

**CITY OF CEDARBURG
PLAN COMMISSION**

**PLN20210802-1
UNAPPROVED MINUTES**

August 2, 2021

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, August 2, 2021 at Cedarburg City Hall, W63N645 Washington Avenue, second floor, Council Chambers, and online 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, Adam Voltz, Heather Cain, Sig Strautmanis, Kip Kinzel

Also Present - City Planner Jon Censky, Administrative Secretary Victoria Guthrie, news media

STATEMENT OF PUBLIC NOTICE

Administrative Secretary Guthrie 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 Strautmanis, seconded by Commissioner Voltz, to approve the minutes of July 7, 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.

PUBLIC HEARING TO CONSIDER CONDITIONAL USE APPROVAL TO OPERATE A MICROBREWERY LOCATED AT W62N590 WASHINGTON AVENUE – MAN SHED BREWING CO., LLC/GARY KABITZKE

Mayor O'Keefe declared the public hearing open at 7:02 p.m.

Planner Censky reminded Commissioners that during their February 3, 2020 Plan Commission meeting, they approved a petition submitted by Gary Kabitzke to operate his microbrewery out of a building located at W51N729 Keup Road. The plans to open the business in that building fell through, and now Petitioner Kabitzke is requesting approval to open his establishment in a different location. This new location, W62N590 Washington Avenue, currently houses the Handen Distillery. The proposed microbrewery will occupy the north portion of the building, while the Handen Distillery will remain in its location in the south portion. Planner Censky stated that the Petitioner will be producing craft beer and soda for consumption on site and for distribution to stores, bars and restaurants, and will offer a tasting room and a brewery room.

Planner Censky clarified that any conditions of approval must be related to the City's ordinance, and to the extent practicable, must be measurable and may include, among others, the permit duration, transfer or renewal. City Staff has reviewed the petition and recommends approval subject to the conditions contained within the Conditional Use Permit.

Commissioners expressed their approval of this new location and agreed that the space was suitable for a microbrewery. Mayor O'Keefe opened the floor to the public for questions or comments regarding the operation of this business.

Ann Denk, W62N598 Washington Avenue, questioned where the entrance and parking will be for patrons. Man Shed Co-owner Bob Vanderloop answered that the main entrance will be in the front of the building, with the rear entrance being available for ADA access. He stated that parking will be in the back of the building in the parking lot.

ACTION TO CLOSE PUBLIC HEARING

Council Member Thome moved to close the public hearing at 7:08 p.m. The motion was seconded by Vice Chairperson Burgoyne and carried without a negative vote.

Action:

A motion was made by Mayor O'Keefe to approve the proposed Conditional Use Permit subject to the conditions contained therein. This motion was seconded by Commissioner Kinzel and carried without a negative vote.

CONSIDER EXTRATERRITORIAL LAND DIVISION FOR THE PARCEL LOCATED AT 1375 HORNS CORNERS ROAD, TOWN OF CEDARBURG – ERIC & ERIN FROEMMING

Planner Censky summarized Petitioner Froemmings' request to divide their 32.39-acre parcel into four parcels varying in size. Since this land is located in the City's extraterritorial plat approval jurisdiction and will result in the dedication of public right-of-way, both City Plan Commission and Common Council approval is needed. The Town of Cedarburg Plan Commission recommended approval for the land division during their June 16, 2021 meeting. The Cedarburg Town Board approved the division during their July 7, 2021 meeting. Planner Censky explained that the recommendation from the Plan Commission meeting tonight will be forwarded to the Common Council for action.

Petitioner Eric Froemming was present to answer questions from Commissioners. He clarified that there will be no access to Highway 60 via the parcels. His existing residence is on Lot 2, and zoning for that lot will not change. The other three lots will be rezoned as estate lots, which are required to be a minimum of four-acres in size.

Action:

A motion was made by Vice Chairperson Burgoyne to recommend approval of the proposed Extraterritorial Land Division. This motion was seconded by Commissioner Kinzel and carried without a negative vote.

CONSIDER APPROVAL OF A TEMPORARY USE PERMIT TO INSTALL A TENT IN THE OUTDOOR SEATING AREA LOCATED AT W62N630 WASHINGTON AVENUE – THE STILT HOUSE/GORDON GOGGIN

Planner Censky presented the temporary use permit request from Petitioner Gordon Goggin for placement of a tent in the outdoor seating area on the north side of the Stilt House restaurant. The Petitioner is requesting approval for the period beginning on November 1, 2021 to January 2, 2022, using the same tent erected in previous years. The tent measures 20' by 40', stands approximately 10' tall, and will be placed on the paved area directly north of their building, which will be the same location as used in the past. The hours of operation are daily from 11:00 a.m. to 10:00 p.m.

Petitioner Goggin was present at the meeting and explained to Commissioners that since he loses the use of his outdoor dining space in the winter, the temporary installation of the tent allows him to seat 14 tables with plenty of room for social distancing, if required. Petitioner Goggin has previously spoken with Planner Censky regarding the use of a better type of structure than a tent, such as a pergola; however, he rents the space, so the installation of a permanent structure is not feasible at this time.

Commissioners discussed the fact that more downtown restaurants have been using tents in order to maximize their occupancy while still complying with social distancing requirements due to the pandemic. For the last year, the City has been flexible in allowing these installations in support of local businesses that are attempting to recover financially from the months long shut down and limited operations in 2020. However, Commissioners agreed that this use needs to be revisited soon to establish criteria to prevent the downtown area being filled with white tents in parking lots. Although these requests are considered on a case-by-case basis by the Plan Commission, stricter guidelines may be needed in order to prevent setting a precedent. Planner Censky agreed to add the discussion to a future agenda. Commissioner Cain offered to research other communities to see how they regulate businesses erecting tents in their cities.

Action:

A motion was made by Mayor O'Keefe to approve the Temporary Use Permit for the tent installation as proposed. This motion was seconded by Commissioner Strautmanis, and carried with Mayor O'Keefe, Council Member Thome, Vice Chairperson Burgoyne, Commissioners Strautmanis, Kinzel, and Voltz voting in favor and Commissioner Cain voting against.

CONSIDER RECOMMENDATION TO APPROVE THE DEVELOPMENT AGREEMENT FOR THE PROPOSED SUBDIVISION LOCATED AT N104W6620 SUSAN LANE – HIDDEN GROVE/HAHM DEVELOPMENTS LLC

Planner Censky stated that City Attorney Mike Herbrand and City Engineer Mike Wieser have finalized the Development Agreement for the Hidden Grove subdivision. This Agreement is the contract between the City and the Developer that establishes responsibilities regarding the provisions of public and private facilities, improvements, and any other agreed-upon terms. The recommendation of the Plan Commission tonight will go to the Common Council for their final consideration.

Action:

A motion was made by Vice Chairperson Mark Burgoyne to approve the Development Agreement as proposed. This motion was seconded by Commissioner Kinzel and carried without a negative vote.

CONSIDER CERTIFICATE OF APPROPRIATENESS TO REPLACE EXISTING SMOOTH CEDAR SIDING WITH SMARTSIDE SIDING ON THE BUILDING LOCATED AT W62N600 WASHINGTON AVENUE – WYNDROSE FINE JEWELRY

Petitioner Ann Denk is requesting a Certificate of Appropriateness to replace the exterior smooth select cedar siding on the north wall of her downtown building with SmartSide siding. Planner Censky reported that these plans were first presented to the Landmarks Commission on their July 8, 2021 meeting; however, descriptions and photos of the proposed material were not provided to Commissioners prior to the meeting for review. Action was postponed in order to give Commissioners enough time to familiarize themselves with the SmartSide material. This item was then brought back to the Landmarks Commission during their July 22, 2021 meeting. Landmarks Commissioner Tom Kubala conducted an onsite inspection of the wall and determined that only a small portion of the existing siding was deteriorated to the point that it needed to be repaired. He referenced the National Park Service's Standards for Rehabilitation, which recommends repairing existing material that is not too far deteriorated, rather than replacing it. Accordingly, the Landmarks Commission unanimously moved to recommend denial of the request to replace all of the siding on the north wall with SmartSide siding.

Petitioner Denk stated that although she respects the decision of the Landmarks Commission, she believes the proposed material to be visually similar to the original siding and opined the cost and work of maintaining a building in the downtown area. Contractor Dave Moegenburg was also present and provided Commissioners with additional photos.

Commissioner Voltz and Vice Chairperson Burgoyne separately visited the site in order to assess the condition of the existing siding. They both concurred with the Landmarks Commission that repair should be the first action taken as opposed to a wholesale replacement of the wall, with Commissioner Voltz reiterating that this building is classified as a contributing building to the Washington Avenue Historic District, and care should be taken to preserve the integrity of the building. Commissioners agreed with the recommendation of the Landmarks Commission, noting that the Landmarks Commission has been entrusted to ensure that these original buildings are not chiseled away one element at a time. Commissioner Strautmanis advised the Petitioner that the National Park Services offers tax credits to historic building owners for rehabilitation work that adheres to the Standards of the Secretary of the Interior.

Action:

In support of the Landmarks Commission's recommendation, a motion was made by Vice Chairperson Burgoyne to deny the Certificate of Appropriateness to replace the north wall siding of the building with SmartSide siding and suggests repairing the existing siding. This motion to deny was seconded by Commissioner Voltz and carried without a negative vote.

SCHEDULE PLAN COMMISSION MEETING FOR SEPTEMBER

Commissioners agreed that Wednesday, September 8, 2021 would be the next meeting date.

COMMENTS AND ANNOUNCEMENTS BY PLAN COMMISSIONERS

Planner Censky has been working on updating the Zoning Code. These revisions will need to be reviewed by the Plan Commission.

MAYOR'S ANNOUNCEMENTS

Mayor O'Keefe had no announcements.

ADJOURNMENT

A motion was made by Commissioner Kinzel, seconded by Commissioner Cain, to adjourn the meeting at 8:08 p.m. The motion carried without a negative vote.

Victoria Guthrie
Administrative Secretary