

**CITY OF CEDARBURG
PLAN COMMISSION**

**PLN20210503-1
UNAPPROVED MINUTES**

May 3, 2021

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, May 3, 2021 via the [zoom](#) app. The meeting was called to order at 7:00 p.m. by Mayor Michael J. O'Keefe.

Roll Call Present - Mayor Michael J. O'Keefe, Council Member Patricia Thome, Vice Chairperson Mark Burgoyne, Kip Kinzel, Adam Voltz, Heather Cain, Sig Strautmanis

Also Present - City Planner Jon Censky, Council Member Robert Simpson, Administrative Secretary Victoria Guthrie, news media

STATEMENT OF PUBLIC NOTICE

Planner Censky 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 Thome, seconded by Commissioner Strautmanis, to approve the minutes of April 5, 2021. The motion carried without a negative vote.

COMMENTS AND SUGGESTIONS FROM CITIZENS

Mayor O'Keefe offered the opportunity for the public to speak on any issue unrelated to the agenda items. He advised that the Plan Commissioners would not be able to respond to any comments since they were not noticed on the agenda. No comments from the audience were offered.

CONSIDER RECOMMENDATION OF APPROVAL FOR OUTDOOR ALCOHOL BEVERAGE LICENSE FOR THE STAGECOACH INN LOCATED AT W61N520 WASHINGTON AVENUE – BILL & ANNE CONLEY

Planner Censky reported that the Petitioners are requesting approval of an Outdoor Alcohol Beverage License to be able to serve drinks in the gathering area behind their establishment. Due to the property being located in the Historic Preservation District, the Landmarks Commission reviewed this request and recommended approval at their April 22, 2021 meeting.

Planner Censky notes that the Petitioners received Common Council approval of an Outdoor Amplified Sound or Music Permit for up to two events per week for this seating area. He stated that the Petitioners have been using this area for outdoor music events since the COVID-19 lockdown in 2020 in order to maintain their business; however, as lockdown restrictions have evolved, they wish to continue hosting patrons in this area. This outdoor space contains seating and tables and is defined with planters and decorative fencing.

Petitioner Bill Conley clarified that the area is not permanently fenced because they still use it as a parking lot. He compared the space as being similar to the Cedarburg Cultural Center outdoor event area, which is a patio that was constructed in their parking lot. Petitioner Conley explained that although there are various entrance points to this space, he has spoken with Police Chief Thomas Frank who raised no objections to this set up. He also assured Commissioners that they have not had any nuisance complaints stemming from this use, and expressed a willingness to address any potential issues in order to maintain this operation. Although they are currently using this space short-term, they may end up taking more permanent control measures if they decide to continue the use long-term. Petitioner Conley agreed to work with Planner Censky and Chief Frank to come up with a more agreeable set up if they decide to continue the use into 2022.

Action:

A motion was made by Mayor O'Keefe to recommend approval of the Outdoor Alcohol Beverage License for the Stagecoach Inn, with the contingency that if the Petitioners wish to continue operation in the area next year, they will resubmit their plans to the Plan Commission for review and approval. This motion was seconded by Council Member Thome and passed without a negative vote.

CONSIDER RECOMMENDATION OF APPROVAL FOR OUTDOOR ALCOHOL BEVERAGE LICENSE FOR THE NEW FORTUNE ASIAN CUISINE RESTAURANT LOCATED AT W62N547 WASHINGTON AVENUE – JIMMY PHOA

Planner Censky summarized the proposed service area as situated in the rear yard of the establishment, between their building and Romano's Pizzeria to the west. The area is enclosed by fencing and contains several tables and chairs. Ingress and egress to the area is restricted through their building. These plans were also reviewed by the Landmarks Commission during their April 22, 2021 meeting, and were recommended for approval.

Petitioner Jimmy Phoa was present for the meeting and explained that there is currently a two-foot gap in the fencing that could be accessed in an emergency evacuation. He agreed to send a copy of the site plan showing a Code compliant emergency access gate to Planner Censky, who will have Fire Chief Jeff Vahsholtz review to ensure this area meets Code.

Action:

A motion was made by Commissioner Strautmanis to recommend approval for the Outdoor Alcohol Beverage License on the condition that the Fire Chief reviews the plan to ensure the fence gate is Code compliant. This motion was seconded by Commissioner Voltz and passed without a negative vote.

CONSIDER APPROVAL OF EXTRATERRITORIAL LAND DIVISION FOR A 5.835-ACRE PARCEL FROM A 63.96-ACRE PARCEL LOCATED AT 255 WAUWATOSA ROAD IN THE TOWN OF CEDARBURG – PUMPKIN FARM LLC/DON THOMA

Planner Censky explained the extraterritorial plat approval jurisdiction for the City is the area within one and one-half miles of the City limits. Since this plat lies within that jurisdiction, any proposed plat approval must come from both the Town of Cedarburg and the City. If the land division results in the dedication of public right-of-way, the City of Cedarburg Common Council approval would be necessary; however, no such dedication for this division is required. The City of Cedarburg Plan Commission must issue their approval before the division can move forward.

When approving extraterritorial land divisions, Planner Censky explained the importance of consulting the *City of Cedarburg Smart Growth Comprehensive Land Use Plan – 2025* in order to ensure consistency with future land use in the area. This Plan has this area categorized as low density residential, unsewered. Mayor O’Keefe stated that he would like more time to review the division request in relation to the Land Use Plan before issuing an approval.

Action:

A motion was made by Mayor O’Keefe to postpone the land division request until the next Plan Commission meeting scheduled for June 7, 2021. The motion was seconded by Council Member Thome and passed with Mayor O’Keefe, Council Member Thome, Vice Chairperson Burgoyne, Commissioners Strautmanis, Cain and Voltz in favor, and Commissioner Kinzel opposed.

CONSIDER REZONING RECOMMENDATION FOR PARCEL LOCATED AT N104W6620 SUSAN LANE FROM RS-1 (TEMP) TO RS-3 SINGLE-FAMILY AND PRELIMINARY PLAT REVIEW – HIDDEN GROVE/HAHM DEVELOPMENTS LLC

Planner Censky reminded Commissioners that the Petitioner requested and was granted an annexation of his parcel into the City by the Common Council in October of 2020. As required by Code, the site was placed into the Rs-1 Single-Family Residential District on a temporary basis until permanent zoning was approved. This request is to officially rezone the property to the Rs-3 District.

In support of their rezoning request, the Petitioner submitted a detailed concept plan consisting of seven (7) single family lots ranging in size from 13,122 square feet to 31,860 square feet situated around a half-circle roadway that connects to Susan Lane. This development will result in Susan Lane becoming a through street.

City Staff recommends rezoning this property as proposed with the following stipulations from the developer:

1. Add storm sewer laterals for all lots.
2. Verify that the turning radius is adequate to support the City’s fire apparatus.
3. Use a 100-foot taper for the south Susan Lane access curb line to match the point on the east end.

Action:

A motion was made by Mayor O'Keefe to recommend approval to rezone the property from Rs-1 (temp) to Rs-3 as proposed. This motion was seconded by Council Member Thome and passed without a negative vote.

PROVIDE CONCEPT REVIEW/CONSULTATION FOR PROPOSED TWO-FAMILY SUBDIVISION LOCATED AT 6660 SUSAN LANE IN THE TOWN OF CEDARBURG – WYNDALE INVESTMENTS LLC/KINGS WAY HOMES

Planner Censky explained that the Petitioner has an offer to purchase the former Tillman quarry property, and intends to request an annex to the City for access to our municipal sewer and water service. However, before proceeding with the annexation request, Petitioner Craig Caliendo, President of Kings Way Homes, would like to get feedback from the Plan Commission on whether his proposed development on this parcel would get their support.

The submission indicates a site plan with 37 side-by-side ranch style buildings (total 74 units), located along a private road. This road enters the property from Susan Lane, heads north and then meanders around the existing lake (former Tillman quarry) and ends up back as a boulevard with access to Susan Lane. The proposed density of the project is 1.85 units per gross acre, 2.5 units per net acre, exclusive of the quarry.

Planner Censky explained that the *City of Cedarburg Smart Growth Comprehensive Land Use Plan – 2025* classifies the property as medium density residential to the south of the quarry and industrial and manufacturing to the north of the quarry. A review of the plans by City Staff raised the following concerns:

1. In a letter dated January 19, 2021 addressed to the City from the Southeastern Wisconsin Regional Planning Commission (SEWRPC), Executive Director Kevin Muhs states “a portion of the subject property is identified as a Critical Species Habitat known as the Cedarburg Woods-West Site.” Director Muhs continues, “following a review of the site preliminary vegetation inventory, it was found that the site provides essential habitat for two species listed as Special Concern by the Wisconsin Department of Natural Resources. In the Commission’s Amendment to the *Natural Areas and Critical Species Habitat Protection and Management Plan for the Southeastern Wisconsin Region* (Planning Report No. 42), it is recommended that the subject Critical Species Habitat site is preserved to the extent practicable without protective ownership.” In summary, Director Muhs concludes that the SEWRPC’s recommendation is that if further development is pursued on this property, “disturbance to the subject forest is kept to a minimum.”
2. *The City of Cedarburg Smart Growth Comprehensive Land Use Plan – 2025, Chapter 1, Goals, Objectives and Policies*, states “all natural areas and critical species habitat sites as identified in the Regional Natural Areas and Critical Species Habitat Protection and Management Plan should be preserved.”
3. Fire Chief Vahsholtz reviewed the proposed plans and wanted to address the quarry at the center of the development. He states that the Cedarburg and other area rescue teams are only certified to search up to a depth of 80 feet; however, he observed that the quarry is over 100 feet deep in areas. If any rescue efforts

are needed, it is likely the resources for rescue would not be readily available. He urges caution around the quarry and suggests that recreational use be altogether prohibited and restricted with fencing or signage.

4. The Developer has proposed the internal road be designated as private. City Staff has discouraged the use of private roads in developments due to the high number of owners voicing their displeasure that their private roads are not maintained and controlled by the City, mostly in relation to snow removal, parking and street repairs.
5. Since the plans show one road to enter and exit this property, City Staff recommends that an access road be introduced on the east side of the parcel in order to be incorporated into future development of the adjacent property, ultimately connecting both parcels through to Sheboygan Road.

In regard to concerns number 1 and 2 above, Planner Censky challenged the plans as they have been proposed, pointing out that the road slices directly through this stand of woods with buildings on both sides, essentially destroying this critical habitat. City Staff recommends the road be relocated and the Cedarburg Woods-West Site be preserved in its entirety with the proposed buildings removed.

In order to address concern number 4, Vice Chairperson Burgoyne asked if Planner Censky could provide a summary statement for Commissioners regarding the pros, cons and costs of public versus private roads in developments.

Several neighboring residents attended this meeting and provided the following input for consideration:

Amy Ehrlich, N102W6742 Susan Lane, stated that although the Commissioners sound excited about this plan, she is not. This parcel is located just north of her property, which offers her a view of the woods. She believes the green space to be beneficial and imagines this space would also be seen as a benefit for future condo owners. Ms. Ehrlich emphasized that she does not want to see houses everywhere.

Marty Auchter, W63N1053 Holly Lane, resides on the property located at the southeast corner of the parcel. Although he would prefer the development contain single-family homes, he did admit that the two-family home designs look nice. Mr. Auchter expressed concern that if the road is designated as private, it would prohibit others from driving through the area. With his house situated east of the parcel, he would not want to see an access road come through on that side, stating that he would rather see it routed through the Baehmann parcel on the west or the Highway 60 Business Park on the north.

Rob Vanden Noven, W68N1068 Kensington Avenue, situated on the west side of the quarry, established that his priority is protecting the woods in the area. He pointed out that since it was identified as woodlands in the SEWRPC report as well as the Land Use Plan, he believes this natural resource is important. He feels that any harm that may come to the woods would be a great disservice to the neighborhood and implored the Commissioners to respect these environmental designations.

Matt Petrarca, W63N1041 Holly Lane, located on the southeast side of the quarry inquired if there will be a stop sign installed at Susan Lane.

Planner Censky reiterated that this agenda item tonight is strictly to provide feedback to the Petitioner explaining that road controls are addressed by the Police Chief and City Engineer, farther along into the process. He pointed out that at this time, the Petitioner has not completed a request to annex the parcel into the City.

While Commissioner Strautmanis supported the project, he stressed that any disturbance to the environmental corridor is a dealbreaker without question. Mayor O'Keefe voiced his preference for this development to be woven with the surrounding homes, becoming part of a larger neighborhood. He would also like the woods to be available as a neighborhood resource. Commissioner Voltz concurred with the importance of preservation of the forested area, and wants to ensure any negative impact of roadways and paths be minimized.

COMMENTS AND ANNOUNCEMENTS BY PLAN COMMISSIONERS

No comments or announcements were made.

MAYOR'S ANNOUNCEMENTS

Mayor O'Keefe had no announcements.

ADJOURNMENT

A motion was made by Commissioner Kinzel, seconded by Council Member Thome, to adjourn the meeting at 8:40 p.m. The motion carried without a negative vote.

Victoria Guthrie
Administrative Secretary