

**CITY OF CEDARBURG  
PLAN COMMISSION**

**PLN20080407-1  
UNAPPROVED MINUTES**

**April 7, 2008**

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, April 7, 2008 at Cedarburg City Hall, W63 N645 Washington Avenue, in the Council Chambers. The meeting was called to order at 7:00 p.m. by Mayor Gregory Myers.

Roll Call: Present - Mayor Gregory Myers, Council Member Sandra Beck, Vice Chairperson Mark Burgoyne, Brook Brown, Joe Emmerich

Excused - Keith Kaiman, Park & Forestry Chairperson James Schara

Absent - Joe Emmerich

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 Vice Chairperson Burgoyne, to approve the minutes of the joint Common Council and Plan Commission meeting on February 25, 2008 and the minutes of the regular March 3, 2008 Plan Commission meeting as presented. The motion carried without a negative vote, with Commissioner Schara and Kaiman excused and Commissioner Emmerich absent.

**COMMENTS AND SUGGESTIONS FROM CITIZENS**

No comments or suggestions were offered at this time.

**PUBLIC HEARING FOR CONDITIONAL USE REQUEST TO ERECT ONE STEEL TRIPOD LATTICE TOWER WITH A MICROWAVE TRANSCEIVER ON TOP OF EACH TOWER AT THE CEDARBURG HIGH SCHOOL, PARKVIEW ELEMENTARY SCHOOL, THORSON ELEMENTARY SCHOOL AND WESTLAWN ELEMENTARY SCHOOL – CEDARBURG SCHOOL DISTRICT**

Mayor Myers declared the public hearing open at 7:03 p.m. Administrative Secretary Drumel confirmed that proper legal notice had been given.

Planner Censky advised that due to problems the schools are having with the reliability and speed of their Internet access, the Cedarburg School District is proposing to erect one new communication tower at each of four separate school sites. The School Board has included funding for this project in its 2007-2008 school budget. While the height of these towers will be depend on the location, they will all be of the same design: a steel tripod lattice design with a microwave transceiver antenna at the top and an anti-climb guard at the base of each tower. This design is identical to the existing 80'-high communication tower behind the Cedarburg Police Station. The Cedarburg High School tower will stand 110' tall and will be located at the north end of the west side of the PAC. Cabling from the tower to the building will be enclosed in rigid conduit and enter at a point approximately 25' above ground. The Parkview Elementary School tower will stand 90' tall and will

be located off the west elevation directly north of the HVAC enclosure. Cabling from the tower to the building will be through rigid conduit approximately 10' above ground. The Thorson Elementary School tower will stand 100' high and will be located off the east elevation directly south of the HVAC enclosure. Cabling from the tower to the building will be through rigid conduit approximately 10' above ground. The Westlawn Elementary School tower will stand 70' high and will be located off the west elevation and either bracketed to the gymnasium wall or freestanding near the network room. Cabling for the freestanding tower will be through rigid conduit approximately 12' above ground and for the bracketed tower flexible conduit will be used from the tower across the rooftop and down the sidewall of the network room.

Planner Censky noted that transmitting/ communication towers are permitted in the I-1 Institutional District as conditional uses and shall not exceed a height equal to their distance from the nearest lot line to insure that if it falls, it will land on its own property and not impact neighboring sites. Staff's review indicates that while all towers are situated where they meet the fall zone requirements from their exterior lot line and would fall on their respective sites, the High School tower is technically too close to an outlot owned by the School District. Since an outlot is intended as open space for which no building permit is to be issued and because this adjacent outlot is owned by the District, Commissioners could view this as meeting the intent and spirit of the Ordinance as this tower would land on a District-owned outlot. Alternatively, to technically meet the letter of the Code, the School District would have to combine the outlot with the remaining District-owned land. Accordingly, if these towers are approved Commissioners can either accept the High School tower as proposed or require the outlot and the school site be combined into one. If the Commissioners were to act on the proposals, they were advised that a motion for each site would be required.

Planner Censky advised that an adjacent neighbor provided a letter opposing the tower and he had talked to a resident who has children in the school system and questioned whether there would be any health issues associated with the microwaves.

Cedarburg School District representatives Director of Facilities John Koster and District Network Coordinator Peter Kilian advised that Director of Technology Linda J. Borkenhagen was unable to attend the meeting. All towers would be fenced at the base to prevent anyone climbing them, along with a 10-foot anti-climb device. They explained that the microwave needed to be unobstructed by any structures or foliage and that determined the height of each of the towers. The School District would be required to obtain a 10-year license for each tower from the FCC, which would then be renewable. The microwave is a direct beam that would be captured by 1-foot to 2-foot dishes on top of the towers and there would be no spillover of the microwave beams consisting of 8 to 10 watts of power. This is state of the art technology, is safe, is affordable and would improve the reliability of the School District's communications. Conversely, in order to use fiber optics, many of the City streets would have to be excavated, some overhead installations would have to be configured, all of which would increase the potential of damaging the existing fiber optics that are costly to repair and reduce its reliability.

Mr. Koster advised that the telephones, computers and voice mail are down about five to ten times a year. AT&T has no plans to replace the telephone lines that were installed in the 1960s. They are looking at increasing their speeds from 1.5 mg/second to 100 mg/second and upgrade their internal system to 800 mg/second. The estimated cost of the project is \$1.8 million. As noted in their report, the water tower on Western Road cannot support any more additional antennas. In response to a query, Mr. Koster advised that visible site lines cannot be accomplished from the water tower at Wauwatosa Road and Sherman Road. The towers are proposed to be located in each site where they would be as unobtrusive as possible.

Council Member Beck asked if bad weather would negatively affect the microwave and Mr. Kilian answered that with a direct line of site, the system would not be affected by the weather. He added that the technology is 99.99% reliable.

Mayor Myers asked how far above rooflines the towers would extend. Mr. Koster described how the towers would be placed to be as screened as possible from nearby residences. Fiber optics would be connected from the buildings to the towers. In response to a question from Mayor Myers, Mr. Koster advised that the towers would be removed if fiber optics became a cost-effective option.

Council Member Beck wondered if the School District attempted to develop a solution in conjunction with the Light & Water Utility or the Public Works Department. Mr. Koster's response was that the poles were not close enough to the buildings and burying fiber optics from the poles to the buildings was cost prohibitive. Mr. Kilian added that the poles were not in line with the schools and a great length of fiber optics would be required to connect them. Commissioner Brown questioned whether a satellite system had been considered. Mr. Kilian noted that snow and rain interfere with satellite service; there was also a time lag that severely affected the speed needed for computer and phone services; and it was expensive to rent satellite space. Commissioner Brown suggested that the School District considered building heftier towers to be able to rent space on the towers for cell phone services to help offset some of the upgrade costs. Mr. Koster responded that the goal is to provide for the School District needs only.

Linda Smith of N32 W7367 Lincoln Boulevard questioned why cable was not an option and noted that all the other schools in the state must be using something else successfully because you do not see the towers elsewhere. Mr. Kilian explained each school would require an extensive filter system that was costly. He added that many schools are using the microwave technology. Ms. Smith suggested that the telephone system be upgraded and it was explained that it was the telephone company's aging infrastructure that made a system upgrade useless.

Greg Goeks of N67 W6918 Cleveland Street suggested that temporary towers at Parkview and the High School would solve the problem until fiber optics was a viable option. He asked if modifications, such as using a pre-lit key at the switch close to Westlawn School, could improve the situation. Mr. Kilian responded that the issue was not of distance, so those types of fixes would not be solution. Mr. Goeks hoped that improvements to the system would accomplish as much as constructing new towers. He objected to installing towers all over the City, even temporarily.

Susan Mongoven of N82 W7253 Pine Street first thanked the City for advising neighboring property owners that there would be discussion of towers at the meeting; had the School District advised them they would be airing their concerns to the School District. Unless there is a microwave transceiver specialist to assure her otherwise, she is not convinced there is no health danger with the towers. She is not comfortable with tower placement near playgrounds and believes that there is no confirmation that microwaves are safe.

Art Palleon of N35 W6546 Wilson Street cautioned that the children who climb onto the roof of Westlawn School would be able to access the top of the tower; wondered why each computer could not be directly connected to cable; expressed concern that the microwaves would interfere with signals associated with equipment the neighbors may have related to computers and televisions; and noted that although companies may advise that services (such as fiber optics) are not available, it could be that their data base was not up-to-date. Mr. Kilian advised that the towers would be an average of 10 feet away from the buildings, and Mr. Koster noted that anti-climb shields would be installed all the way up the towers; it would be cost-prohibitive to directly connect each computer to cable and that the School District was reluctant to have each computer connect

directly to the Internet because of security concerns; and that the FCC would not allow any interference with the neighbors' reception.

Jim Slavin of N77 W7063 Oak Street stated that in addition to the health concerns, he was concerned with a 100-foot tower coming down on a playground. Also, he works for a nationwide business that employees 600 people and all their communications are reliably funneled through one central office at 40 megs and he cannot believe the School District would need 100 megs to accomplish the same task. Mr. Kilian responded that there are projects that the School District would like to do that require the speed of that bandwidth. His company has highly sensitive material that is safely routed through the public Internet all of the time at much less expensive technology that could be used by the School District. He suggested that the School District use lower bandwidth cable on a private network. Mr. Kilian noted that the option was investigated and was not as cost-effective as the microwave technology. Mr. Slavin wanted to see the documentation used to draw that conclusion.

Cheryl Fox of W74 N863 Poplar Avenue expressed that in the future the health of the children would be of concern. She also read that lightening could strike as far as two miles away and that the towers would attract lightening endangering children in the playground. Lastly, she was disappointed with the look of the tower that would be 50 feet to 60 feet directly in line with her front yard.

Noel Jepson at W61 N358 Washington Avenue, the Council Member Elect for the 3<sup>rd</sup> District, believed that a very high percentage of his constituents are opposed to the tower installations because of the aesthetics, height, and safety concerns. Although not prepared to understand the technology, he believed there were questions related to the amount of capacity proposed, whether the need has been demonstrated, if the T-1 would provide adequate reliability, whether the towers would be removed in the future, the danger if the towers would fall, and the possibility that a lightening strike would destroy the system. He added that if the existing technology was inadequate, towers would be located everywhere. Council Member Elect Jepson asked that the Plan Commission take no action on the issue.

Jeff Clark of N66 W6955 Cleveland Street agreed with the aesthetic concerns; the towers would be an eyesore and he would be looking directly at one from where he lives. He believed that more study needed to be done.

Pamela Gergens of W75 N868 Tower Avenue noted that the Code requires setbacks for the towers so that if they fall, they fall on their own property, so it is obvious they are expected to tip over. This is not acceptable for towers located in playgrounds where children are playing. She would prefer to pay more for a system that does not include towers.

Tom Dvorak of N82 W7313 Pine Street agreed with the previous comments. If the service is really that bad, each child does not have to connect to the Internet. Major universities connect directly to the Internet and are secure. He advised that he works for a television station and towers are a big liability. One of the concerns is ice forming on the tower and falling as it melts. He believed that microwaves are old technology and urged the School Board to investigate alternatives.

Council Member Elect Amy Goyette for the 7<sup>th</sup> District asked if there were responses to the concerns regarding lightening and ice forming on the towers. Mr. Koster advised that the towers would be fully grounded. He acknowledged that a valid point may have been made about ice accumulation; it may be that if a wind would blow the ice off a 100-foot tower, it could be a hazard.

Mr. Kilian advised that the Manitowoc school system is considering this technology and Lake Mills has had this technology for two years. He repeated that the microwave technology is considered

state-of-the-art, considered low power transmitters and is very reliable. Mr. Kilian explained that the towers are constructed so that they cannot sway more than 1° and designed for a 150 mile an hour wind. He has never seen a report of damage occurring because of an icing problem with these structures.

Jeff Clark of N66 W6955 Cleveland Street felt that the public was entitled to see documentation that justifies the requested 60% increase in capacity.

Mr. Kilian responded that the current system was designed 10 years earlier. Since then broadband is 100 times faster, enrollment has increased, the number of computers has increased, all telephone calls now funnel through the system and the grading system is incorporated. When asked by Mr. Palleon what occurs when all of the telephones are out of service, it was noted that there are dedicated emergency phone lines in each school. In addition, cell phones are very prominent. Mr. Palleon advised that the land lines were still operating in the aftermath of the hurricane in Louisiana.

**Action to Close Public Hearing:**

Council Member Beck moved to close the public hearing at 8:10 p.m. The motion was seconded by Commissioner Brown and carried without a negative vote, with Commissioners Schara and Kaiman excused and Commissioner Emmerich absent.

Mayor Myers advised that the Plan Commission was charged only with determining whether the proposed towers were appropriate in the Institutional District. It was under the purview of the School District to determine the appropriate technology.

Vice Chairperson Burgoyne found the public's comments helpful, but was not prepared to act on the request. He feared it would open the door to more antennas in the future if approved.

Council Member Beck understood the School District's frustration with the current technology, but it appeared that this was the first exposure of the microwave tower proposal to the public. She was also leery of having tall towers installed all over the City.

Commissioner Brown noted that he was reluctant to take action due to the comments from the public related to safety concerns, aesthetics, the need for more study of the microwave issues and that more of the public should be informed. He was disturbed that the School District had not been working with the City's Department of Public Works and Light & Water Commission.

**No Action Taken:**

The Plan Commissioners cited the following concerns as reasons for no action or motion on application:

- Objections to the aesthetics of the towers.
- Potential precedent setting if tower construction is approved.
- Lack of public scrutiny.
- The public is requesting more information on the request.
- The public questions the safety of microwave technology.
- Justification requested by citizens for the requested increase in capacity.
- Public concerns related to the safety of the towers in regards to icing, lightening strikes and access from school roofs.
- Assurance to the satisfaction of the public that microwaves would not interfere with any other communications.
- Public documentation that other modes of communication (i.e., fiber optics) are not available or are too costly.

Mayor Myers noted that the application can come back to the Plan Commission and advised that these issues should be addressed.

**PROPOSED ENTRANCE GATE STRUCTURE AT NORTH END OF EXISTING OUTDOOR SEATING AREA ALONG CEDAR CREEK IN SUPPORT OF OUTDOOR ALCOHOLIC BEVERAGE LICENSE FOR THE ANVIL RESTAURANT AT N70 W6340 BRIDGE ROAD – JAMES PAPE**

Planner Censky advised that the Anvil Restaurant submitted an application for an Outdoor Alcoholic Beverage License for use of the existing outdoor seating area along the east side of the restaurant adjacent to the mill race of Cedar Creek. Before a license can be issued by the Council, Plan Commission review of the enclosure is required and if the site is located in the Historic Preservation District, the Landmarks Commission must review it to insure that the historic integrity of the area is protected. At their March 27<sup>th</sup> meeting, the Landmarks Commission reviewed this request and unanimously recommended approval. The Fire Department mandated that the gate be able to be opened from the inside for safety reasons.

Planner Censky explained that the post and gate structure is proposed to be located at the north end of the outdoor seating area of the northeast corner of the Anvil Pub & Grille Restaurant. It will serve as a decorative yet effective way of controlling the use of this area as people will need to enter the restaurant to be seated outside.

Planner Censky noted that since this area is located in the floodplain of Cedar Creek, these plans have been submitted to the DNR for their review and, accordingly, any action should be conditioned on DNR comments.

**Action:**

Commissioner Brown moved to approve the request to install an entrance gate structure at north end of existing outdoor seating area along Cedar Creek in support of outdoor alcoholic beverage license for the Anvil Restaurant at N70 W6340 Bridge Road conditioned upon the following:

1. Submittal of the necessary documentation to confirm that the post and gate structure will not reduce floodwater conveyance area that would cause an increase in the regional flood elevation by 0.01 foot or more.
2. The posts may be changed in order to satisfy the floodplain code issue from proposed design but must not exceed 20" by 20".
3. The gate shall remain passable so that patrons may exit the site in the event of an emergency.

The motion was seconded by Vice Chairperson Burgoyne and carried without a negative vote, with Commissioners Schara and Kaiman excused and Commissioner Emmerich absent.

**ARCHITECTURAL REVIEW FOR AN INFILL HOME ON THE VACANT SITE ON JUNIPER LANE IMMEDIATELY NORTH OF N50 W7030 WESTERN ROAD – GEORGE FIEL**

Planner Censky advised that Mr. and Mrs. Fiel were requesting approval of architectural plans for a new infill home on the vacant lot located on Juniper Lane directly north of W50 N7030 Western Road. They proposed to construct a 2,885 square foot home with garage. Staff calculates the FAR at 15.5% where the Code allows a maximum of 36%, and lot coverage at 15.5%, which is within the 30% maximum allowed. Furthermore, the home measures 28 feet in height, which is under the 35-foot height maximum limit. Staff notes that all other dimensional requirements such as setbacks and offsets are in compliance as well and the size is consistent with home sizes in the area.

Planner Censky continued that, architecturally, the plans indicate a high-roofed ranch style design which is compatible with the general theme in the neighborhood. The building façade will be “Wicker” (tan) color weatherboard siding, white window trim, “Wicker” color brick on the lower elevations and off-white stone corners. The roof will be covered with 30-year dimensional shingles.

**Action:**

A motion was made by Vice Chairperson Burgoyne, seconded by Council Member Beck, to approve the very attractive home with the following:

- Because of the possibility of encountering bedrock with basement excavation and the close proximity to neighboring structures, no blasting will be allowed.
- The sump pump will be required to be connected to the existing 30” diameter storm sewer in Juniper Lane.
- The sanitary sewer lateral runs out to Western Road at a depth which is unknown and therefore a through wall connection may be required.
- The curb opening onto Juniper Lane will need to be relocated.

**Further Discussion:**

Commissioner Brown asked if the trees on the site would be retained and Mr. Field confirmed they would be.

Mr. Fiel advised that the home to the south had used blasting to excavate that basement. Planner Censky noted that because of the problems associated with the Western Road home, blasting would not be permitted on the Fiel site.

**Final Action:**

The motion carried without a negative vote, with Commissioners Schara and Kaiman excused and Commissioner Emmerich absent.

**MAYOR’S ANNOUNCEMENTS**

**Council Member Beck**

Mayor Myers announced that the meeting was Council Member Beck’s last meeting and thanked her for her contributions to the City. Council Member Beck advised that she enjoyed serving on the Plan Commission.

**JETZCO**

Mayor Myers confirmed that the JETZCO was formally disbanded.

**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, with Commissioners Schara and Kaiman excused and Commissioner Emmerich absent.

Darla Drumel,  
Administrative Secretary