

**CITY OF CEDARBURG  
PLAN COMMISSION**

**PLN20220606-1  
UNAPPROVED MINUTES**

**June 6, 2022**

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, June 6, 2022 at Cedarburg City Hall, W63N645 Washington Avenue, Upper Level, 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 Kip Kinzel, Adam Voltz, Heather Cain, Tom Wiza

Excused -            Sig Strautmanis

Also Present -      City Planner Jon Censky, Council Member Robert Simpson, 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 May 2, 2022. The motion carried without a negative vote with Commissioner Strautmanis excused.

**ELECTION OF VICE CHAIRPERSON; AND ACTION THEREON**

Council Member Thome moved to nominate Kip Kinzel as Vice Chairperson. The nomination was seconded by Commissioner Cain. The nominations were closed. Motion carried to elect Kip Kinzel as Vice Chairperson without a negative vote with Commissioner Strautmanis excused.

**REVIEW AND CERTIFY CODE OF ETHICS; AND ACTION THEREON**

Commissioners confirmed receipt of the Code of Ethics and indicated their intent to comply.

**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.

**REQUEST APPROVAL FOR A TEMPORARY USE PERMIT TO HOST A POP-UP MARKET AT W63N547 HANOVER AVENUE – EMBODIED/GINA ROETHLE**

Planner Censky explained that the Petitioner is a tenant in the Hanover Square building, and has obtained permission from the property owner to host a pop-up market on the

private parking lot in front of her establishment. Her permit application specifies the dates of July 2, 3, 23, 24, and August 6, 7, 20, and 21, between the hours of 9:00 a.m. to 3:00 p.m. The submitted site plan shows a set up with eight vendors total, split into two rows with an aisle running down the middle. Planner Censky noted that no onsite parking would be available during this temporary use of the lot, meaning that non-pedestrian patrons and vendors would need to utilize public street parking during these events.

Petitioner Roethle was in attendance and described these markets as craft shows, offering products made by local artisans, such as jewelry, and that no food items would be sold. In answer to questions from Commissioners, she established that she would not be charging her vendors a rental fee for the space, and that any canopies set up in the lot would be taken down when they close at 3:00 p.m. on Saturday, and then set up again on Sunday morning before 9:00 a.m., meaning vendor booths and products would not be left out overnight.

Commissioner Cain acknowledged that, although she understands that businesses may want to use this type of sale as a test market for their products, she feels that approving the use of canopies creates the possibility for other temporary structures to be set up around the downtown area. Council Member Thome added that it may also become an issue of enforcement if products and services offered are not permitted in the B-3 District.

Planner Censky suggested that the Petitioner could contact him prior to the events if she had any questions about a particular type of product or service. Commissioner Voltz stated that he could appreciate the idea of vendor pre-approval by City Staff.

**Action:**

Mayor O'Keefe made a motion to deny the temporary use permit for a pop-up market as proposed. Council Member Thome seconded the motion. Motion carried without a negative vote with Commissioner Strautmanis excused.

**REQUEST TO CHANGE USE OF PARCEL FROM OUTSIDE STORAGE TO PARKING AREA LOCATED AT N143W6688 LAYTON STREET – NORTH SHORE UNITED SOCCER CLUB**

Planner Censky advised Commissioners that the Petitioners have approached the City with a request to lease this site, located at the northeast corner of Layton Street and the Interurban Trail, as an overflow parking lot to accommodate additional parking for games where they have increased attendance. The Petitioners would like to lease this space for a period of five years. Since no structures are being proposed, Planner Censky indicated that City Staff has no objection to this request, and recommends approval to the Common Council.

**Action:**

A motion was made by Council Member Thome to recommend approval for a change in use of the above parcel from outside storage to a parking lot for the soccer field as proposed. This motion was seconded by Commissioner Voltz and passed without a negative vote with Commissioner Strautmanis excused.

**REQUEST CONCEPT REVIEW TO ADD A DRIVE-THRU/WALK-UP ONLY BAKERY  
AT W62N245 WASHINGTON AVENUE – DAIRYLAND OPERATIONS LLC/MRV  
ARCHITECTS INC – MARIO VALENTINI**

Planner Censky described the plans submitted to build a Dunkin' GO bakery located on the northeast corner of Washington Avenue and Fairfield Street. The plans show a narrow 1,091 square foot building centrally located on the site with a wrap-around drive thru and two vehicle access points: one from Washington Avenue and one from Fairfield Street. Planner Censky pointed out that this parcel is located in the B-2 Community Business District, which includes bakeries as a permitted use; however, it is up to Commissioners to determine if this business meets the definition of a bakery. He advised that all drive-thru uses in this District are listed as conditional uses, and have undergone the public hearing and permitting process in order to operate.

Petitioner Valentini was in attendance, and explained that the business has an app that customers can use to pre-order their items, allowing them to increase their speed of service and minimize line back-ups onto Washington Avenue. Due to the business being a drive-thru/walk-up only, parking onsite will be almost entirely for employees. Petitioner Valentini added that his clients at Dairyland Operations own over 50 locations in central and northern Wisconsin, and have extensive experience in successfully operating these establishments.

Commissioner Wiza observed the existing south access drive on Fairfield Street is not in compliance with City Code **Section 13-1-85(c), Arterial Street and Highway Access**, which states that ***no private access shall be permitted to the existing or proposed rights-of-way of . . . local streets intersecting arterial streets within 50 feet of the intersection of the right-of-way lines.*** Due to the proximity of the access drive onto *local* Fairfield Street to the intersection of *arterial* Washington Avenue, Commissioner Wiza believes this presents a hazard with traffic flow. As such, he would suggest that the Petitioner abandon the current Fairfield Street drive, and add one farther west. He also agreed with Planner Censky, who suggested restricting egress on the east drive to right turns only, meaning exiting traffic would need to head south onto Washington Avenue. Commissioner Wiza stressed the importance of keeping the queue onsite so as not to impede traffic on an arterial street.

Petitioner Valentini stated that, given the small size of the parcel, making changes in one area likely forces change on the rest of the design; however, he believes that he can work with this feedback to redesign the site plan to meet these recommendations. He advised that his clients are in the process of negotiating a purchase agreement with the site owners, that would allow them to walk away if the Common Council does not approve a drive-thru for the business; therefore, having a drive-thru is vital for this project, as is coming up with a site plan that works for everyone.

Council Member Thome expressed her excitement over the proposal and thinks it would be a great addition to the City, and is supportive of the project. Mayor O'Keefe concurred, stating that he is in favor of what he considers a great use of the parcel, and voiced his approval of holding a public hearing in order to get input from the neighborhood and address any concerns they may have.

Planner Censky requested Petitioner Valentini contact him during the week to discuss specifics of the plan in order to get him on the Common Council agenda for a public hearing.

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

Planner Censky explained that this request was brought before Commissioners on May 3, 2021 and was approved with the condition that if the Petitioners wanted to continue this service during the 2022 season, they would need to resubmit their plans for review. The Landmarks Commission reviewed this proposal during their May 26, 2022 meeting, and recommended approval.

Petitioners Bill and Anne Conley were present and explained that the seating arrangement in the back of their business will be a temporary set up until their outbuilding is completed.

Since their back lot serves as a dual use for outdoor alcohol consumption and guest parking for their Bed & Breakfast business, Commissioners would like the Petitioners to come up with a plan that clearly defines the uses of the space in order to prevent drinking outside of the controlled area. Planner Censky offered to work with Petitioners to come up with a plan that allows them to continue to provide both uses for their patrons.

**Action:**

A motion was made by Mayor O’Keefe to recommend approval for an outdoor alcoholic beverage license pending City Staff review and approval of a revised site plan that distinguishes where patrons are allowed to consume alcohol. The motion was seconded by Vice Chairperson Kinzel and passed without a negative vote with Commissioner Strautmanis excused.

**CONSIDER RECOMMENDATION OF FINAL PLAT APPROVAL FOR PHASE 2 OF THE FAIRWAY VILLAGE SUBDIVISION LOCATED AT W73N1122 WASHINGTON AVENUE – NEUMANN DEVELOPMENTS/KEVIN ANDERSON**

Planner Censky explained that the Petitioner submitted and received approval for his landscape plan and development agreement during the April 5, 2021 Plan Commission meeting. Since construction on phase 1 is well underway, Petitioner Anderson is now seeking review and recommendation for approval on his final plat for phase 2 of the Fairway Village development.

City Staff has reviewed the final plat and found it to be consistent with the Smart Growth Comprehensive Plan 2025, and the previously approved preliminary plat. Approval is recommended subject to the following conditions:

1. Drainage and utility easements should be shown on the plat, along with an addition of a twelve (12) foot wide drainage easement.

2. Impact fees and the fee-in-lieu of parkland dedication will apply at building permit acquisition.
3. As with the first phase, the developer shall be required to install public sidewalks and street trees along the Washington Avenue frontage.
4. The subdivision includes the full complement of improvements as required in the City's Subdivision Ordinance and all infrastructure plans (sewer, water, storm sewer, road, sidewalk, grading, drainage, and erosion control), and shall be reviewed and approved by the City Engineer.

Commissioner Wiza would like to add another condition stating that the builders are responsible for obtaining groundwater evaluations when designing basements and shall disclose these results to lot owners.

**Action:**

A motion was made by Vice Chairperson Kinzel to recommend final plat approval subject to the conditions listed above, along with the suggested condition from Commissioner Wiza regarding groundwater evaluations. The motion was seconded by Council Member Thome and passed without a negative vote with Commissioner Strautmanis excused.

**REVIEW AND POSSIBLE REVISION OF VISION TRIANGLE REQUIREMENTS IN THE B-3 DISTRICT**

Planner Censky reminded Commissioners that during their review of changes proposed to Petitioner Greg Zimmerschied's property located at N56W6093 Portland Road in their April 4, 2022 meeting, a brief discussion took place regarding whether to keep the vision setback triangle requirement for controlled intersections in the B-3 District; specifically, regarding that particular site, the proposed deck would interfere with the vision triangle for the intersection of Mill Street and Portland Road.

Mr. Zimmerschied was in attendance at the meeting to impress on Commissioners how important it is for him to get their direction on this issue, as it not only effects the above property, but other properties that he owns in the District.

Planner Censky offered to work with the City Attorney, the Fire Department and the Police Department to come up with an update to the Code that maintains the vision triangle, but includes caveats that are up to the discretion of the Plan Commission during design review. He will present his proposal at the next meeting for review and approval.

**DETERMINE JULY 2022 MEETING DATE DUE TO HOLIDAY**

Commissioners agreed to schedule the July meeting for Tuesday, July 5, 2022 at 7:00 p.m. to be held in-person in the Council Chambers with the option to join online.

**RECODIFICATION OF TITLE 13 ZONING CODE**

Code review will continue during the next meeting, until review is complete.

**COMMENTS AND ANNOUNCEMENTS BY PLAN COMMISSIONERS**

Commissioner Cain questioned whether the building plans for the new construction located on Western Road and Webster Avenue should have gone to the Plan Commission for review. Planner Censky explained that the Building Inspector determined that the plans submitted by the developer were consistent with the surrounding neighborhood and did not require further design review.

**MAYOR'S ANNOUNCEMENTS**

Mayor O'Keefe had no announcements.

**ADJOURNMENT**

A motion was made by Vice Chairperson Kinzel, seconded by Council Member Thome, to adjourn the meeting at 9:04 p.m. The motion carried without a negative vote with Commissioner Strautmanis excused.

Victoria Guthrie  
Administrative Secretary