrictions of the non-conforming classification. Section 13-1-141 of the Zoning Code states that if the non-conforming use was discontinued for a period of 12 months from the time the use became non-conforming, any future use of the structure must conform to the provisions of the current zoning district. He continued that if the Plan Commission sought to establish consistency with the neighborhood, the Comprehensive Land Use Map should be amended from the Industrial/Manufacturing category to the Medium-Density Single-Family category and the site should be rezoned from M-1 Light Manufacturing to RS-5 Single-Family Residential District.

Planner Censky added that he had spoken with the property owner, Elmer Tamms, who expressed opposition to the proposed changes. Mr. Tamms advised that he purchased the property in 1957 and has since been a good property owner and business owner.

Council Member Beck noted that she had requested the proposal be placed on the agenda due to a neighborhood complaint. The City has been endeavoring to create a residential classification for the entire area, as demonstrated with the Amcast rezoning. She added that, on the upside, Mr. Tamms would be able to market the property for both commercial and residential uses for the next twelve months.

Action:

Commissioner Brown moved to recommend amending the Land Use Plan from the manufacturing classification to single-family residential and rezoning it from M-1 (Light Manufacturing) to RS-5 (Single-Family Residential) for the property located at N37 W5537 Burr Lane. The motion was seconded by Council Member Beck.

Continued Discussion:

In response to a question from Commissioner Emmerich, Commissioner Brown advised that the property could be divided into two residential lots.

Continued Action:

The motion carried without a negative vote.

REVIEW MEMO FROM CITY FORESTER KEVIN WESTPHAL REGARDING THE STANDARDS FOR ROAD RIGHT-OF-WAYS IN NEW DEVELOPMENTS

Planner Censky advised that, at the January meeting, staff provided Commissioners with a memorandum from City Forester Kevin Westphal regarding his concerns for street tree growth and survival. In his memo, Forester Westphal advised that more open space is needed along our streets to support the City's street trees and suggested that Commissioners consider increasing the road right-of-way width requirement from 60 feet to 66 feet. This would serve to increase the green space between sidewalk and road from 7.5 feet to 10.5 feet. He noted that this was important because mature shade trees need room for the root system to properly grow and would also benefit the City by minimize the heaving of sidewalks.

Planner Censky reminded Commissioners that the change in right-of-way width may not work in all situations. For example, infill developments are often smaller sites where such an increase could render the parcel difficult, if not impossible, to develop. Accordingly, rather than changing the Code, staff suggests that the right-of-way width be determined on a case-by-case basis as projects come forth. This, in fact, has been in practice for the last several projects where developers have responded accordingly without the requirement of code. For example, both the Keup Road Farms Subdivision and Seven Gables have shown 66-foot wide right-of ways at staff suggestion.

Council Member Beck and Commissioners Brown and Kaiman expressed interest in changing the Code to encourage the 66-foot right-of-way for new subdivisions.

Vice Chairperson Burgoyne stated that he would like to retain the flexibility to determine the appropriate road right-of-ways on a case-by-case basis. This way, among other things, there would be the option to design infill lot development to complement the adjacent areas.

Planner Censky added that all development plans include review by the City's planner, engineer, fire department, and forestry department.

Council Member Beck questioned whether a 66-foot road right-of-way would create smaller lots, therefore requiring smaller homes. Planner Censky responded that most current developments are conservation-style subdivisions, which would not be affected by the lot sizes.

Commissioners wished to let Forester Westphal know they appreciated his thoroughness.

REVIEW AND POSSIBLE RECOMMENDATION OF THE SOUTHEASTERN WISCONSIN REGIONAL PLANNING COMMISSION (SEWRPC) PLANNING REPORT NO. 48 "A REGIONAL LAND USE PLAN FOR SOUTHEASTERN WISCONSIN: 2035"

Planner Censky reported that Commissioners held off making a recommendation to endorse SEWRPC Report No. 48 at the January meeting so that more time could be had to review and understand this document. Commissioners also asked staff to look into what changes were made to the report as referenced by the revision dates (i.e. 08/31/04 and 11/16/05) listed on the front page and some wondered whether or not additional changes could be made to the document.

Planner Censky advised that he spoke with SEWRPC staff and confirmed that the revisions were insignificant wording or correction changes that typically result when creating a report. The process starts with a draft document that is created by SEWRPC staff and presented to the Advisory Committee on Regional Land Use Planning who provides comments and suggestions. Any changes are documented and the revised document is tracked by inserting a revision date. That process is repeated until the final document is adopted. This final report was adopted on June 21, 2006 by the Commission and SEWRPC is asking all communities in the region to endorse the plan and integrate its findings and recommendations in their planning activities.

Planner Censky added that the plan reflects good planning principles by promoting compact centralized settlement patterns in areas that are readily served by basic services, including sanitary sewer, water supply and appropriate transportation facilities. Likewise, it discourages new urban development served by onsite sewage disposal systems in areas planned to receive sanitary sewer service.

Action:

A motion was made by Commissioner Brown, seconded by Commissioner Schara, to endorse SEWRPC Planning Report No. 48, A REGIONAL LAND USE PLAN FOR SOUTHEASTERN WISCONSIN: 2035, and to integrate its findings and recommendations in their planning activities. The motion carried without a negative vote.

REVIEW AND DISCUSSION OF THE HOUSING ELEMENT AND LAND USE MAP FOR THE CITY'S SMART GROWTH COMPREHENSIVE LAND USE PLAN

Planner Censky explained that Chapter 2, the Housing Element, was intended to set goals, objectives and programs to provide an adequate supply of housing that meets existing and forecasted housing demands. It also assessed the age, structural value and occupancy characteristics of the existing housing stock and identified policies and programs that would provide a range of housing choices that would meet the needs of persons of all income levels and all age groups.

Planner Censky noted that the proposed Comprehensive Land Use Map (Map) was also presented for review and comment. The Map will actually be part of Chapter 8, but since it is the one visual tool that would help guide development through the year 2025, it was important that any land use issues be identified. For example, the existing Land Use Map identified the Weil site at N49 W6337 Western Road as manufacturing and that was changed on the proposed Map to future single-family and two-family development. The Burr Lane site discussed earlier in the meeting was another site that should be given attention. This Map should be thoroughly reviewed so that Commissioners can identify and address any issues now or at a later date.

Commissioners pointed out that there were some spelling mistakes on the legend of the map, and would be reviewing the map in more detail. Any questions or comments would be forwarded to Planner Censky.

REPORT FROM THE JOINT EXTRATERRITORIAL ZONING COMMITTEE (JETZCO), AND TO DISCUSS THE DIRECTION AND STATUS OF ONGOING DISCUSSIONS

PLAN COMMISSION
February 5, 2007

PLN20070205-8
UNAPPROVED MINUTES

Vice Chairperson Burgoyne, the chair of JETZCO (Committee), reported that a presentation was made by David Flowers, which brought the group up to date on the capabilities of the modern on-site systems. The Committee was beginning a review of land uses for specific areas. He advised that the Committee was a cooperative, positive group.

Commissioner Kaiman felt that the recent meeting was a good meeting. He added that Planner Censky's presence at the JETZCO meetings was invaluable and that he has incredible insights.

Commissioner Brown asked for input on what results the Common Council would like to see.

Council Member Beck stated that her main concern was the dangers of the water situation with high-density apartments served by wells. Development should occur in the area that the City would want if annexed.

Commissioner Brown noted that the EPA paid virtually nothing for the water extension to the Town properties affected by the Prochnow contamination. His fear was that Highway 60 could become another Bluemound Road.

Mayor Myers advised that he would like to see a development pattern that comports with the existing development that has occurred to the east of 5 Corners.

Planner Censky added that he believed the Town JETZCO Members appreciated the concern that a Town center could negatively impact the City's downtown. In response to a question from Council Member Beck, Planner Censky explained that the 35-acre minimum for land divisions is meant to protect the areas in the City's SSA. If land divisions make planning sense in other areas of the Town, the City would have no objection to land divisions.

Commissioners requested that a JETZCO report be an item on all Plan Commission agendas.

Mayor Myers noted that he would make an announcement to Common Council Members to keep informed on the JETZCO issues and to provide input to bring to meetings, so that no one is surprised by any of the recommendations that may be made by JETZCO.

ADJOURNMENT

Commissioner Brown moved to adjourn the meeting at 8:35 p.m. The motion was seconded by Vice Chairperson Burgoyne and carried without a negative vote.

Darla Drumel,
Administrative Secretary