

**CITY OF CEDARBURG  
COMMON COUNCIL  
October 26, 2020**

**CC20201026-1  
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held online on Monday, October 26, 2020, utilizing the Zoom app.

Mayor O’Keefe called the meeting to order at 7:00 p.m.

Roll Call:     Present -       Mayor Michael O’Keefe, Council Members Sherry Bubnitz, Jack Arnett, Kristin Burkart, Rick Verhaalen, Robert Simpson, Patricia Thome

                         Excused -       Barbara Lythjohan

                         Also Present -       City Administrator Mikko Hilvo, City Attorney Michael Herbrand, City Clerk Tracie Sette, City Planner Jon Censky, City Director of Engineering and Public Works Tom Wiza, and interested citizens and news media.

**STATEMENT OF PUBLIC NOTICE**

At Mayor O’Keefe’s request, City Clerk Sette verified that notice of this meeting was provided to the public by forwarding the agenda to the City’s official newspaper, the *News Graphic*, to all news media and citizens who requested copies, and by posting in accordance with the Wisconsin Open Meetings Law. Citizens present were welcomed and encouraged to provide their input during the citizen comment portion of the meeting.

**COMMENTS AND SUGGESTIONS FROM CITIZENS** - None

**APPROVAL OF MINUTES**

Motion made by Council Member Thome, seconded by Council Member Bubnitz, to approve the October 12, 2020 minutes. Motion carried without a negative vote with Council Member Lythjohan excused.

**PUBLIC HEARING**

**OPEN PUBLIC HEARING REGARDING RESOLUTION NO. 2020-22 AMENDING THE COMPREHENSIVE LAND USE PLAN – 2025; CLOSE PUBLIC HEARING**

Upon Mayor O’Keefe opening the public hearing, Planner Censky explained the application submitted to the Plan Commission on June 1, 2020 for the development of the former Baehmann Driving Range property located at W73 N1122 Washington Avenue and asked for feedback to help guide the final design. At the September 3, 2020 meeting, the Plan Commission reviewed the applicant’s final proposal and since it reflected the discussion and feedback they offered at the

June 1st meeting, the Commission recommended amending the Land Use Plan and rezoning the property in accordance with Resolution No. 2020-22 and Ordinance No. 2020-12. More specifically, the request is to amend the use classification for this site, as shown on the City of Cedarburg 2025 Comprehensive Land Use Plan, from the Commercial, Industrial/Manufacturing, Medium-Density Residential (3.6 to 5.2 units/acre) and High-Density (10.9 to 16.1 units/acre) classifications to the Medium-Density Residential (3.6 to 5.2 units/acre) and High-Density Two-Family (5.2 to 10.8 units/acre) as shown on his attached concept plan (note: the single-family areas shown in light green and brown on their plan both fall within the Medium-Density Residential range and the two-family component falls within the High-Density Residential range).

Erica Turner – W66N732 Madison Ave – inquired as to the definition of high-density housing. She suggested apartments would offer more affordable housing. A representative from Neuman Development explained they do not offer apartments but support various lot sizes and duplex units to offer more affordable housing.

Ron Busch – N17W7074 Berkshire St – inquired about the tree line currently located on the property and hoped it will remain after construction is finished.

Ron Pace – N108W7169 Berkshire St – asked if a traffic impact study was done.

A motion was made by Council Member Bublitz to close the Public Hearing regarding Resolution 2020-22, seconded by Council Member Thome. Motion carried without a negative vote with Council Member Lythjohan excused.

**OPEN PUBLIC HEARING REGARDING ORDINANCE NO. 2020-12 TO REZONE THE 55.287 ACRE PARCEL LOCATED AT W73 N1122 WASHINGTON AVENUE; CLOSE PUBLIC HEARING**

Upon Mayor O’Keefe opening the public hearing, Planner Censky explained the applicant is requesting to rezone the (above) property from the P-1 (temporary) Zoning District to Rs-4 Residential Single-Family at the south end of the project (shown in light green on the plan) which matches the zoning of the lands directly to the south and Rs-5 Residential Single-Family District north thereof (shown in brown on the plan). The Rd-1 Two-Family Zoning District will be applied along the Washington Avenue frontage (shown in blue on the plan) at the northwest area of the site. The area shown as “Baehmann Park” will remain zoned P-1 Park and the stand of woods at the south east corner will be zoned A-1. Finally, the PUD Overlay District will be applied across the entire project area to tie this together as one unified 113-unit residential project. The project will consist of 15 townhouse building (30 units) within the proposed Rd-1 District, 36 single-family lots ranging in size from 10,400sf to 26,500sf within the proposed Rs-4 District and 47 single-family lots ranging in size from 8,400sf to 18,900sf within the proposed Rs-5 District.

This project will include all standard public road improvements with sidewalks, a future road at the northeast corner of the project connecting the City’s Business Park roadway to Hilltop Drive in the Town of Cedarburg, parkland dedication shown on the plan as the Baehmann Park and the

wooded preservation area at the southeast corner. The road rights-of-way and public parks will be dedicated to the City through the platting process.

In accordance with the PUD Ordinance, the Plan Commission through its review and the Common Council through its approval, must acknowledge any departure from the standards of the base underlying Zoning District:

**Rs-4 Single-Family Residential District, Sec. 13-1-45**

Code Sec	City Code Requirement	Applicant Requested Departure
(e)	<i>Lots shall be not less than ninety (90) feet in width at the setback line.</i>	Lots to be less than <b>eighty (80) feet</b> in width at the setback line.
(f)(5)	<i>The sum total of the floor area of the principal building and all accessory buildings shall not exceed thirty-six percent (36%) of the lot area; and the lot coverage for the principal buildings and accessory buildings shall not exceed thirty percent (30%) of the lot area.</i>	The sum total of the floor area of the principal building and all accessory buildings shall not exceed <b>forty percent (40%)</b> of the lot area; and the lot coverage for the principal buildings and accessory buildings shall not exceed <b>thirty-five percent (35%)</b> of the lot area.
(g)(1)	<i>There shall be a minimum setback of twenty-five (25) feet from the ROW of all streets.</i>	For corner lots there shall be a minimum <b>fifteen (15) feet</b> from the side street ROW.
(g)(2)	<i>There shall be a side yard on each side of the principal buildings of not less than eight (8) feet in width.</i>	Side yards on each side of all principal buildings shall not be less than <b>seven and one half (7.5) feet</b> .

**Rs-5 Single-Family Residential District, Sec. 13-1-46**

Code Sec	City Code Requirement	Applicant Requested Departure
(e)	<i>Lots shall be a minimum of 8,400 square feet in size.</i>	Lots to be a minimum of <b>8,000</b> square feet in size.
(f)(5)	<i>The sum total of the floor area of the principal building and all accessory buildings shall not exceed thirty-six percent (36%) of the lot area; and the lot coverage for the principal buildings and accessory buildings shall not exceed thirty percent (30%) of the lot area.</i>	The sum total of the floor area of the principal building and all accessory buildings shall not exceed <b>forty percent (40%)</b> of the lot area; and the lot coverage for the principal buildings and accessory buildings shall not exceed <b>thirty-five percent (35%)</b> of the lot area.
(g)(1)	<i>There shall be a minimum setback of twenty-five (25) feet from the ROW of all streets.</i>	For corner lots there shall be a minimum <b>fifteen (15) feet</b> from the side street ROW.

**Rd-1 Two-Family Residential District, Sec. 13-1-50**

Zero lot line development (*Conditional Use Required*), Sec 13-1-50(d)

Code Sec	City Code Requirement	Applicant Requested Departure
(d)(2)(a)	<i>Lots shall be a minimum of 6,000 square feet in size.</i>	Lots to be a minimum of <b>4,000</b> square feet in size.
(d)(2)(a)	<i>Lots shall be not less than fifty (50) feet in width at the setback line.</i>	Lots to be not be less than <b>thirty-three and one half (33.5) feet</b> in width at the setback line.
(d)(2)(b)	<i>There shall be a minimum setback of thirty (30) feet from the ROW of all streets.</i>	For corner lots there shall be a minimum <b>twenty-five (25) feet</b> from the side street ROW.
(d)(2)(b)	<i>There shall be a side yard on one side of the principal buildings of not less than ten (10) feet.</i>	Side yards on one side of all principal buildings shall not be less than <b>seven and one half (7.5) feet</b> .
(f)(4)	<i>The sum of the floor area of the principal two (2) family building and all accessory buildings shall not exceed forty percent (40%) of the lot area.</i>	The sum of the floor area of the principal two (2) family building and all accessory buildings shall not exceed <b>sixty percent (60%)</b> of the lot area

Council Member Arnett appreciated the engineering and planning that went into this plan and is in support of the project.

Council Member Burkhart acknowledged that while this project will alleviate housing inventory problems, she is not in favor of this project and the deviations from current Code.

Council Member Bublitz expressed concern for smaller lot sizes but is in support of this project. Tim Seeke – N108 W7152 Berkshire St – expressed concerns about proper drainage for this project and is hopeful the dead ash trees will be removed.

A discussion ensued regarding storm sewer utility lines running between lot numbers 29 & 30 versus lot 30 & 31. Director Wiza expressed concerns with the ability to fit utility trucks between lots 30 & 31 and requested the lines be installed between lots 29 & 30.

A motion was made by Council Member Bublitz to close the Public Hearing regarding Ordinance 2020-12, seconded by Council Member Thome. Motion carried without a negative vote with Council Member Lythjohan excused.

### **NEW BUSINESS**

#### **CONSIDER RESOLUTION NO. 2020-22 AMENDING THE COMPREHENSIVE LAND USE PLAN – 2025; AND ACTION THEREON**

A motion was made by Council Member Bublitz to approve Resolution 2020-22 to amend the Comprehensive Land Use Plan – 2025, seconded by Council Member Thome. Motion carried without a negative vote with Council Member Lythjohan excused.

#### **CONSIDER ORDINANCE NO. 2020-12 TO REZONE THE 55.287 ACRE PARCEL LOCATED AT W73 N1122 WASHINGTON AVENUE; AND ACTION THEREON**

A motion was made by Council Member Thome to approve Ordinance 2020-12 to rezone 55.287 acre parcel located at W73 N1122 Washington Ave to RS4, RS5, P1, A1, RD4, the PUD overlay district and to include comments above regarding storm sewer management, seconded by Council Member Arnett. Motion carried with one negative vote from Council Member Burkhart with Council Member Lythjohan excused.

#### **CONSIDER GRANTING A TIME EXTENSION TO SUPER-WESTERN FOR COMPLETION OF THE HWY 60 BUSINESS PARK GRADING; AND ACTION THEREON**

The City awarded a contract to Super-Western to grade the HWY 60 Business Park. The contract had about a two-month window to complete the work, and the urgency was mostly related to preparing the Wilo site. Super-Western has been focusing on the Wilo site, and that area will be complete by the Nov. 1st deadline. Other areas of the business park, however, will need more time. Super-Western is requesting a contract time extension based on the following:

- Delays in the issuance of required DOT permits for work along Hwy 60.
- Delays associated with the We Energies abandonment of an existing buried electric service.
- The presence of buried debris in the south pond which has complicated grading operations.
- Wet weather

Super-Western is requesting the contract substantial completion date be moved to November 20, 2020.

A motion was made by Council Member Arnett to grant the extension to Super-Western for completion of the Hwy 60 Business Park grading, seconded by Council Member Thome. Motion carried without a negative vote with Council Member Lythjohan excused.

**CONSIDER ORDINANCE NO. 2020-136 ANNEXING THE 3.768 ACRES AT 6620 SUSAN LANE IN THE TOWN OF CEDARBURG TO THE CITY OF CEDARBURG; AND ACTION THEREON**

City Planner Censky explained to the Council Members that last February 24, 2020 the Council referred the applicant's annexation petition to the Plan Commission for their review and recommendation as is required by State Law. Due to the uncertainty of the economic climate earlier this year, the applicant held off on pursuing annexation until now. Accordingly, now that the applicant's comfort level on the economy is higher, he presented his petition to the Plan Commission on September 3, 2020 and received a positive recommendation to annex the site and that was by unanimous vote.

Section 13-1-40(f) requires that annexed areas be placed in the Rs-1 Single-Family Zoning District until an ordinance is created for permanent zoning. Ultimately, the applicant will pursue rezoning the property to the Rs-4 Single-Family District to match adjacent zoning. Staff recommends approval, subject to the site being zoned Rs-1 Single-Family Residential District.

A motion was made by Council Member Thome to approve Ordinance 2020-13 annexing 3.768 acres at 6620 Susan Lane in the Town of Cedarburg to the City of Cedarburg, seconded by Council Member Bublitz. Motion carried with Council Member Lythjohan excused.

**DISCUSS THE PROPOSED COMPLETION OF SUSAN LANE AND OPENING THE ROAD TO THROUGH TRAFFIC IN 2021; AND ACTION THEREON**

Matt Hahm is in the process of annexing a 3.77-acre parcel on the north side of Susan Lane between Holly Lane and Susan Court. The development plan calls for 7 single family lots on a cul de sac street connecting to Susan Lane. When this project is developed, it would leave a mere 150-foot gap of Town land on the north side of Susan Lane. Since Susan Lane is shown on the Official City Map as a continuous street, staff is recommending that the Susan Lane pavement be completed as part of the development. The south half of the pavement would be paid by the City, as the fronting property is City owned, and the north half would be borne by the developer. This would be established as part of the developer's agreement, which will ultimately be presented to the Common Council when the final plat is submitted. The Council discussed concerns of increased traffic speeds on Susan Lane once this project is complete. A final development agreement is forthcoming.

Members of the community expressed concerns with traffic speed as well as noise control on Susan Lane.

A motion was made by Council Member Verhaalen to open the road to through traffic on Susan Lane in 2021, seconded by Council Member Burkhart. Motion carried with Council Members Arnett, Burkart, Verhaalen, Simpson and Thome voting aye, Council Member Bublitz opposed and Council Member Lythjohan excused.

**CONSIDER MAYORAL APPOINTMENTS FOR PUBLIC ART COMMISSION; AND ACTION THEREON**

With the unfortunate passing of Paul Yank, Mayor O’Keefe was happy to recommend the appointment of Susan Hale to the Public Arts Commission. Ms. Hale is an accomplished artist and is known throughout the Midwest.

A motion was made by Council Member Bublitz to approve the appointment of Susan Hale to the Public Arts Commission, seconded by Council Member Arnett. Motion carried without a negative vote with Council Member Lythjohan excused.

**CONSIDER ENGINEERING PROPOSALS RECEIVED FOR THE 2021 STREET UTILITY AND ASPHALT REPAIR PROJECTS; AND ACTION THEREON**

Staff requested proposals from a total of five engineering consulting firms for design of the 2021 Street and Utility Project and the 2021 Asphalt Pavement Repair Project. A detailed request for Proposal (RFP) was sent to each firm, and the scope of work has been well defined. All five firms submitted responsive proposals, and the lowest overall fee for design services was submitted by R.A. Smith. The 2021 Street and Utility Project includes the reconstruction of Evergreen Boulevard from Western Road to Bridge Road. Evergreen Boulevard will receive new asphalt pavement and open graded base from curb to curb, with spot replacement of defective sidewalk and curb. Storm sewer will be replaced in segments as well as some of the catch basins and leads. The 2021 Asphalt Pavement Repair Project includes Washington Avenue from Hamilton Road to Center Street. Washington Avenue will receive a new surface layer of asphalt pavement over the existing concrete base from curb to curb, with spot replacement of defective concrete base, sidewalk, and curb. Staff recommends award of the engineering design for the 2021 projects to R.A. Smith based on their low fee of \$24,200.00.

A motion was made by Council Member Thome to award the engineering project to R.A. Smith, seconded by Council Member Burkart. Motion carried without a negative vote with Council Member Lythjohan excused.

**CONSIDER OVERVIEW OF 2021 BUDGET**

A discussion ensued about the 2021 City budget. Administrator Hilvo explained health insurance costs may be increased at a rate higher than 12%. He will know soon and inform the Council. Since it is not an option to increase taxes, the Council discussed the need to find alternative ways to cut the budget. No action was taken by the Council.

**CONSIDER CLASS “B” FERMENTED MALT BEVERAGE LICENSE APPLICATION OF DK ENTERPRISES INC., W62 N601 WASHINGTON AVENUE, FOR DARYL KRANICH, AGENT, PREMISES TO BE LICENSED: W62 N601 WASHINGTON AVENUE, KNOWN AS CREAMY PIG; AND ACTION THEREON**

Motion made by Council Member Bublitz, seconded by Council Member Simpson, to approve a Class “B” Fermented Malt Beverage License to DK Enterprises, Inc. W62 N601 Washington Avenue, for Daryl Kranich, agent, premises to be licensed: W62 N601 Washington Avenue, known as Creamy Pig. Motion carried without a negative vote with Council Member Lythjohan excused.

**CONSIDER LICENSE/PERMIT APPLICATIONS; AND ACTION THEREON**

Motion made by Council Member Bublitz, seconded by Council Member Simpson, to approve new Operator License applications for the period ending June 30, 2021 for Tyler J. Bell and renewal Operator License applications for the period ending June 30, 2021 for Anne E. Johnson and Benjamin Voith. Motion carried without a negative vote with Council Member Lythjohan excused.

Motion made by Council Member Burkhart, seconded by Council Member Bublitz, to approve the request from Wollersheim Winery Inc (Cedar Creek Winery) to add a contiguous portion of the Cedar Creek Settlement to their premise description in which a portion is being relinquished by Donna Taylor (Cream & Crepe Café). Motion carried without a negative vote with Council Member Lythjohan excused.

**CONSIDER PAYMENT OF BILLS DATED 10/09/2020 THROUGH 10/16/2020, TRANSFERS FOR THE PERIOD 10/10/2020 THROUGH 10/23/2020 AND PAYROLL PERIOD 10/04/2020 THROUGH 10/17/2020; AND ACTION THEREON**

Motion made by Council Member Thome, seconded by Council Member Bublitz, to approve payment of bills dated 10/09/2020 through 10/16/2020, transfers for the period 10/10/2020 through 10/23/2020, and payroll for period 10/04/2020 through 10/17/2020. Motion carried without a negative vote with Council Member Lythjohan excused.

**ADMINISTRATOR’S REPORT**

In addition to the report included with the Council packet, Administrator Hilvo wanted to inform the Council of a new video on the City’s website depicting trick or treat in the City this year.

**COMMENTS AND SUGGESTIONS FROM CITIZENS** – n/a

**COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS**

Council Member Bublitz explained that Mequon/Thiensville schools will be changing the method of teaching to virtual learning next week due to Covid concerns. It is her hope everyone stays safe so kids may remain in school.

**MAYOR REPORT**

Mayor O'Keefe highlighted the book Lab Girl, which he explained is a good inspirational book. The Library currently is holding a reading event with this book and the Mayor encourages people to check out a copy. He also wished to thank Mary Sheffield for her years of service with the City and wishes her well with future endeavors.

**ADJOURNMENT**

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to adjourn the meeting at 9:10 p.m. Motion carried without a negative vote with Council Member Lythjohan excused.

Tracie Sette  
City Clerk