

**CITY OF CEDARBURG
PLAN COMMISSION**

**PLN20110906-1
UNAPPROVED MINUTES**

September 6, 2011

A regular meeting of the Plan Commission of the City of Cedarburg was held on Tuesday, September 6, 2011 at Cedarburg City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. The meeting was called to order at 7:00 p.m. by Mayor Myers.

Roll Call: Present - Mayor Gregory Myers, Council Member Chris Reimer, Mark Burgoyne, Brook Brown, Joe Emmerich, Park & Forestry Chairperson Lynne Buehler

Excused - Keith Kaiman

Also Present - City Attorney Kaye Vance, City Planner Marty Marchek, Administrative Secretary Darla Drumel

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 Chris Reimer, to approve the minutes of August 1, 2011.

Commissioner Buehler requested that the sentence "The property owners along Washington Avenue, adjacent to the Fairgrounds, were not invited to these meetings due to a County oversight." be added after ". . . related primarily to fencing and screening of site lines and views from adjacent properties." near the bottom of page PLN20110801-2.

Commissioner Brown and Council Member Chris Reimer accepted the friendly amendment to their motion.

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

COMMENTS AND SUGGESTIONS FROM CITIZENS

Mayor Myers announced that comments and suggestions on any topic would be accepted at this time from the public. He noted, however, that comments would also be accepted specific to the agenda items when they are discussed.

REQUEST TO AMEND ZONING ORDINANCE TO PERMIT GUEST QUARTERS IN A DETACHED GARAGE AS A CONDITIONAL USE IN THE RS-6 SINGLE-FAMILY/TWO-FAMILY RESIDENTIAL DISTRICT – TOM AND PATTY KUBALA

Planner Marchek advised that City staff received information that there is a secondary dwelling unit being occupied at N67 W5475 Columbia Road. In a letter from the Building Inspector, dated June 21, 2011, Tom and Patty Kubala were advised that their parcel is zoned RS-6, which limits them to one single-family dwelling unit or one building housing two family units. In addition, Section 13-1-27(c) of the Zoning Code restricts single- and two-family zoned parcels to one principal structure per lot. They were advised that the occupancy of the secondary dwelling unit must cease by August 1, 2011 in order to bring their property into compliance.

In response, Tom and Patty Kubala have made application to request a change to the RS-6 Single-Family/Two-Family Residential District to allow the residential use of the room above their detached garage by adding "Guest House" to the list of conditional uses in the RS-6 zoning district.

Planner Marchek noted that there are 879 detached garages in the City. These detached garages are permitted only in rear yards and may be located as close as three feet from side and rear lot lines, which could adversely affect adjacent properties related to noise and appearance. He added that the only control on the size and number of garages or detached accessory buildings is the Floor Area Ratio and the Lot Coverage calculation, so that large lots have the potential for multiple units.

He noted another issue is that the Uniform Dwelling Code is not applied to detached accessory structures. Therefore, if used for residential quarters, detached garages would have to comply with building, electrical, plumbing, heating, and fire codes in order to provide the same protections for guest quarters as for the primary residence.

Planner Marchek suggested that off-street parking may also be a concern, as well as vehicular access for parking and rubbish collection.

Also, regulating the use of guest quarters to be truly for "guests" and not for permanent occupancy or rental purposes would be a challenge, if not impossible.

The Plan Commission may make a recommendation to the Common Council, after which the Common Council may hold a public hearing on the Kubala request.

Tom Kubala, owner of the property located at N67 W5475 Columbia Road, explained that the loft he has been using as a guest house is only a 320-square foot room that is not big enough for a residence, and that it only includes a bath, shower, toilet and sink. He noted that his detached garage has access to Cedar Court, and the lot coverage and floor area ratios on his property are met. The house was originally built in 2000 and

the room above the garage was to be his studio; however, during the subsequent years returning children, invited guests, visiting in-laws, and friends in need, occupied the space. The occupants of the loft have private space, which is very important with a small house.

Mr. Kubala went on to advise that, as an architect, he has designed many such units, which are useful to properties. He advised that he has found ordinances around the country that allow guest quarters and limit their size, prohibit kitchens, and limit the occupancy. The guest house is not a second dwelling. In his travels, guest quarters have been so handy in many different ways. He agreed that a potential downside is the abuse as a second residence, as basement bedrooms can be. If the guest quarters were an addition to the house, it would serve the same function. He did not see autos as being a problem since guests in the principal structure would also have vehicles.

Vice Chairperson Burgoyne opined that guest houses have been requested the last couple of years and is a concept of new urbanization, which should be studied in more depth. Allowing such uses has significant implications, but there are practical aspects to consider. The decision should not be based on one situation.

Planner Marchek noted that there are approximately 879 detached accessory structures that could potentially become residential dwellings if the Code amendment was granted. Mr. Kubala suggested that there would be significantly fewer if the conditional use only applied to the RS-6 district that already allows duplexes. Planner Marchek responded that similar residential zoning districts typically have similar property rights.

Mayor Myers stated that a single-family residence is one building and two-family residences are also in one building. He also questioned what the definition of a "guest" would be. He was opposed to granting conditions to a use that were unenforceable; the regulations would have no meaning.

Commissioner Brown pointed out that there is a likelihood that significant residential use of the second story of garages already exists.

Vice Chairperson Burgoyne noted that safety conditions for garages are different than homes. Planner Marchek opined that guests sleeping in an accessory building should have the same safety provisions as the people sleeping in the principal building.

Commissioner Buehler advised she had a problem with changing the ordinance to fit a particular situation.

Commissioner Emmerich expressed concern that the requested change would have a negative effect in the community and would be difficult to manage. He hesitated to recommend it to the Common Council.

Ulrike Bufton, of N67 W5461 Columbia Road, stated that her specific concern was that the Code change would only affect the RS-6 district. There are many property owners who would also like to have guest quarters and, if adopted, everyone should have that right. She also wondered if “guest quarters” was configured in the square footage of the house and how it was assessed. As a landlord, they pay taxes on their rental properties and she wondered if guest quarters would be treated the same way.

Erika Fiel advised that at the time they bought the property next to the Kubala parcel for their daughter, they asked to build a garage and were denied that request. She could not understand how permits were granted for the Kubala property.

No motion was offered.

RECOMMENDATION PURSUANT TO ORDINANCE NO. 2010-25 ON PERMANENT ZONING FOR N49 W7411 WESTERN ROAD – VIVIAN LAST

Planner Marchek reported that Ms. Vivian Last annexed her property to the City in December 2010, and it was temporarily zoned RS-1 in compliance with Wisconsin Statutes. Pursuant to Ordinance No. 2010-25, the Plan Commission is directed to recommend permanent zoning for the parcel to the Common Council no later than December 13, 2011.

All adjacent properties are zoned RS-3 Single-Family Residential and the parcel at N49 W7411 Western Road will meet or exceed all the requirements of that District. The RS-3 Zoning will also comply with the adopted Land Use Plan, which recommends medium-density residential use.

Action:

Commissioner Brown moved to recommend permanent RS-3 Single-Family Residential District for the recently-annexed property at N49 W7411 Western Road. The motion was seconded by Commissioner Emmerich and carried without a negative vote, with Commissioner Kaiman excused.

REQUEST EXTRATERITORIAL JURISDICTIONAL APPROVAL OF PROPOSED CERTIFIED SURVEY MAP TO DIVIDE PROPERTY AT 1785 COVERED BRIDGE ROAD INTO TWO PARCELS – MARK STONE

Planner Marchek advised that Mr. Stone is requesting extraterritorial approval of a Certified Survey Map (CSM) that divides his 11.160-acre lot at 1785 Covered Bridge Road in the Town of Cedarburg into two parcels. Lot 1 (5.23 acres) would contain the existing home and accessory buildings. Lot 2 is vacant and would contain 5.93 acres. The Town Plan Commission approved the CSM on July 20, 2011 and the Town Board granted its approval on the 3rd of August, 2011.

Action:

A motion was made by Council Member Chris Reimer, seconded by Vice Chairperson Burgoyne, to approve the proposed Certified Survey Map as presented. The motion carried without a negative vote, with Commissioner Kaiman excused.

RECOMMENDATION TO AMEND 2025 LAND USE PLAN TO ESTABLISH SITE FOR NEW LIBRARY

Commissioner Brown recused himself from the discussion due to a conflict of interest and took a seat in the audience.

Planner Marchek reported that, at their meeting on August 29, 2011, the Common Council authorized Phase 2 environmental testing, soil borings and preparation of a certified survey map for the proposed new library at the Mill Street site. That site is recommended for "Commercial" use on the City's Year 2025 Land Use Plan.

The Library Board is requesting an amendment to the Land Use Plan for construction of a library at that location. The library site would include the vacant parcel at the northwest corner of Washington Avenue and Mill Street and the parcel to the north that is the location of the Weber Haus, operated as a bed and breakfast by Stagecoach Inn.

A new parcel would be created at the northeast corner of Hanover Avenue and Mill Street for the relocation of the Weber Haus. That parcel would continue its commercial land use for operation of the Weber Haus as a Bed and Breakfast.

The required action would be to recommend to the Council that it amend the Land Use Plan for the new library site. A public hearing and action by Council would be required. A zoning plan would also be required in the near future to provide the proper zoning for both the library site and the new parcel for the Weber Haus.

Action:

A motion was made by Vice Chairperson Burgoyne, seconded by Commissioner Emmerich, to recommend a public hearing be held before the Common Council to consider changing the commercial land use designation for the northwest corner of Washington Avenue and Mill Street in the 2025 Smart Growth Comprehensive Master Plan map to governmental and institutional use.

Continued Discussion:

Commissioner Buehler restated her opposition to changing a commercial property to institutional in a historical downtown main street. Changing the use to accommodate a particular request is not acting for the greater good.

Final Action:

The motion carried with Mayor Myers, Council Member Chris Reimer, Vice Chairperson Burgoyne, and Commissioner Emmerich voting in favor; Commissioner Buehler voting against, Commissioner Brown recused; and Commissioner Kaiman excused.

DISCUSS POTENTIAL REDEVELOPMENT USES FOR THE FORMER CAR MAID PROPERTY LOCATED AT W63 N680 WASHINGTON AVENUE – GREG ZIMMERSCHIED/ART COVERT

Planner Marchek reported that Mr. Zimmerschied is considering purchasing the property located at W63 N680 Washington Avenue from property owner Art Covert and he is requesting discussion of potential uses and concepts for redevelopment of the existing building in accord with existing B-3/HPD Zoning requirements. Mr. Zimmerschied provided a site plan showing a 20' x 30' addition to the building, which would have to be reduced in depth about 9 inches to comply with the required 5-foot setback in the B-3 District.

Planner Marchek advised that no formal action is required.

Mr. Zimmerschied noted that the addition to the front would require adding four parking spaces on site, an easement agreement would be drafted to share the 18.5-foot driveway along the north side of the building, and a courtyard was envisioned for the area south of the proposed addition. He pointed out that the property is adjacent to the Creek Walk where there would be potential for green space.

Planner Marchek pointed out that it is currently very difficult to see oncoming traffic on Washington Avenue when exiting the site and that would be more difficult with the proposed addition blocking the view of traffic. Vehicles would need to pull onto the sidewalk to safely merge onto Washington Avenue.

Mayor Myers commented that it would probably be best to take advantage of the Creek Walk rather than require additional parking spaces. Council Member Chris Reimer agreed with eliminating the parking requirement to provide green space. Commissioner Buehler stated that parking would be poor use of a beautiful property.

Action:

Vice Chairperson Burgoyne moved to approve the concept proposal. The motion was seconded by Council Member Chris Reimer.

Continued Discussion:

Commissioners discussed whether the 5-foot setback requirement could be eliminated.

Steve Banas, the property owner directly south of the subject site, asked whether there was intent to use the 10-foot wide driveway to the south of the former Car Maid building. Mr. Zimmerschied confirmed that there was no intent to use that driveway.

Call the Question:

A motion was made by Vice Chairperson Burgoyne, seconded by Council Member Chris Reimer, to call the question. The motion to call the question carried without a negative vote, with Commissioner Kaiman excused.

Final Action:

The motion to approve the concept proposal carried without a negative vote, with Commissioner Kaiman excused.

MAYOR'S ANNOUNCEMENTS

Mayor Myers announced that the next Plan Commission meeting would be on Monday, October 3, 2011.

ADJOURNMENT

A motion was made by Commissioner Emmerich to adjourn the meeting at 8:00 p.m. The motion was seconded by Council Member Chris Reimer and carried without a negative vote, with Commissioner Kaiman excused.

Darla Drumel,
Administrative Secretary