

**CITY OF CEDARBURG
PLAN COMMISSION**

**PLN20220404-1
UNAPPROVED MINUTES**

April 4, 2022

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, April 4, 2022 at Cedarburg City Hall, W63N645 Washington Avenue, Lower Level, Room 2. The meeting was called to order at 7:02 p.m. by Vice Chairperson Kip Kinzel.

Roll Call Present - Vice Chairperson Kip Kinzel, Council Member Patricia Thome, Sig Strautmanis, Adam Voltz, Heather Cain, Tom Wiza

Excused - Mayor Michael J. O'Keefe

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

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 Council Member Thome, seconded by Vice Chairperson Kinzel, to approve the minutes of the March 7, 2022 meeting as corrected in the following sentence:

- From the photo, he recognizes this door set as more of a “factory ~~ma~~ mulled” unit as opposed to something that is historical, such as individual or French-style doors (Page 3, third paragraph, second sentence).

The motion carried without a negative vote with Mayor O'Keefe excused.

COMMENTS AND SUGGESTIONS FROM CITIZENS

Vice Chairperson Kinzel 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.

REQUEST APPROVAL OF NEW COLOR SCHEME AND INSTALLATION OF ADA COMPLIANT DOOR AND RAMP ON THE EAST SIDE OF THEIR BUILDING LOCATED AT W61N510 WASHINGTON AVENUE – CEDARBURG MERCANTILE/MIKE & CINDI PURNELL

Planner Censky explained that the Petitioners are requesting approval to replace the lower left rear window with an ADA compliant door, and to install an ADA ramp on the east side of their building. Also in this area, the Petitioners are proposing the installation of a cedar pergola and stone patio.

Proposed changes to the west façade of the building include replacing the existing deteriorating cedar shake mansard roof with a copper roof, and changing the building colors to Whirlpool, Likeable Sand, Extra White, and Tricorn Black.

The Petitioners presented these changes to the Landmarks Commission during their March 24, 2022 meeting, and received their approval under the condition that the Petitioners consider using a cedar material as opposed to metal that mimics wood on the mansard roof.

Action:

A motion was made by Commissioner Wiza, seconded by Commissioner Strautmanis, to approve the proposed installation of an ADA compliant door and ramp on the east side of their building, and proposed changes to the west side of their building with the condition that the Petitioners continue to work with the Landmarks Commission on the color and replacement material used on the mansard roof. Motion carried without a negative vote with Mayor O'Keefe excused.

**RECOMMEND APPROVAL OF A CERTIFIED SURVEY MAP (CSM) THAT REFLECTS
A MINOR ADJUSTMENT TO OUTLOT 9 OF THE GLEN AT CEDAR CREEK
SUBDIVISION – CORNERSTONE DEVELOPMENT/JOHN WAHLEN**

Planner Censky explained that approval of this CSM will serve to eliminate the narrow portion of Outlot 9 and temporary access easement that runs between Lots 51 and 52, splitting the ownership of that portion between those two property owners. Commissioner Wiza, who was the Director of Engineering for the City when the subdivision was under construction, explained that the primary intention for this easement was to provide access for construction traffic to and from the new sanitary sewer lift station, which was built prior to the installation of the roadway within the subdivision. Since this construction has been completed, this access is no longer necessary.

Richard Patek, N116W5575 Lucas Court, attended the meeting as a representative for the HOA, and informed Commissioners that there has been some confusion regarding this easement. He stated that the developer promised the owners of Lots 51 and 52 that it would never be used for public access, and would eventually be converted to their lots. Mr. Patek believes this CSM will solve this problem between the HOA and the developer, as the HOA has no intention of allowing this area to serve as public access to and from the subdivision.

Action:

A motion was made by Council Member Thome, seconded by Commissioner Wiza, to recommend approval of the adjustment to Outlot 9 in the proposed CSM. Motion carried without a negative vote with Mayor O'Keefe excused.

REQUEST APPROVAL TO INSTALL AN ADA RAMP AND DECKS FOR OUTDOOR SEATING ON THE BUILDING LOCATED AT N56W6093 PORTLAND ROAD – CORNERSTONE BUILDINGS LLC/GREG ZIMMERSCHIED

Planner Censky summarized the request from the Petitioner for approval to add an ADA access ramp and decks for outdoor seating to the north, east and west sides of the building. The ramp would be added along the side facing Mill Street, sloping up from the front sidewalk to a point where it circles back and arrives at the proposed seating deck. This new deck will span this side of the building and wrap around the side facing Portland Road. Also proposed is a small, cantilevered deck to be extended within the property line on the west side of the building overlooking the spillway, which will be accessed from the building via a new Marvin clad sliding glass door.

Petitioner Zimmerschied was in attendance and explained that adding the decks at the same elevation as the building's main floor keeps the walking surface level for easier movement for patrons and staff. This elevation also provides patrons with a view of the Cedar Creek waterfall. Commissioner Cain expressed her approval of this design, pointing out that if the decks were located at ground level any view of the creek would be blocked by cars parked along Portland Road.

Commissioners were presented with two different options for rail materials for the ramp and decks: one with wood guardrails and posts and the other with a cable railing system. Commissioner Voltz voiced his approval of seeing two proposals tonight for ADA access to downtown buildings, and stated that he would like to see railing similar to those used by the Petitioner in the design of his Handen Distillery building located at W62N590 Washington Avenue. Commissioner Strautmanis agreed, although he leans more towards the look of the traditional wooden guardrails.

Planner Censky noted that the deck is proposed to be 1-foot 9-inches from the Portland Road sidewalk, and 1-foot from the Mill Street sidewalk, and while City Code does not require a street yard building setback in this District, it does require that the plan meets a 15-foot vision setback at the corner of Mill Street and Portland Road where no obstruction is allowed between the heights of 2 ½ feet and 10-feet.

Jeff Boerner, W60N308 Hilbert Avenue, was in attendance and stated that he has family residing at N55W6065 Portland Road, which is located two parcels south of the subject property. He said that there is a lot of noise that comes from the activities in Cedar Creek Park across the street, and he is concerned about the possibility of the future tenant of this building being an additional source of noise pollution. Mr. Boerner informed Commissioners that the intersection of Mill Street and Portland Road has issues with reduced visibility due to parked cars, and has had a history of accidents leading to damage to City fire hydrants and stop signs located there.

Denise Boerner-Lilly, N55W6065 Portland Road, was in attendance and complimented the Petitioner on his design. She pointed out that when the church was active in this building, they did not allow parking in front; however, that has changed, and with the combined need for parking for Cedar Creek Park activities and the nearby Rebellion Brewery, this area is always full of cars. She likes the idea of a health food store or coffee shop coming in to the building.

Commissioner Wiza recommended that Planner Censky speak with City Engineer Mike Wieser regarding eliminating the compact car parking spots on the northeast and southeast corners of that intersection in order to improve visibility.

Planner Censky stated that if a potential tenant wants to occupy the building, they will not need Plan Commission approval if the use is listed as permitted in the B-3 District; however, if it is listed as a conditional use or if the business applies for an outdoor alcohol beverage license, they will need to come in front of the Plan Commission for conditional approval.

Petitioner Zimmerschied acknowledged the noise concerns from the neighbors and reiterated that the future commercial use has not yet been determined. He feels that if the future business caters to families visiting the park, such as a coffee or sandwich shop, he does not think the noise will be much more than what would be generated by people having a conversation seated on one of the park benches. In order to address neighbor's concerns, he has started adding what he calls *good neighbor* clauses in his leases, with the intention of encouraging positive relationships between these establishments and local residents.

Dan Wolf, N55W6079 Portland Road, was in attendance, and stated that he lives next door to the property. He stated that he is happy to work with the Petitioner on their shared property line, but questioned the effect the proposed construction would have on the millrace, since his lot backs up to it as well.

Planner Censky stated that the proximity of the church to the millrace is allowed because it is an existing structure, and that any future construction to that site can not infringe closer. Brand new construction would be required to maintain a distance of 75-feet. The changes being presented by the Petitioner would not bring the structure closer to the millrace, since the west deck would not extend past the property line. Commissioner Wiza added that according to the DNR, the millrace is considered a navigable waterway.

Action:

A motion was made by Commissioner Voltz, seconded by Vice Chairperson Kinzel, to recommend approval of the proposed changes on the conditions that the Petitioner uses a rail system similar to the metal railing that is used in front of the Handen Distillery building, and consideration is made on expanding the landing of the ramp to align with the window on the northwest corner of the building and maximizing green space between the building and the sidewalks. Motion carried without a negative vote with Mayor O'Keefe excused.

REQUEST APPROVAL OF CONDOMINIUM DOCUMENTS/BYLAWS FOR THE TOWNHOME DEVELOPMENT LOCATED AT N52W6296-98 AND N52W6300-02 MILL STREET – MILL TOWN HOMES/GREG ZIMMERSCHIED

Planner Censky reminded Commissioners that they approved Petitioner Zimmerschied's request to amend his TIF plan and rezone the west portion of his lot along Mill Street between Hanover Avenue and Washington Avenue. His proposal included the

construction of two 2-unit townhomes, which would be sold as owner units. In accordance with **Chapter 703, Condominiums of the Wisconsin State Statutes**, the Petitioner has drafted condominium documents and submitted these for review and recommendation for approval.

Petitioner Zimmerschied addressed the concern Commissioners raised regarding the risk of dropping or falling objects from the second floor decks onto pedestrians using the public sidewalk below in Section 4.04, Balconies Overhanging Public Sidewalks. Commissioner Cain pointed out that, although this section prohibits hanging or leaning objects above or beyond the railings, it does not prohibit hanging objects below the decking of the balconies. Council Member Thome stated that she would like the Petitioner to eliminate the statement of *snow removal in front of the garages* under Section 6.04(a), Maintenance and Repair, in order to avoid potential conflicts between the townhome owners regarding this responsibility.

Action:

A motion was made by Commissioner Cain, seconded by Vice Chairperson Kinzel, to approve the proposed bylaws on the condition that a review is performed by the City Attorney, Section 4.04 be amended to prohibit hanging objects below the floor of the balcony, and Section 6.04(a) amended to remove the portion regarding snow removal in front of garages. Motion carried without a negative vote with Mayor O'Keefe excused.

CONSULTATION FOR THE ADDITION OF A COMMERCIAL BUILDING ON THE MILL STREET PARCEL TO BE LOCATED BETWEEN THE MILL TOWN HOMES AND FUTURE COMMERCIAL BUILDING AT W62N535 WASHINGTON AVENUE – CEDARBURG LAND & CATTLE/GREG ZIMMERSCHIED

Planner Censky explained that the Petitioner is seeking consultation to add a second commercial building on his Mill Street parcel. This building is proposed at 1,500-square feet and will be located between the Mill Town Homes on Hanover Avenue and the recently approved commercial building facing Washington Avenue. Of the 38 parking stalls needed to support two commercial buildings on the parcel, the project will have 11 onsite parking stalls; therefore, the Petitioner proposes to use street stalls to make up the difference, per City Code **Section 13-1-83(b)(3)**, which states ***availability nearby on street parking may be counted toward visitor parking needs. This may only be allowed when on street parking is permitted in a specific location, and then only when such on street parking spaces are within two hundred fifty (250) feet of the entrance they are intended to serve.***

Commissioners may recall that the Petitioner's original concept consisted of three commercial buildings for the parcel: one facing Washington Avenue, one facing Hanover Avenue and one facing Mill Street, for a total commercial space of 6,900-square feet. Furthermore, that concept plan was in support of TID No. 3, approved in 2014, which included a cash grant Developer's Agreement that requires the developer to create a total real estate increment with an equalized value of \$950,000 to be realized no later than January 1, 2020. That date was subsequently extended to January 1, 2021, by action of the Common Council on November 11, 2019. Since that meeting, the Petitioner has constructed both townhomes and received the footing and foundation permit for his

Washington Avenue commercial building. He is now seeking support of the Plan Commission to construct another small commercial/restaurant building.

Procedurally, this proposal will require another amendment to the PUD Ordinance following a public hearing before the Common Council. Accordingly, if support for this project is offered at this meeting, the Petitioner will need to submit his fully detailed plans for review and recommendation at a future meeting.

Petitioner Zimmerschied stated that he believes adding another commercial space in this area would help attract more visitors to the south side of downtown Washington Avenue, increasing pedestrian traffic that could also benefit other businesses. Council Member Thome agreed, stating that there is not a lot of opportunity to add new space to the downtown area.

Overall, feedback from Commissioners was positive, although concerns were raised regarding the lack of parking downtown, and may need to be addressed in the near future.

RECODIFICATION OF TITLE 13 ZONING CODE

Planner Censky asked Commissioners to review the Code beginning at the B-1 Neighborhood Business District up to the M-1 Limited Manufacturing District, to discuss at the next meeting.

COMMENTS AND ANNOUNCEMENTS BY PLAN COMMISSIONERS

Commissioner Cain questioned the quality of the work being performed on the PJ Piper Pancake House building façade, located at W61N514 Washington Avenue. Planner Censky agreed to touch base with the building owner.

MAYOR'S ANNOUNCEMENTS

Mayor O'Keefe was not in attendance; therefore, no announcements were made.

ADJOURNMENT

A motion was made by Vice Chairperson Kinzel, seconded by Commissioner Wiza, to adjourn the meeting at 8:48 p.m. The motion carried without a negative vote with Mayor O'Keefe excused.

Victoria Guthrie
Administrative Assistant