

PLAN COMMISSION

PLN20060501-1
UNAPPROVED MINUTES

May 1, 2006

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, May 1, 2006 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 Sandra Beck, Mark Burgoyne, Brook Brown, Joe Emmerich, Keith Kaiman; 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

Council Member Beck moved to approve the minutes of the April 3, 2006 Plan Commission meeting. Vice Chairperson Burgoyne seconded the motion and it carried without a negative vote.

COMMENTS AND SUGGESTIONS FROM CITIZENS

Phillip Schmidt, a longtime resident of the Cedarburg area and owner of three historic properties in the downtown, spoke against the proposal to change the status of office uses in downtown Cedarburg. He provided a list of 34 office properties that had recently been converted to retail spaces in the last couple of decades. He was reacting to a newspaper article of a proposal to modify the zoning in downtown Cedarburg to prohibit office use of store fronts in favor of retail. Mr. Schmidt advised that he was somewhat offended when his investment firm in the building with the word "Bank" on the street façade and historically used as a financial institution, was used as an example in the article. He pointed out that he had converted two downtown buildings from office to retail uses and that more buildings have been converted to retail uses than lost to office space.

Mr. Schmidt thought that the few vacancies did not represent a major trend away from retail. Most landowners would prefer to lease to retail tenants at \$12/square foot, rather than office at \$8/square foot. It appeared to him that the room tax was not being utilized to promote the downtown and believed the downtown would benefit from a marketing organization such as the former "Forward Cedarburg." He added that Mr. Wernecke did not hear from any representative of the City when he was considering moving Cedarburg Lumber, a \$45 million business with 161 employees and providing \$70,000 a month to the area gas stations with their fleet of 12 trucks. The space vacated by Cedarburg Lumber was an opportunity to attract more retail that might have been aided by a "Forward Cedarburg."

BEER GARDEN LICENSE REQUEST FOR ERNIE'S WINE BAR, LLC LOCATED AT N49 W5471 PORTLAND ROAD – BEN GRADE

Mayor Myers announced the agenda item and reminded Plan Commissioners that the discussion was to be strictly limited to the fencing of the proposed beer garden, which was what the Common Council referred back to the Plan Commission. He requested a motion to take the item off the table.

Action:

A motion was made by Council Member Beck, seconded by Commissioner Schara, to take the item off the table. The motion carried with Mayor Myers, Council Member Beck, Vice Chairperson Burgoyne and Commissioners Emmerich, Kaiman and Schara voting in favor and Commissioner Brown voting against.

Discussion:

Planner Censky reminded Commissioners that the request for a fence to provide control over the operation of a proposed beer garden at Ernie's Wine Bar was tabled at the April meeting pending Council review of the beer garden license. Following the April 10, 2006 informational meeting, the Common Council also decided to table the request and asked that the applicant meet with the neighbors to win their support. The Council did indicate that the Plan Commission should not wait for them to approve the license but rather they should take up the issue of the fence now. The Council also noted that their recommendation would not have any bearing on the decision of whether or not to issue a beer garden license to Mr. Grade.

Planner Censky continued that since the Council meeting, Ben Grade met with the neighbors who indicated that they would like the following conditions placed on the beer garden:

- There shall be no use of the outdoor beer garden after 9:00 P.M.
- The outdoor beer garden shall be no larger than 900 square feet.
- Fencing along the south side of the beer garden shall be at least 7 feet high. The other sides may be lower.
- Location of the beer garden shall be off the northwest corner of the building.

Planner Censky advised that, while willing to work with the neighbors on some of their issues, Mr. Grade felt that certain stipulations were not workable. In an attempt to compromise, he revised his plans to reduce the size of the beer garden but he felt that relocating it to the area off the northwest corner of the building was impractical because of conflicts with traffic circulation and parking. Furthermore, he proposes a stockade fence at a height of 7 feet along the south side of the beer garden, which transitions to the lower more decorative picket fence along the east and west sides heading north. Mr. Grade agreed to the condition that the beer garden be open no later than 9:00 p.m. but asked that it be limited to Sunday through Thursday, and that he be allowed to be open until 10:00 p.m. on Friday and Saturday. Planner Censky noted that while these are issues that the Common Council will be considering, the summary of changes is appropriate for Commissioners to gain a full understanding of the request in considering the fence.

Planner Censky explained that Section 7-2-17(b) of the Licensing and Regulations Code stipulates that beer gardens are limited to an area no greater than 50% of the licensed premise and shall be located no closer than 100 feet to a residential structure. Fencing or other measures needed to provide control over the operation of the beer garden shall be approved by the Chief of Police and the Plan Commission. Also, no amplified sound or music is permitted in the beer garden. His review of the request indicates compliance with the required separation distance from a residential structure and the size restriction.

Council Member Beck advised that she was rather dismayed to see that Mr. Grade had not complied with the agreements made with the neighbors. The Common Council, she noted, did more than direct the Plan Commission to talk about the fence; they directed both the neighbors and the owner to work together on the proposal to see if each could make concessions to make the beer garden acceptable. Council Member Beck stated that there were several well-attended meetings with the owner, and the neighbors gave a huge concession by agreeing to a beer garden if the building would be between them and the beer garden. She provided a site plan that she and the

neighbors had thought had been agreed upon by the owner that included locating the garden on the northwest side of the building, having the fence that faces the neighbors' bedrooms to be 7-feet tall and limiting the size of the beer garden to 900 square feet. If those items were part of the beer garden license approval, she thought that the neighbors could concede to the hours of operation requested by Mr. Grade.

Action:

Council Member Beck moved to approve the beer garden plan requested for Ernie's Wine Bar at N49 W5471 Portland Road provided it is located off northwest corner of the building and attached to the building, fencing along the south side of the beer garden is at least 7-feet high though the other sides may be lower, and that there shall be no use of the outdoor beer garden on Sunday through Thursday after 9:00 p.m. and 10:00 p.m. Friday and Saturday. Mayor Myers seconded the motion.

Continued Discussion

Council Member Beck felt that the action would be the best way to protect the neighbors, while being a good solution for Mr. Grade. She also questioned comments made by the owner that the beer garden was about food and his culinary expertise but there is no kitchen in the building.

Commissioner Emmerich stated that the plan presented by the neighbors would be the only one he would consider approving. Generally speaking, he had a difficult time getting a comfort level considering there is no kitchen and there is talk about food.

Mayor Myers reminded Commissioners that the discussion was to be limited to the fencing.

In response to Commissioner Brown's query regarding the plans before them, Planner Censky noted that the shed on the plans was an existing structure that he believed would remain on the site.

Council Member Beck asked if her motion carried, if the recommendation would be forwarded to the Common Council with the inclusion that the beer garden be located at the northwest corner of the building. Mayor Myers responded that the Common Council would determine where the beer garden would be located.

Commissioner Brown believed the process that the Plan Commission approves a fence when its location has not yet been determined is backwards and was ludicrous. He suggested that the Plan Commission table the item until the Common Council made its decision on whether or not the beer garden license would be granted.

City Attorney Vance advised that the Plan Commission could make a recommendation, but the decision would be made by the Common Council. It was in the purview of the Plan Commission to talk about the design and location of the fence. If the Common Council chose to disregard the recommendation, its decision would be final and it would not be resubmitted to the Plan Commission. Upon reading the Code, City Attorney Vance noted that the Plan Commission was to "review the nature of the fencing," which could arguably be the location and establishing criteria.

Call the Question:

A motion was made by Vice Chairperson Burgoyne to call the question. The motion was seconded by Commissioner Kaiman and carried without a negative vote.

Final Action:

Council Member Beck's motion carried without a negative vote.

City Attorney Vance stated that the phrase "nature of the fencing" could include location. Council Member Beck directed that the motion include the recommendations were based on the nature of the fencing.

Council Member Beck advised the audience that the beer garden license request would be taken up by the Common Council on Monday, May 8, 2006.

CERTIFICATE OF APPROPRIATENESS FOR EXTERIOR MODIFICATIONS TO THE EXISTING BUILDING LOCATED AT W61 N512 WASHINGTON AVENUE – SID PROM

Planner Censky recalled that Sid Prom was preparing the building for his insurance office and previously received approval for the following:

- Remove the existing cedar siding material on the front extension to expose the existing brick columns and stone base.
- Remove the side door and porch and replace with windows.
- Install windows on the south elevation in accordance with the plan.
- Replace the existing upper windows on the west elevation with new wood double-hung windows with simulated divided light.

Planner Censky advised that Mr. Prom had attended the April 27 Landmarks Commission meeting to request authorization to change the façade that faces Washington Avenue by replacing the two upper windows with wood simulated divided light windows, replace the material on the front roof from cedar shake to asphalt shingles and replace the aluminum siding with fiber cement panel siding. The Landmarks Commission ultimately recommended that the two upper windows be replaced with wood simulated divided light windows but tabled the request on the siding so that the building be researched to see if the original wood plank siding existed under the aluminum siding. They also denied the request to change the roof material because they would rather the roof materials remain wood.

Action:

A motion was made by Commissioner Brown to grant a Certificate of Appropriateness for the replacement of the upper two windows on the west façade of W61 N512 Washington Avenue with wood simulated divided light windows. The motion was seconded by Vice Chairperson Burgoyne.

Planner Censky responded to a Commissioner question that Mr. Prom is in the process of modifications to his building and that the windows are important to the interior work he is doing. He added that all Plan Commission approvals are valid for one year.

The motion carried without a negative vote.

REQUEST FOR CERTIFICATE OF APPROPRIATENESS TO REPLACE AN EXISTING GARAGE DOOR AND A PEDESTRIAN DOOR AT W62 N582 WASHINGTON AVENUE – JAMES BENSON

Planner Censky advised that James Benson was requesting approval to replace the existing garage door and pedestrian door on his commercial downtown building at W62 N582 Washington Avenue. While the building faces Washington Avenue, the replacement doors are for the building's access from Columbia Road. He noted that the existing doors were weathered and worn at the base where they no longer function as needed. The applicant proposes to replace them with the American Tradition Series Haas Door which is a 26 gauge galvanized steel door with a polyurethane core.

Planner Censky noted that at its April 27 meeting, the Landmarks Commission recommended that the pedestrian door be replaced with a wood door that matches the existing pedestrian door and that it be painted forest green to reflect the existing door and also that the garage door be replaced with a steel door painted to reflect the color of the existing door.

Action:

Council Member Beck moved to grant a Certificate of Appropriateness for the replacement of a pedestrian door with a wood door painted forest green and garage door with a steel door painted forest green on the Columbia Road facade at W62 N582 Washington Avenue. The motion was seconded by Commissioner Brown and carried without a negative vote.

REQUEST FOR FINAL BUSINESS DEVELOPMENT PLAN AND CERTIFIED SURVEY MAP (CSM) APPROVALS FOR MIXED-USE COMMERCIAL BUILDING TO BE LOCATED AT W61 N306 WASHINGTON AVENUE – STEVE WALCZAK/ROBERT OLLMAN, INC.

Planner Censky advised that the preliminary approval recommendation was made at the March 6, 2006 meeting and the applicant was now seeking approval of the final detailed plans for the mixed-use commercial project at the northeast corner of Washington Avenue and Lincoln Boulevard. The Common Council, who after holding a public hearing on March 27, unanimously voted to approve the plans and Planned Unit Development (PUD) zoning. That approval was conditioned upon, among other things, submittal and Plan Commission approval of details pertaining to landscaping, exterior lighting, building materials, color scheme, grading, drainage, storm water management, erosion control and a CSM.

Planner Censky noted the building frontage along Washington Avenue would be 98'-0" and 83'4" along Lincoln Boulevard. The Washington Avenue access drive is depicted 29' south of the north property line and the Lincoln Boulevard two-way access drive is 29' west of the east property line. The distance from the north property line to the paved parking surface is 10 feet for the westerly bank of parking stalls and 7 feet for the easterly bank of stalls and the distance along the east property line to the southerly bank of parking stalls from Lincoln Boulevard is 10 feet. The site will be supported by 62 parking stalls. The applicant has relocated the dumpster to a center site location as recommended by the Commission.

Planner Censky pointed out that the building style did not change from the plans designed to work with the slope of the site that were previously approved for the site. The Washington Avenue frontage appears to be two stories and as the grade drops to the east, the building's lower level becomes exposed and a third story is apparent. In an effort to provide a better vision triangle for those passing through the Lincoln Boulevard and Washington Avenue intersection, the first floor entrance is cut at an angle to this intersection with the upper level cantilevering over this first floor entrance area. The building will be of Hardi lapped siding with 5-inch exposure and Hardi trim, fascia, eaves, rake and soffit panels. The roof will be of heavy-weight asphalt shingles with prefinished valleys, trims and k-style gutters. The east side lower level and the visible portion of the lower level on the south side will be of stacked stone veneer. As suggested by the Commission, the plans show stone material at the base of the building on all four elevations. The plans propose earth-tone colors of burnt orange, creamy beige and brown.

Planner Censky reviewed the landscaping plan with Commissioners that proposed to screen the property to the north with a staggered row of Canadian hemlock along the westerly parking stalls transitioning to a staggered row of techny arborvitae to the east. A similar screening concept is proposed along the east property line. Black Hills spruce trees are proposed at the end of each row as a break in the type of buffer. The foundational planting scheme includes alternating plantings of

densiformis yews and spirea. He suggested that the addition of a few skyline locust trees in front of the building along Washington Avenue would bring the scale of this elevation into a pedestrian feel.

Planner Censky relayed that the site would be lit with Rudd luminaires, directing light downward. The plan proposed 8 single and 3 back-to-back shoebox fixtures mounted on a steel pole at a height of 17'. Each fixture will have a 100-watt high pressure sodium bulb.

Planner Censky added that Director of Engineering & Public Works Tom Wiza reviewed the storm water management plans and verified compliance with the City's Storm Water Management Ordinance. This ordinance sets forth requirements and regulations to control runoff from development which would adversely affect downstream properties and to control water pollution. Planner Censky pointed out that a letter had been received from former mayor John Kuerschner, the owner of the property directly to the east of the site, expressing concern about stormwater runoff. Director Wiza advised that those concerns were addressed in the Stormwater Management Plan.

Planner Censky continued that the CSM is necessary for this project to establish specific property corners, bearings, distances of property lines and to dedicate the ultimate right-of-way along the Washington Avenue frontage. Since public road right-of-way dedication is being considered, the certified survey map must be approved by the Common Council as well. Director Wiza is recommending that the CSM submitted be revised to show a 10-foot x 10-foot triangular right-of-way dedication on the southwest corner of the parcel in order to allow improvements to the sidewalk at that corner.

Commissioner Brown asked if the 10-foot x 10-foot triangular right-of-way dedication would affect the entryway. Planner Censky advised that it would not. Planner Censky advised that he had spoken with the developers about installing the five additional skyline locust trees along Washington Avenue and indicated locations on the landscaping plan for Commissioner Brown. He added that locust trees have very small leaves and would not block the view of the architecture of the building.

Mayor Myers asked if all of the changes requested by the Plan Commission had been incorporated into the plans and if additional changes had been made. Planner Censky responded that all changes had been incorporated and there were no changes other than what was presented at the meeting.

Commissioner Emmerich questioned whether a timer would be used to turn down lighting when the businesses were closed. Planner Censky suggested that it should be made part of the motion to approve, but that the developer intended to do so. Steve Walczak, the developer, advised that there would be minimal security lighting illuminating the building, exits, etc.

Commissioner Brown expressed concern regarding the height of the building, asking where the 35-foot measurement was taken. Planner Censky advised that the height was measured from a point on the Washington Avenue frontage and the architect, Mark Helminiak, advised that the height was 31 feet.

City Attorney Vance advised that if the Commission desired a 31-foot high building, they should require it in their motion of approval.

Commissioner Brown questioned whether the name of the project was "Station Square" and if the name would be placed on an awning depicted on the architectural rendering. Mr. Walczak responded that it is intended that every tenant will have their name on an awning and they would also be looking to add mortuary signs to list the tenants in office spaces that do not have signage.

above their doors. Planner Censky noted that, regardless of signage depicted on the approved architectural plans, all signage shall be approved by the Design Review Board.

Action:

Commissioner Brown moved to approve the final business development plan for W61 N306 Washington Avenue at the northeast corner of Washington Avenue and Lincoln Boulevard, with the following conditions:

- Five skyline locust trees be added along the Washington Avenue frontage.
- The CSM be revised by adding 10-foot triangular right-of-way dedication at the southwest corner of the parcel.
- Common Council approval of the Certified Survey Map.
- Lighting of the site be put on a timer to dim when businesses are closed.
- The height of the building not exceed 31 feet as measured from the Washington Avenue frontage.

The motion was seconded by Commissioner Kaiman.

Continued Discussion:

Mike Stofferahn, W61 N320 Washington Avenue, advised that he lived directly north of the development site. He had contacted Building Inspector Baier and Planner Censky regarding installing a fence between his property and the development. The highest fence the City would allow him to build would be 4 feet, while the commercial property to the south could install an 8-foot fence. Planner Censky assured him that the appropriate screening would be of a size and density on the Ollman site to make it unnecessary for him to build a fence. Mr. Stofferahn asked that the Plan Commission stipulate that the new plantings are close to the 6-foot variety so he would not have to wait for 10 years for the appropriate screening to mature. He was also speaking for elderly neighbors on the east side of the development site that have been unable to attend the meetings asking that the screenings are of sufficient size and density to mitigate the negative impacts of the commercial development so that he is not looking at headlights through his kitchen window for the next 60 to 90 days.

Commissioner Brown noted that the trees identified on the landscaping plan are 5 to 7 feet tall at planting. Planner Censky added that the tree size would be verified as they are planted.

Final Action:

The motion carried without a negative vote.

REQUEST FOR 3-LOT EXTRATERRITORIAL LAND DIVISION AT THE SOUTHEAST CORNER OF GRANVILLE ROAD AND CEDAR CREEK ROAD IN THE TOWN OF CEDARBURG – MITCH AND LORI MELHEIM

Planner Censky advised that Mitch and Lori Melheim were requesting land division approval for a parcel that is located in the Town of Cedarburg at the southeast corner of Cedar Creek Road and Granville Road. The parent parcel is 34.25 acres in size and would be split into three separate parcels of 15.5 acres, 3.5 acres and 15.25 acres. He noted that the parcel was located outside of the City's sewer service area and not planned to be served by future public sanitary sewers. The parcels would be served by private onsite soil absorption systems and wells.

Planner Censky continued that the proposed Certified Survey Map (CSM) received approval recommendation by the Town Plan Commission on April 19, 2006. While the City's Plan Commissioners recommended applying the 35-acre minimum lot size to the City's entire

extraterritorial plat approval jurisdiction, that recommendation has not been approved by the Common Council. The land division request complies with Town zoning regulations.

Action:

A motion was made by Council Member Beck, seconded by Vice Chairperson Burgoyne, to approve the extraterritorial land division of a 34.25-acre site at the southeast corner of Granville Road and Cedar Creek Road in the Town of Cedarburg into three separate lots of 15.5 acres, 15.25 acres and 3.5 acres in size. The motion carried without a negative vote.

CONSULTATION REGARDING PROPOSED COMMUNITY BASED RESIDENTIAL FACILITY (CBRF) FOR THE FRAIL ELDERLY ON VACANT PARCEL LOCATED DIRECTLY NORTH OF W51 N848 KEUP ROAD – JAMES USELDING/FAMILY TREE RESIDENTIAL FACILITIES

Planner Censky advised that James Uselding of Family Tree Residential Facilities was requesting consultation regarding a proposal to construct and operate a CBRF on the recently-created vacant parcel located directly north of W51 N848 Keup Road. The proposed project would be designed after and take on the same characteristics of the existing CBRF located at W72 N675 Harrison Avenue, which was approved in 1993 and has operated ever since without incident.

Planner Censky explained that Community Based Residential Facilities are licensed by the State and those that care for 8 or fewer persons are permissible in any single-family or two-family district. The only input local communities have is to identify any hazards in the area that may affect the occupants of the facility. CBRFs that provide care for more than 8 persons are permitted by conditional use permit and Mr. Uselding would need to secure one if the project were to proceed. Community living arrangements of this nature are restricted from locating within 2,500 feet of an existing facility and the total capacity of all such facilities in the City cannot exceed one percent of the City's population.

Planner Censky noted that the City of Cedarburg has two existing CBRFs; the Harrison House with 15 beds and the Extencicare Facility of Lincoln Boulevard with 78 beds, for a total of 93 beds. With Cedarburg's current population at 11,386, the maximum number of beds allowed is 113 or 20 additional beds. Since the existing CBRFs are located more than 2,500 feet from the proposed site, this request complies.

James Uselding stated that the recently-created lot on Keup Road would be the perfect place for a CBRF because it would blend in with the community and enhance the area. He was looking to build a 15 bed facility exactly like the existing Family Tree facility on Harrison Avenue.

Planner Censky confirmed that this project would require infill lot approval of site and architectural plans, along with the Conditional Use public hearing process.

Commissioner Brown pointed out that the preferred access to the site would be to the north on the proposed new road and then to west to Keup Road. Mr. Uselding expressed his preference to having the house face the new roadway to the north, but that he understood there was no timetable to the construction of the continuation of Covington Square. Commissioner Brown also pointed out the wetlands to the west that could not be encroached.

Commissioner Emmerich believed that, when the Harrison House was discussed, the public was told the building could be divided into condominium units if the business failed and wondered if this project would have the same capability.

Mr. Uselding advised that a commitment was made to Grafton that in the event the facility would go bankrupt, the building could be converted into a duplex. The building was constructed to facilitate that conversion. However, they need to modify the interior now so that it is accessible to its residents. He added that there would be no signage associated with the proposed facility.

Commissioner Emmerich stated that he is familiar with the Harrison House and believed it fit in very well with the neighborhood.

Planner Censky noted that if the building were to be converted, it would require a rezoning—multi-tenant residential structures are not allowed in the RS-1 District.

Council Member Beck announced that she was not in favor of a CBRF in the entirely residential area that is primarily single-family homes and she would prefer it stayed that way. She believed a single-family home was envisioned when the lot division was approved.

City Attorney Vance advised that CBRFs are protected under the law. They are considered a permitted use as a residential home and are meant to fit in with the neighborhood. She added that it cannot be denied simply because it is a CBRF.

Council Member Beck noted that the size of the building was objectionable to her.

Vice Chairperson Burgoyne reminded Commissioners of the time and effort involved in reviewing the proposed Harrison House ten years ago. The developer, Mr. Uselding, worked with the City on the architectural design and attended public hearings where many neighbors expressed their opposition. Vice Chairperson Burgoyne stated that the developer did what he said he was going to do, it is an attractive facility, does not generate much traffic and is an asset to the neighborhood. Speaking as a resident of Georgetown and a citizen of the municipality, he believed that those facilities are very important to a community as part of its diversity of housing. He added that although the building may seem large, it would be likely that future homes in the nearby site would be large as well. He would like to see the project go forward.

Commissioner Kaiman pointed out that if the proposed CBRF would be constructed, the percentage of CBRF to population would be nearly maxed. City Attorney Vance noted that it would not likely withstand legal challenge. There have been several cases based on the percentage formula and CBRFs cannot be limited on that basis.

Commissioner Kaiman advised that Milwaukee has examples of abuse of CBRFs, where aldermen are tearing their hair out because of the proliferation of CBRFs turning residential neighborhoods into not residential neighborhoods. He understood Council Member Beck's concerns and also understood that track records and history are very important. Mr. Uselding has done a great job with the Harrison House. From that standpoint, he had no problem speaking as a citizen in favor of seeing another one of these projects in this location.

Vice Chairperson Burgoyne noted that Milwaukee's issue was a supervision issue of those facilities versus how things are done in Cedarburg.

City Attorney Vance stated that if there is a whole block of CBRFs, the purpose of the CBRFs would be defeated because they are supposed to be in a regular neighborhood. Once it becomes the dominant, you no longer meet the goal of having it part of a regular neighborhood.

Planner Censky added that the whole intent is to de-institutionalize the facilities to allow the elderly to live a residential setting. Mayor Myers agreed that when you age, you are not just supposed to be

put away in an institution apart from the community. Vice Chairperson Burgoyne noted that it falls into the same category as disability loss—allowing people to take advantage of buildings.

Mr. Uselding advised that the seniors enjoy the neighborhood setting and being a part of the community.

Commissioner Brown echoed many of Vice Chairperson Burgoyne's comments. He believed it was an excellent idea in a good location that should be encouraged. The Visioning Committee recommendation was to provide a variety of housing options and a CBRF would be one of those options. He would encourage Mr. Uselding to talk to the neighbors on the nature of the proposal and to keep them informed. Commissioner Brown appreciated what the Harrison House has done for the community.

Commissioner Schara agreed with Commissioner Brown that the community needs facilities such as the proposed CBRF to keep up with changing times.

Mayor Myers announced that it was a consensus of the Plan Commission to proceed with the project.

Action:

Commissioner Brown moved to encourage the proposed CBRF project to continue forward. The motion was seconded by Vice Chairperson Burgoyne. The motion carried with Mayor Myers, Vice Chairperson Burgoyne and Commissioners Brown, Emmerich, Kaiman and Schara voting in favor and Council Member Beck voting against.

CONSULTATION PERTAINING TO PROPOSED MIXED SINGLE-FAMILY/TWO-FAMILY RESIDENTIAL DEVELOPMENT ON THE EAST SIDE OF KEUP ROAD IMMEDIATELY SOUTH OF THE OZAUKEE INTERURBAN TRAIL – ROBERT TILLMANN/KUBALA WASHATKO ARCHITECTS

Planner Censky advised that Robert Tillmann was requesting consultation regarding a new residential project for the vacant land located along the east side of Keup Road south of the Interurban Trail. Under the current RS-1 Zoning District, the project is limited to single-family housing at a density not to exceed 2.2 units/acre, whereas the proposal is for a mix of 17 single-family and 20 two-family structures at a density of 2.54 units/acre. This project would require a zoning change to RS-6 Planned Unit Development (PUD) Single-Family/Two-Family Residential District. The intent is to establish development controls for such things as green space, architectural design, landscaping, site circulation, etc., through the use of the PUD Overlay Zoning District.

Planner Censky noted that the project would be similar to the Bridge Court condominiums developed by Duey Stroebel and designed by Kubala/Washatko Architects, where a variety of building styles capture the Cedarburg feel and distinguish it from other nearby two-family developments in the area. The garages will be located in the rear or side of the structures to provide attractive home fronts with landscaped yards rather than having the garages in front.

Jim Read of Kubala Washatko Architects had been asked by the Tillman group to come up with a design that would meet City requirements, be compatible and be a marketable project for the developer. Mr. Read did not believe that the RS-1 Zoning District alone created an exceptional product, so his desire was to develop a cooperative approach with the City through a PUD vehicle. He pointed out that the zoning of the parcel had changed several times and that it now was zoned RS-1 with a requirement of almost one-half acre minimum lot sizes. It may be possible to create a development with traditional one-half acre lots that is nice, but he would like to create a genuinely

beautiful place using the flexibility of PUD zoning to cluster mixed residential units, maximize green space, coordinate landscaping, and provide diverse architecture.

In response to comments that the development should look like Cedarburg, Mr. Read viewed "Cedarburg" as the neighborhoods just off the central business district, which are very difficult to replicate. The reasons are that the trees are mature; the homes have been added at different times and are of different styles.

Council Member Beck pointed out that this site has been the most studied in the City and most people would expect the development to look like Cedarburg, especially since it is close to the middle of the City. However, the Common Council decided they want single-family homes there. She noted that the Council Member for the District, Kip Kinzel, had provided a letter advocating single-family development and did not see any reason to change it, although a PUD overlay is not out of the question.

Mayor Myers also stated that the site development has been before the Plan Commission and Council on several occasions and has been discussed over and over and over again. Obviously, the issue can be taken to the Council, but the last time the Council addressed the issue, they were adamant that the zoning be the RS-1 Single-Family Residential District.

Mr. Read asked why single-family was the preferred development, when it is not necessarily the better development. A PUD could include play areas and walking trails. Council Member Beck responded that the neighbors have repeatedly expressed they want single-family homes there. She felt that single-family residential cuts down the number of residents and addresses traffic concerns at the corner of Columbia and Keup Roads. She concluded that the play areas and walking trails could be incorporated in a single-family development.

Mr. Read argued that one-half acre lots do not speak "Cedarburg" to him and noted that the Georgetown subdivision directly to the west did not have one-half acre lots. Also, the conventional zoning would prohibit the use of trails and play areas because the lots absorb all the land. He added that the duplex units would be slightly under or the same size as the single-family homes and would be upscale and well designed. The mixed use development would increase the density insignificantly from 2.2 units per acre to 2.54 units per acre, but would provide more diversity in product for increased marketability.

Vice Chairperson Burgoyne asked Mr. Read if he was really talking about single-family attached and single-family detached, and Mr. Read responded that he was. Vice Chairperson Burgoyne continued that the proposal reflects the real estate market changes attracting people that are professionals, middle aged, and like the concept of being free from maintenance responsibilities. Diversity of housing was emphasized by the Visioning Report after doing surveys, analysis, and recommendations to the Common Council at a cost of \$25,000. Vice Chairperson Burgoyne believed that the proposal followed the direction of the Visioning Report and that the Plan Commission had a responsibility to listen and consider the proposal to make a recommendation to the Common Council. In his opinion, the City is short on single-family, first-floor condominiums. He added that the proposal has the new urban look that is demonstrated in the Bridge Commons Condominiums designed by Kubala Washatko, though he expected the architecture would be different.

Mr. Read confirmed that Mr. Stroebel's development would not be reproduced and the proposed subdivision would be unique. He also confirmed that the development would be a condominium plat with a homeowners' association and maintenance agreement. He added that there is less architectural control with traditional single-family development. Mr. Read pointed out that the

duplexes would be approximately the size of a single-family home and the single-family homes would be on lots approximately 100 feet by 125 feet.

Commissioner Brown noted that development of the site has been discussed a number of times and as a member of the Visioning Committee, a variety housing options is a good idea. There is some potential in the proposal, but there are way too many duplex lots, and he is concerned about how the single-family lot owners would feel nestled amongst all the duplexes. He would prefer to have the duplexes nestled between the single-family lots. He would also like to see the proposal return at 2.2 units per acre, though he likes the proposed road layout over any other previously reviewed proposals. His concerns are of density and architectural design, suggesting that 40-45 total units might be acceptable.

Mayor Myers pointed out that density and design have been major concerns, and that no architectural renderings had been provided.

Mr. Read explained that the property owners would like to know that the Plan Commission would support mixed use before expending more funds, but if single-family is the only option, it is not going to go anywhere; it will stay single-family.

Mayor Myers advised that the Council insisted on the RS-1 zoning and that Mr. Read should probably be making his presentation to them.

Vice Chairperson Burgoyne suggested that, to sell the project to the City, more sales marketing needs to be done up front with information such as the style of duplex buildings, the price range, etc. He added that architecture is a big concern and noted that the PUD concept is not new to the City.

Council Member Beck concurred that density is a major concern of the Common Council. If the project were to receive any hope at the Council, the number of units would need to be reduced to the numbers suggested by Commissioner Brown. This would mean a total of about 42 units compared to the 57 proposed.

Mayor Myers stated that there has never been a dialog between the property owners and City in the past.

Commissioner Emmerich stressed that the reversal of the ratio of single-family residences compared to the duplexes, with duplexes interspersed within a single-family development, is more desirable.

Vice Chairperson Burgoyne believed it was a smart strategy to position the single-family homes at the entry points to the neighborhood and also where there is contiguous single-family development. He did not feel it was necessarily better to reverse the ratio of duplex to single-family. He preferred the proposal to the pocket of attached single-family in the Reserve on Cedar Creek.

Mayor Myers suggested that a presentation be made to the Council, but it would be up to the developer what the next step would be. Concept plans would be necessary to demonstrate the advantage to the City if the developer should approach the Common Council for a zoning change that would increase the density. Vice Chairperson Burgoyne repeated that more homework needs to be done to make a future presentation such as the style of architecture. Council Member Beck suggested that, if the property owners chose to go to the Council, the number of units be cut way down.

REVIEW AND POSSIBLY RECOMMEND AMENDING THE B-2 COMMUNITY BUSINESS DISTRICT AND THE B-3 CENTRAL BUSINESS DISTRICT TO RECLASSIFY CERTAIN USES FROM BY-RIGHT STATUS TO CONDITIONAL USE AND THE I-1 INSTITUTIONAL AND PUBLIC SERVICE DISTRICT TO ADD SENIOR HOUSING AND ASSISTED LIVING AS CONDITIONAL USES

Planner Censky noted that at a recent meeting, staff was directed to review the B-2 Community Business District and B-3 Central Business District and make the necessary adjustments to change the more intensive uses permitted by right to conditional uses. Commissioners indicated at the last meeting that Code should continue to list those uses rather than simply categorizing them. Because certain changes have occurred over the years which have inadvertently resulted in uses being listed as both permitted by right and as conditional uses in the same district, he took the opportunity to make corrections. The more intense uses such as restaurants, taverns, entertainment facilities etc. have been listed as conditional uses and those with less impact remain as uses by right. This was completed for both the B-2 and B-3 Districts. Specific to the B-3 District, he was also asked to introduce limits/controls over office uses in the downtown area because of the belief of some that the more offices allowed in the downtown area, the less pedestrian traffic would be available to patronize the retail shops. Recognizing that certain downtown buildings were built exclusively for office uses and that store-front space is considered prime for retailers, the proposed B-3 District classified office use of first-floor store-front space as a conditional use. Future requests for office use of these spaces would require a public hearing and Commissioners' approval, on a case-by-case basis, while existing office use of these spaces will be grandfathered.

Planner Censky explained that the proposed change in the I-1 Institutional and Public Service District results in the introduction of Community Based Residential Facilities and Assisted Living and Housing for the Elderly as conditional uses. Lasata provides elderly housing and assisted living as part of their continuum of care and the change would automatically render those components as conditional uses. Any change in the existing operation or site shall be subject to the conditional use procedures.

Commissioner Kaiman suggested that some of the uses listed seem archaic and could be combined with others or restated. He also questioned the definition of some, such as vegetable stores or newsstands.

Commissioner Brown expressed his opinion that restaurants should not be listed as a conditional use because it would discourage new establishments. Planner Censky advised that restaurants were moved to the conditional uses because they typically are more intense than other uses, such as the fast food restaurants in the B-2 District. The only control the City has is with drive-thru facilities, which is allowed only with a conditional use permit. Commissioner Brown preferred to keep restaurants as a use permitted by right and list fast food restaurants as a conditional use. Commissioner Kaiman expressed his preference that restaurants be conditional uses due to their potential for odors, traffic, etc.

Commissioners questioned how fast food restaurants would be defined. Planner Censky noted that some codes do identify major restaurants and minor restaurants.

City Attorney Vance advised that the adult establishment conditional use is likely not enforceable as written. Planner Censky noted that he had not made any changes to that portion of the Code.

Commissioner Kaiman did not think the Plan Commission had the expertise necessary to control the unintended consequences that would result from prohibiting first-floor store front offices.

Mayor Myers explained that the proposed Code change was predicated based on complaints he has received regarding the increasing costs of rent. The small stores are barely making it and they cannot pay their rent anymore because of the increases. His concern is that at some point in time everything is going to become offices and the flavor and character of the downtown will be lost, which is the identity of the City. He understood the market forces, but recalled that the downtown was created because people with vision put in controls that prevented the demolition of the Settlement building and St. Francis Borgia Church.

City Attorney Vance noted that she was not able to tell that the office space discussion was going to be part of the meeting from the posting. She suggested that it be posted separately because it was a major issue and there was a great deal of interest in it. She did not believe the issue was posted correctly due to the significant impact on the downtown.

Mayor Myers advised that the item was brought up at the meeting as a discussion item and no action needed to be taken at this time. He noted that he is in the process of putting a master plan committee together for the downtown area and the issue of office space downtown could be deferred to that committee. He emphasized that there are concerns that the rents are getting too high and the shops are going to disappear.

Commissioner Emmerich agreed with Mayor Myers, but preferred that the market control the uses. However, there should be some controls and it is evident through the years that some oversight is very important.

Vice Chairperson Burgoyne admitted it was a transitional period. The cycles come and go and do not always follow the economy. He agreed with the Mayor that more study is needed to make the downtown stronger. There has not been a Forward Cedarburg for several years advocating for the City and to determine what needs to be done to help keep the downtown character.

Commissioner Brown applauded the Mayor for being proactive on the issue. Appointment of a committee along with discussion between the Council and other committees are good ideas.

Mayor Myers noted there was no urgency to make changes and agreed to postponing discussion on the proposed Zoning Code changes to a later date.

Brian Collins, owner of several downtown properties, pointed out that adding more obstacles to businesses in the City will add to the bad image it already has. He did not think that the rents were extraordinarily different than other areas and might even be lower than some of the places in Grafton. Of the 11 vacancies in the last six months, only one is vacant now. Mr. Collins believed it would be difficult to fill vacancies if the uses were restricted and that the market would take care of any problems.

Duey Stroebel, also an owner of downtown property, thought a downtown master plan committee would be a really good idea, but believed creating restrictions would not make things better. He pointed out that the stability of the downtown is maintained by businesses that could be impacted by making store front offices conditional uses, and that many uses that would be conditional uses existed in the 1890s. All different uses are needed to create the synergy of the downtown. If other uses are considered to be crowding out the retail and are prohibited from tenancy, it does not mean more retail would step in. It would just diminish the pool of renters. Even if a use is allowed by conditional use, tenants are likely to avoid the time and trouble and seek space elsewhere. Mr. Stroebel added that offices serve local people, which would encourage local people to utilize other businesses downtown. He agreed with the formation of a committee to envision the downtown ten years from now and determine what needs to be done to accomplish that vision.

Mayor Myers suggested that the three districts be discussed separately and noticed individually on the next regular meeting agenda. Planner Censky advised that he would bring back the B-2 and I-1 proposed zoning changes to the June meeting. He would delay discussion on the B-3 zoning for the downtown area until a future date.

Commissioner Brown questioned whether a phrase such as "All businesses not listed shall be conditional use." could be added at the end of each list. City Attorney Vance responded that it could not. If a use not listed wished to establish itself in the District, the Code would have to be changed. Commissioner Brown also suggested that several of the businesses listed should be updated.

Mayor Myers summarized that the June agenda would include the B-2 and I-1 proposed changes, listed separately and put the B-3 discussion would be put on hold for awhile.

APPOINT THREE PLAN COMMISSIONERS TO SERVE ON JOINT EXTRATERRITORIAL ZONING COMMITTEE (JETZCO) IN ACCORDANCE WITH SECTION 62.23(7a)(c) OF THE WIS. STATUTES

Planner Censky advised that since the City adopted a second resolution to exercise its extraterritorial zoning authority for the lands located along the north side of Highway 60 east of the 5-Corners area, a second Joint Extraterritorial Zoning Committee (JETZCO) must now be established. Because this area adjoins the first extraterritorial zoning area, he felt it was appropriate that the same JETZCO members serve on this Committee.

Action:

A motion was made by Council Member Beck, seconded by Vice Chairperson Burgoyne, to appoint Mark Burgoyne, Brook Brown and Keith Kaiman as members of the second JETZCO Committee. The motion carried without a negative vote.

DISCUSSION PERTAINING TO ORGANIZATION AND PROCEDURAL ISSUES FOR CONDUCT OF THE JETZCO MEETINGS

Planner Censky advised that discussion should occur on a schedule and who should chair the Joint Extraterritorial Zoning Committee (JETZCO or Committee) meetings, along with organizational and procedural issues.

Planner Censky noted that the purpose of the Committee is to work cooperatively on a land use plan for the area. According to State Stat. 62.23(7a)(c), the entire Plan Commission shall participate with the joint Committee in the preparation of the plan and regulations, however, only the members of the joint Committee shall vote on matters relating the plan and regulations. This Committee shall formulate tentative recommendations for the district plan and regulations, and shall then hold a public hearing. Opportunities shall be provided to representatives of the Town Board and to any other persons wishing to be heard. The Common Council may adopt by ordinance the proposed district plan and regulations recommended by the JETZCO following a separate public hearing. The Common Council, however, can only adopt the land use plan and zoning regulations if it receives a favorable vote of the majority of the 6 members of the joint Committee.

Planner Censky provided background information, including a map identifying the extraterritorial zoning area, the Town zoning map, the zoning ordinance recently adopted by the Town Board and the adopted Town Center Development Standards.

City Attorney Vance reviewed her memo summarizing the issues, which included the following:

- The City administers the interim ordinance, which is the Town zoning for the area. All the uses are conditional uses and all petitioners must submit requests to the City Plan Commission. The Town of Cedarburg has no authority over any development in the extraterritorial jurisdictional area for at least the next two years.
- The City Building Inspector reviews and approves the building permits for any development.
- Any changes must be voted on by JETZCO.
- The JETZCO is part of the Plan Commission and has to operate with participation of the Plan Commission. However, the definition of how that participation occurs is not specified in the Statutes.
- A majority of the 6-member JETZCO is needed to carry a motion. For instance, if only 4 members are in attendance, the vote must be unanimous to pass. She added that the Town Board did not appoint an alternate JETZCO member.
- The procedure of the JETZCO is determined by the City. It does have to abide by Robert's Rules.

Council Member Beck asked if the issues approved by JETZCO needed Council approval and City Attorney Vance responded that they do. She added that the whole district JETZCO plan has to be subject to a public hearing. The Common Council has the ultimate authority and if adopted, the City from then forward administers the zoning.

Commissioner Brown asked what would happen if JETZCO and the Common Council agree on a plan but the Town Board does not agree. City Attorney Vance answered that it does not matter; the Town Board has no say.

Mayor Myers explained that he thought the JETZCO would operate as a subcommittee of the Plan Commission. The Committee could have meetings with the Plan Commission or have separate meetings with invitations to the Plan Commissioners. He identified Mark Burgoyne as Chairperson of the JETZCO because of his seniority and experience.

Council Member Beck asked if anyone outside the JETZCO could chair the meetings, such as the Mayor. Mayor Myers and City Attorney Vance responded in the negative.

Responding to a question from Mayor Myers, Administrative Secretary Drumel advised that separate May 1, 2006 agendas were not sent to the three Town JETZCO members, but that an agenda was sent to Town Hall.

Commissioner Kaiman expressed his preference to conduct JETZCO meetings during a Plan Commission meeting. Vice Chairperson Burgoyne suggested that the JETZCO meetings start with the Plan Commission and then obtain input from the Town members. Commissioner Brown agreed. Vice Chairperson Burgoyne continued that on occasion it would make sense to meet as a group and then join the Plan Commission. He suggested that the Committee have some flexibility.

City Attorney Vance expected the JETZCO meetings to be lengthy and it may be appropriate to schedule additional Plan Commission meetings for these discussions. She reiterated that the only thing the JETZCO does is to vote. Other than that, the meetings are Plan Commission meetings. In addition, the only time the JETZCO chair would take over is when there is a motion; otherwise the Mayor chairs the meeting. City Attorney Vance continued that the Plan Commission could conceivably make a motion suggesting that JETZCO vote on a certain motion, and then if the vote occurs, the JETZCO takes over. JETZCO could meet separately, but the Plan Commission would have to give them the authority to do so, because everything they do is considered a vote of the Plan Commission. As members of JETZCO, the three Town members are also considered a part of the City Plan Commission.

It was decided that the agenda be noticed as a joint meeting of the Plan Commission and JETZCO and that the discussion item for JETZCO be listed separately and at the beginning of the meeting. Commissioner Kaiman suggested that three more seats be set up with the Plan Commissioners for the Town JETZCO members. Mayor Myers agreed, otherwise the meeting should be held in the Lower Floor conference room where everyone could be at the same table. City Attorney Vance cautioned that it is tough to pick up the conversations on the microphones if not immediately in front of the speaker. The City's Administrative Secretary would take the minutes of the JETZCO meeting, along with the rest of the Plan Commission meeting.

In response to a question from Commissioner Emmerich, City Attorney Vance and Planner Censky responded that if JETZCO votes on a change that is accepted by the Common Council, it is a permanent change and the City regulates anything that happens in that jurisdiction.

Mayor Myers noted that exercising extraterritorial jurisdiction is not out of the ordinary and cited examples of Mequon and Hartford. Commissioner Emmerich added that this is being done in the best interest of the entire community. Planner Censky added that it is important because it is part of the City's sanitary sewer service area and a huge investment has been made to ultimately provide service for the area.

City Attorney Vance advised that she had received a copy of a letter from the DNR stating that the plume is not as defined as they want it to be, so more testing is required to define the plume and the extent of the contamination--contrary to what the Town is saying.

Commissioner Brown summarized an article in the April 29, 2006 Journal Sentinel that reported the State Assembly gave overwhelming approval Friday to a measure sought by Waukesha County officials that removes a roadblock to government mergers. The proposed amendment to the State Constitution would give merger-minded communities a way to sidestep the instant tax increase a small community incurs when consolidating with a larger neighbor. He advised the measure had not yet been passed by the Senate, but thought it might be appropriate for the City to consider consolidation. Mayor Myer advised that there are people in both the City and Town sympathetic to the idea of a merger.

Mayor Myers advised that the first JETZCO meeting would be held at the June Plan Commission meeting.

MAYOR'S ANNOUNCEMENTS

Mayor Myers had no announcements to offer.

ADJOURNMENT

Council Member Beck moved to adjourn the meeting at 9:20 p.m. The motion was seconded by Commissioner Emmerich and carried without a negative vote.

Darla Drumel,
Administrative Secretary