

CITY OF CEDARBURG
PLAN COMMISSION

PLN20180104-1
UNAPPROVED MINUTES

January 4, 2018

A regular meeting of the Plan Commission of the City of Cedarburg was held on Thursday, January 4, 2018 at Cedarburg City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. The meeting was called to order at 7:00 p.m. by Vice Chairperson Mark Burgoyne.

Roll Call: Present - Council Member John Czarnecki, Mark Burgoyne, Mark Poellot, Greg Zimmerschied, Heather Cain, Daniel von Bargaen

Excused - Mayor Kip Kinzel

Also Present - Council Member Patricia Thome, Assistant City Attorney Tim Schoonenberg, City Planner Jon Censky, Administrative Secretary Darla Drumel, news media

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.

COMMENTS AND SUGGESTIONS FROM CITIZENS

Vice Chairperson Burgoyne offered the opportunity for the public to speak on any issue unrelated to the agenda items. None were offered.

APPROVAL OF MINUTES

Commissioner Zimmerschied moved to approve the minutes of December 4, 2017 and the motion was seconded by Commissioner von Bargaen. Commissioner Zimmerschied requested that the second sentence in the last paragraph on page PLN20171204-2 "He noted, however, if the use of food truck is better for the business where it is located, it is better for the City." be deleted as this did not reflect his intention. The motion to approve the minutes with the requested correction carried without a negative vote, with Mayor Kinzel excused.

CONDITIONAL USE REQUEST FOR A TOURIST ROOMING HOUSE AT W62 N596 WASHINGTON AVENUE – FIX INVESTMENTS LLC/ERIC FIX

Vice Chairperson Burgoyne opened the public hearing at 7:04 p.m. There was no response when he asked if anyone wished to speak to the issue.

Action to Close Public Hearing:

A motion was made by Commissioner Zimmerschied, seconded by Commissioner Poellot, to close the public hearing at 7:07 p.m.

Continued Discussion:

Planner Censky reported that Eric Fix is seeking conditional use approval to convert the upper level apartment unit in his downtown building located at W62 N596 Washington Avenue into a tourist rooming house unit. The site is supported by six private parking stalls located to the rear of the building which are accessed through a private drive off Columbia Road. No exterior changes to the site or building are proposed with this request.

Planner Censky reminded Commissioners that the Zoning Code was amended in 2014 to add Tourist Rooming Houses to the list of permitted Conditional Uses in the B-3 District. Tourist Rooming Houses are defined as: **All lodging places and tourist cabins and cottages, other than hotels and motels, in which sleeping accommodations are offered for pay to tourists or transients as regulated under Wisconsin Chapter DHS 195.**

Eric Fix, the property owner, stated that Tourist Rooming House would be the highest and best use of the property. Only the interior would receive upgrades such as painting and new carpeting. Neighbors recommended that no outdoor activities be allowed with the use such as a fire pit, grilling, picnic table, etc. and that pets be prohibited. Mr. Fix has agreed to those stipulations.

Action:

Commissioner Zimmerschied moved to grant a Conditional Use Permit to Eric and Jackie Fix for an upper one bedroom/one bath Tourist Rooming House unit at W62 N596 Washington Avenue subject to the following:

1. Any substantiated problems with this use shall be corrected by the owner immediately upon notification and if left uncorrected, may result in the revocation of the conditional use permit.
2. Cedarburg Fire Department will follow the State Licensing Bureau for Rooming Houses, NFPA 1 Section 20.10 and NFPA 101 Life Safety Code.
3. Smoke detectors and CO detectors are to be installed and properly maintained.

The motion was seconded by Council Member Czarnecki.

Continued Discussion:

Commissioner Cain inquired whether a conditional use permit can be transferred to a new property owner. Planner Censky advised that a conditional use permit is issued in the name of the petitioner and cannot be transferred to a new property owner.

Final Action:

The motion carried without a negative vote, with Mayor Kinzel excused.

**REQUEST FOR CERTIFICATE OF APPROPRIATENESS FOR NEWLY-INSTALLED
PURPLE AWNING AT W61 N514 WASHINGTON AVENUE – PJ PIPER PANCAKE
HOUSE/JUDITH FERGADAKIS**

Planner Censky noted that Judith Fergadakis was before the Plan Commission November 6, 2017 seeking Certificate of Appropriateness for the replacement awning recently installed over the front of the P.J. Piper Restaurant at W61 N514 Washington Avenue. This new awning consists of bright purple fabric stretched over a metal frame attached to the building which replaced the old faded green awning. The color of the new awning was chosen by Ms. Fergadakis because it matches the color of the new interior décor. Ms. Fergadakis was asked at that meeting to research whether something could be applied to the fabric to reduce the brightness. Ms. Fergadakis' request was sent back to the Landmarks Commission for further review and recommendation with the understanding that a majority of the Landmarks Commission be present to vote on the request as the initial recommendation was made with just four Commissioners in attendance. Because the initial recommendation resulted in a tie, it was felt that that action lacked adequate guidance to aid the Plan Commission.

Accordingly, the Landmarks Commission again considered this request at their December 14, 2017 meeting with six of the seven Commissioners present (Judy Jepson out sick). After some discussion, a motion was made to recommend denial of the request due to the brightness of the color. Commissioners felt that if they had been presented with this request before installation, they would have denied it due to the bright color. This recommendation was approved by a vote of four to two, with one excused Commissioner. In making their decision, Commissioners felt that the Landmarks Commission responsibility is to oversee the protection and perpetuation of the City's Historic District by only considering what is best for the District from a historical standpoint, without consideration given to any other factors. They opined that the Plan Commission then considers their recommendation along with any other issue relating to the vitality of the downtown business district, including but not limited to, the economic impact on individual businesses. Accordingly, the Landmarks Commission's recommendation is based solely on the impact the new awning has on the historic integrity of the Washington Avenue Historic District.

Vice Chairperson Burgoyne advised that the Plan Commission has relied on the expertise of the Landmarks Commission when considering petitions for approval. He recalled that the Plan Commissioners had also asked for information on the possibility of a treatment to tone down the color of the purple awning.

Council Member Thome reported that the recommendation was reached by Landmarks Commissioners only after they were asked if the purple awning would have been approved if presented for approval before it was installed.

Ms. Judith Fergadakis of PJ Piper Pancake House reported that she had investigated the option of a treatment for the awning and that no application would tone the color down and that treatment would only make the awning look worse.

Commissioner Cain noted that it has been stated that the decision was also based on whether the purple awning resembled any other feature in the Historic District and pointed out that there is already a purple building in the District. She added that since the awning will likely require replacement again in five to ten years, requiring replacement at this time would have a significant financial impact to the property and business owner.

Vice Chairperson Burgoyne stated that there had been an error when paint chips were not submitted for the approval for painting the purple building, with which the approval would not have been given. He also believed the purple in the awning was a significantly stronger color than the paint on the subject building.

Commissioner Zimmerschied opined that two wrongs do not make a right. He is a Historic District property owner as well and a lot of effort has established and maintained the historic character of the downtown over the years. He asked what the community would look like now if everyone did whatever they wanted and then begged for mercy. Commissioner Zimmerschied cited several of the many buildings that the property owners, at considerable cost, have meticulously restored downtown. It is obvious there is a struggle with cost, but it is not the Plan Commissioners responsibility to consider economic hardship. He was leaning to support the Landmarks Commission recommendation.

Commissioner Cain responded that there have been several businesses begging for forgiveness in the recent past and have been approved. She struggled with whether this is the time to draw a line on the issue. Her opinion was that the Plan Commissioners should be consistent on how their decisions are applied.

Commissioner Poellot stated that the color will fade. To require the owner to replace the awning when it would need replacement in a few years anyway would not be worth the negative affect on the property owner and her business.

Commissioner von Bargaen appreciated the Historic District and supports the Landmarks Commission, but believes the installation of the awning was a mistake and the punitive costs in this instance to replace a \$4,000 brand new awning with another \$4,000 brand new awning did not seem appropriate. In five years, replacement of the awning will likely be more costly because of the deterioration of the awning structure. Commissioner von Bargaen asked if color schematics are offered or if certain colors are decreed to be offensive by the Landmarks Commission to provide some guidance to property owners. He suggested that every property owner in the Historic District receive a reminder that any exterior changes require approval and that going forward no other exceptions will be made.

Planner Censky reported that the architect on the Landmarks Commission also opined that the awning is going to fade and first voted to allow the awning to remain. Once the question was posed on whether he would have voted to approve the purple color if proposed prior to installation, he voted no. Planner Censky reported that a reminder has been distributed through the Chamber of Commerce, handouts are provided to property owners at City Hall, and the information is also available on the City's website.

Council Member Czarnecki suggested that if a color palette was required that was not extensive enough, all the colors in the Historic District would be the same.

Action:

A motion was made by Council Member Czarnecki to approve the installed purple awning on the condition that when it is replaced, all approvals are obtained. The motion was seconded by Commissioner Cain.

Commissioner Zimmerschied offered an amendment to include a date to remove and replace the awning in the motion. There was no second to the amendment.

Continued Discussion:

Vice Chairperson Burgoyne noted that the Landmarks Commission has done a great job for about forty years without providing specific guidance on a color scheme. There has been an outstanding record of compliance with the City's solid ordinances and very few judgmental decisions.

Final Action:

The motion carried with Council Member Czarnecki and Commissioners Poellot, Cain and von Bargaen voting in favor; Vice Chairperson Burgoyne and Commissioner Zimmerschied voting against, and Mayor Kinzel excused.

Continued Discussion:

Commissioner Zimmerschied questioned whether notices can be included on deeds when Historic District properties transfer ownership. City Attorney Schoonenberg advised that real estate documents generally refer to municipal zoning, but that he would look into the matter.

SITE, ARCHITECTURAL, LIGHTING AND LANDSCAPING PLAN APPROVALS FOR THE 192-UNIT CEDAR PLACE APARTMENTS DEVELOPMENT ON SHEBOYGAN ROAD – DUEY STROEBEL

Planner Censky noted that Duey Stroebel received concept approval from the Plan Commission for these plans along with rezoning of the site in September of 2017. Since that decision, Mr. Stroebel has been working on the final details and is now seeking approval of his architectural, landscaping, site, lighting and sign plans for his "Cedar Place Apartments" project. Upon approval of his final detailed plans, they can be submitted for State review and approval; after which Mr. Stroebel can then pursue a building permit. Planner Censky added that the Certified Survey Map and Development Agreement would be presented to the Plan Commission in the future for approval. Also, it has been determined that the City Plan Commission does not have the authority to require the sprinkling of buildings and the developer will work with the Fire Department and the Building Inspector to resolve that issue. Planner Censky recommended that any approval require that all necessary Department of Natural Resources (DNR) permits be obtained.

Site Plan:

These plans reflect the concept plans approved September of 2017. This project consists of 12 sixteen-unit apartment buildings for a total of 192 units at a density of 10.3 units/gross acres or 14.9 units/net acre (Net acreage = Gross acreage minus right-of-way dedication and conservancy area). The project will be served by a private driveway/parking system including 383 parking stalls, 192 of which will be enclosed and the remaining 191 will be surface stalls, resulting in a count of 2 parking stalls per unit. City Code requires 1.5 stalls per unit. Mr. Stroebel has been in contact with the Fire Department to discuss required turning radius needed to accommodate the large fire trucks and to discuss hydrant location. In regard to the location of the sign and as directed by staff, the sign will be shifted back from the Sheboygan Road entrance to provide better vision for those leaving this development.

Landscape Plans:

To buffer the developing The Glen at Cedar Creek subdivision directly to the south, this plan proposes an assortment of White Fir trees, Norway spruce, Thornless Cockspur Hawthorn and Western Arborvitae intermixed with a few ornamental trees along the south property line where the homes in that development are closest to this project. Along the building foundations the plans show a planting scheme of higher growth decorative trees and low growth shrubs, perennials and ornamental flowers and grasses. Along the Sheboygan Road frontage the plan also shows a scattered plantings of shade, ornamental and evergreen trees. This planting scheme is then repeated throughout the project and within parking lot. The plan is in compliance with City requirements for site and parking lot standards.

Architectural Plan:

The architectural plans are based on the concept plans reviewed and approved by this Commission and the Common Council in September 2017, but with more details. The submitted three architectural schemes differ from each other only in color. Scheme No. 1 will include black and grey colors, Scheme No. 2 beige and brown colors, and Scheme No. 3 will include rustic red and taupe colors. The buildings will be of composite board siding and trim with composite straight shakes or board and batten at the gables complemented by cultured stone applied on all elevations. The apartment buildings will be constructed at a height of 33' 11-3/4" to the peak of the roof. The club house building materials and all garages will match color Scheme No. 1. The height of the 14-stall garages will be constructed at 16.5' to the peak and the 7-stall garages at 13' to the peak. Finally, the dumpster enclosures will be of stained treated board material with matching gates equipped with spring hinges to insure trash will remain enclosed at all times.

Lighting Plan:

According to the lighting plan, Mr. Stroebel proposes to use the same residential style fixtures for all lights within this project but will vary in size and configuration based on use/placement and will contain low intensity 60 to 150 watt LED bulbs. These fixtures are identified as Quorum Lighting 7361-45 Denmark Outdoor Light in Baltic Granite.

Signage:

According to the site plan, their identification sign is proposed to be located on the island at the entrance to this complex. The plan shows the island encroaching into the Sheboygan

Road right-of-way and because that location interferes with the public sidewalk Mr. Stroebel has agreed to shift the island back onto their site. That shift will also serve to move the sign back to where it will have less of an impact on the sight line for those leaving this project. The sign face is part of a monument structure with the face of the sign at a height of 6' and it measures 8' X 3.5' for a total size of 28 square feet. A landscape area extends out from the base of the sign.

Certified Survey Map:

The Certified Survey Map (CSM) is required as the basis for the site plan. Because the CSM includes dedication of right-of-way for Sheboygan Road, Common Council approval is necessary. City will require a minimum 20-foot width for any sewer and water utility easement. The present CSM document shows a number of 10-foot easements that should be changed to 20-foot minimum width.

Development Agreement:

The Development Agreement is the contract between the City and the developer that establishes the developer's responsibilities regarding the provisions of public and private facilities, improvements, and any other agreed-upon terms. The Development Agreement is in draft form only and will require additional review by the City Engineer and City Attorney before it is presented to the Plan Commission and Common Council for approval.

Mr. Stroebel's project will be served by sewer and water facilities extended from The Glen at Cedar Creek subdivision. These facilities will then be extended through this site to the north property line and made available to serve the future commercial development of those lands and lands to the west.

Planner Censky noted that this site is downstream from several large tracks of undeveloped parcels and Mr. Stroebel has been working closely with the City Engineer to insure proper grading and storm water management. Since the plans now show an extensive pond in the upland conservancy area at the east end of this site, DNR approval will be needed. This pond will likely require extensive tree cutting and shrubbery removal, so a Tree Cutting and Clearing Permit from the City will also be required. This permit will be reviewed by the City Forester before being submitted to the Plan Commission for review and recommendation. The Common Council will make the final decision.

Duey Stroebel, the developer, confirmed that the Commission is being asked to approve plans that are identical to the concept plans but have been more detailed. Meetings have been held with the Fire Department to meet the emergency vehicle turning radius requirements and to properly locate fire hydrants. The sign has been moved out of the Sheboygan Road right-of-way so that there are no issues with the vision triangle. Meetings have also been held with the City Forester for extensive landscaping and dense screening for the property owners to the south of the project. Many dead Ash trees are to be removed along with clearing for the proposed pond, but the best trees would be untouched and the site heavily reforested. The walking path would be matched at the south and the north property lines. There have also been several meetings with Architect Mark Poellot of the Plan Commission, who had excellent suggestions regarding materials and architectural elements.

Lighting will be residential in nature with different applications of Craftsman-style fixtures on the buildings and poles that would not exceed nine-to-ten feet in height. The lighting would be warm and not spill onto adjacent properties.

Engineer Troy Hartjes of R.A. Smith International added that the sewer and water mains would be located in coordination with the City Engineer and there will be two water connections as requested by Cedarburg Light & Water. In response to Commissioner Czarnecki's query, Mr. Hartjes advised that the sewer and water main lines would be extended to the west side of Sheboygan Road as part of this project.

Action:

Council Member Czarnecki moved to approve the site, architectural, lighting, landscaping and sign plans as proposed subject to the following:

1. The applicant shifting the location of the island and sign back out of the right-of-way.
2. The water main shall be looped around the east side of the development with one more hydrant and a second water main feed from Sheboygan Avenue shall be required.
3. The Fire Department will need to confirm that turning radius in driveway is adequate for the large fire trucks.
4. The applicant will need to meet with the Fire Department to determine fire hydrant location.
5. All DNR approvals are obtained.
6. WDNR, City Plan Commission and Common Council approval of a Tree Cutting and Clearing Plan for the removal of trees in preparation for the work within the C-4 District.
7. The applicant having the Floodplain, Wetlands and Upland Conservancy District field verified and staked.
8. Engineering Department review and approval of the grading, drainage, erosion control and stormwater management plans.
9. Engineering Department approval of the grading plans and standard cross-section of the public sidewalk in the Sheboygan Road right-of-way.
10. Engineering Department approval of the infrastructure (i.e. sewer, water, and driveway) plans.
11. Payment of the development impact fees listed in the development agreement prior to issuance of building permits.

12. The walking path at the east end of the site shall extend to and interconnect with the walking path to the south and extend to the north property line.
13. The Development Agreement being approved by the Common Council.
14. Dumpster enclosure gates are to be equipped with devices to insure they remain closed at all times.

The motion was seconded by Commissioner von Barga and carried without a negative vote, with Mayor Kinzel excused.

COMMENTS AND ANNOUNCEMENTS BY PLAN COMMISSIONERS

No comments or announcements were made by Plan Commissioners.

MAYOR'S ANNOUNCEMENTS

No announcements were offered.

ADJOURNMENT

Council Member Czarnecki moved to adjourn the meeting at 7:58 p.m. The motion was seconded by Commissioner von Barga and carried without a negative vote, with Mayor Kinzel excused.

Darla Drumel,
Administrative Secretary