

CITY OF CEDARBURG
PLAN COMMISSION

PLN20170306-1
UNAPPROVED MINUTES

March 6, 2017

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, March 6, 2017 at Cedarburg City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. The meeting was called to order at 7:00 p.m. by Mayor Kinzel.

Roll Call: Present - Mayor Kip Kinzel, Council Member John Czarnecki, Mark Burgoyne, Mark Poellot, Greg Zimmerschied, Heather Cain, Daniel von Barga

Also Present - Council Members Jack Arnett, Dick Dieffenbach, Rick Verhaalen, Mitch Regenfuss, Patricia Thome and Mike O'Keefe; City Planner Jon Censky; City Attorneys Mike Herbrand and Tim Schoonenberg; Economic Development Coordinator Mary Sheffield; Administrative Secretary Darla Drumel

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.

APPROVAL OF MINUTES

A motion was made by Commissioner Zimmerschied, seconded by Council Member Czarnecki, to approve the minutes of February 6, 2017 as presented. The motion carried without a negative vote.

COMMENTS AND SUGGESTIONS FROM CITIZENS

Mayor Kinzel advised that comments from the public would be accepted at this time, or would be accepted at the time an issue is being discussed. No comments were offered at this time.

**EXTRATERRITORIAL JURISDICTIONAL LAND DIVISION APPROVAL AT 8611
STATE ROAD 60 – MICHAEL FREDE/VENTURE SPACE, LLC**

Planner Censky advised that the applicant was requesting approval of a Certified Survey Map (CSM) to divide his 63-acre parcel at 8608 Hwy 60 into 4 lots of 7.169 acres, 10.900 acres, 10.941 acres and 33.715 acres in size. While this parent parcel is located in the Town of Cedarburg, it is within 1-1/2 miles of the City's limits and is within the City of Cedarburg extraterritorial platting jurisdiction. Consequently, City approval is required. The site is outside the City's Sewer Service Area and therefore these lots will be served by onsite septic systems and private wells.

Since no right-of-way is being dedicated as part of this request, only Plan Commission approval is necessary. The Town Board will be considering this request at their March 6, 2017 meeting as well and approval is recommended subject to all conditions of the Cedarburg Town Board.

In response to Commissioners' questions, Michael Frede reported that two of the newly-created lots would be commercial uses: one would be used for retail and the last for a Town of Cedarburg sports complex.

Planner Censky advised that the City does not control uses in the Town unless a Joint Extraterritorial Zoning Committee (JETZCO) is formed comprised of both Town and City members. Extraterritorial jurisdiction is part of infrastructure planning.

Action:

Council Member Burgoyne moved to approve the proposed 4-lot CSM contingent upon:

1. Recognition that the newly-created lots would not be served by the City of Cedarburg sewerage system.
2. All the conditions of the Cedarburg Town Board are met.

The motion was seconded by Commissioner von Barga and carried without a negative vote.

FINAL PLAT AND DEVELOPMENT AGREEMENT RECOMMENDATION FOR SANDHILL TRAILS SUBDIVISION – TOWNE REALTY, INC./JIM DOERING

Planner Censky reminded Commissioners that the Preliminary Plat was approved at the September 6, 2016 meeting. That recommendation was presented to the Common Council on September 12, 2016 where they voted unanimously to approve the Plat. Since that meeting, the applicant has been working to address all the conditions of Preliminary Plat approval and now having completed that check list, they are requesting a Final Plat approval recommendation.

In addition, the applicant is requesting Development Agreement recommendation. 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. This Agreement was drafted by City Engineer Wiza along with City Attorney Mike Herbrand with the input from the developer.

This Plat will include 43 single-family lots ranging in size from 14,522 square feet to 37,214 square feet. The project will also result in the extension of West Oak Street in the Village of Grafton to Keup Road via Yorkshire Street.

The Plat is consistent with the Smart Growth Comprehensive Plan 2025 and the approved Preliminary Plat. Accordingly, Planner Censky suggested conditions when approving the Final Plat.

Commissioner Zimmerschied noted that Starling Lane was still referred to and it was agreed that street name would be changed.

Action:

A motion was made by Commissioner Zimmerschied, seconded by Council Member Czarnecki, to recommend the Common Council approve the Final Plat and Development Agreement for Sandhill Trails Subdivision subject to the following conditions:

1. The radius of West Oak Street where it connects to this subdivision must be modified to meet the City required 100-foot centerline radius per Chapter 14 of the Municipal Code.
2. The right-of-way line at the north end of Starling Lane (street to be renamed) to maintain a minimum 10-foot distance from the existing watermain.
3. Sidewalk at the north end of Starling Lane (street to be renamed) should be connected to the Interurban Trail.
4. All impact fees and the fee-in-lieu of parkland dedication will apply at building permit acquisition.
5. The developer shall be required to install public sidewalks and street trees along the Keup Road frontage.
6. This subdivision shall include the full complement of improvements as required in the City's Subdivision Ordinance and all infrastructure plans (i.e. sewer, water, storm sewer, road, sidewalk, grading, drainage, and erosion control) shall be reviewed and approved by the City Engineer.
7. Submittal and City Forester approval of a street tree plan showing size, location and species.
8. Label the dashed lines on Lot 9 as wetland limits and wetland setback.
9. That a new name is proposed for "Starling Lane."

The motion carried without a negative vote.

**LAND USE PLAN TEXT AND MAP AMENDMENTS AND REZONING
RECOMMENDATION FOR FORMER ST. FRANCIS BORGIA SCHOOL SITE
LOCATED AT N44 W6035 –N43 W6005 HAMILTON ROAD – HSI PROPERTIES, LLC**

City Planner Censky advised that these requests were resubmitted for two reasons; first, as a result of the comments received at the November 14, 2016 Common Council public hearing the applicant has made certain changes to the plans which are significant enough to require Plan Commission review and recommendation and secondly, during the review process it was discovered that there is a conflict between the Comprehensive Land Use Plan Map and the Land Use Plan Text which needs to be addressed. Specifically, the Comprehensive Land Use Plan Map classifies the future use of the St. Francis Borgia site as High Density Residential for up to 16.1 units/acre while the text of the Plan indicates High Medium Density Residential at 5.2 to 10.8 units/acre. Accordingly, the intent is to address this conflict by amending both the map and the text to now reflect the overall project density of 18.2 units/acre.

As Commission Members are aware, the Land Use Plan is the official statement of the City that sets forth major objectives for the physical development of the City. The Plan consists of a compilation of objectives, policies, goals, and programs to guide the future development and redevelopment of public and private properties within the City. The Plan also includes a series of maps which are intended to show current land uses and future land uses. As has been noted in the past, this Plan is intended to be used as a tool to help guide the physical development into functional, healthy, efficient and attractive land use patterns. It is not intended to be considered rigid and unchangeable.

HSI Project Plan

HSI's plans have been modified and now show a reduction in the number of units from 89 as shown on the plans submitted for review in November of 2016 to 69 multi-family units plus one single-family home for a total of 70 units. The previous plans showed a three-story building proposed for the parking lot site and that building has now been redesigned to a two-story, nine-unit townhouse structure with enclosed garages accessed from the rear. The 17,100 square foot lot fronting on Spring Street will support a future single-family home. The proposed two- and three-story buildings where the school currently sits has been reduced in size and length and will now be set back from Hilgen Avenue by 71 feet. The proposed L-shaped two- and three-story building fronting on Washington Avenue will remain as previously proposed.

Nonconformity to Standards

While this project has been downsized, there still remain a number of modifications to the requirements of the underlying basic use district being proposed. However, the degree to which these standards are being adjusted has been reduced as follows:

1. **Code Requirement** – Floor Area Ratio maximum 75% or 111,078sf Building Size Maximum

Nonconformity–Proposed Floor Area Ratio–BLDG sites A & B= 78.2% or 79,690sf total building size;

(Parking lot site conforms at - 45% or 19,800sf building size)

2. **Code Requirement** – **Rm-2 Multi-Family District Density Maximum 16.1 Units/Acre**

Overall project density 18.24 units/acre

3. **Code Requirement** – **Maximum 8 Units per Structure**

Nonconformity – Proposed BLDG A – 32 units; BLDG B - 28

4. **Code Requirement** – **Maximum Building Height – 35 feet**

Nonconformity – Proposed BLDG A height – 42’1”; BLDG B height – 43’11”

5. **Code Requirement** – **Side Yard Setback – 20 feet**

Nonconformity – Proposed side yard for BLDG C – 10 feet.

6. **Code Requirement** – **Street Yard Setback – 25 feet**

Buildings B & C are proposed at 15 feet

7. **Code Requirement** – **Lot Area Requirement for 2 & 3 Bedroom Units is 3,300sf/Unit =**

School Site = 4.3 Acres; Parking Lot Site = 0.68 Acres

Nonconformity – Existing school parcel size is 2.4 acres;

(Parking lot site conforms at 0.731 acres)

Parking

The Arrabelle project will be supported by 161 parking stalls; 104 of which are enclosed and 57 are surface stalls. Buildings A and B will be served by underground parking and 39 surface stalls. Building C will be served by 18 enclosed and 18 surface stalls. Staff notes that the Zoning Code requires a minimum of 104 parking stalls to support this apartment complex and therefore the plans are Code-compliant as regards to parking.

As regards to the St. Francis Borgia Church parking, historically parishioners have relied on a combination of an off-site parking lot and on-street parking along Hamilton Avenue and Washington Avenue north of the Church to support their needs. Based on the maximum seating capacity of the Church, a 79-stall parking lot would now be necessary to support their needs if they were operating at full capacity. However, this Church is now being used on a limited basis as they only offer morning Mass on Monday through Thursday during the week and otherwise is unused but for Christmas Eve service or the periodic weddings and funerals. Accordingly, it is difficult to justify requiring a massive parking lot dedicated to the Church use only when that use is minimal but for a few times a year. Therefore, a shared parking arrangement is being proposed for their overflow needs. City Zoning Code **Section 13-1-82(e) states that the location of off-street parking shall be on the same lot as the principle use or not more than 400 feet from the principle use.** In order to provide the most efficient use of parking, the plans propose 40 onsite stalls to satisfy the Church general use and then because the applicant’s proposed parking plan exceeds Code requirements, they will provide a cross-easement to the Church for the shared use of the apartment site’s 39 surface stalls for those few times during the year when they are needed. The 40

onsite stalls for the Church along with the 39 surface stalls brings the total off-street stalls available the Church when needed to 79 stalls.

Rezoning:

Commission Members are reminded that the applicant is seeking rezoning recommendation from I-1 Institutional and Public Service to the basic district zoning of Rm-2 (PUD) Multi-Family Residential for the apartment/townhouse portion of the project and Rs-3(PUD) Single-Family District for the 17,100 square foot area along Spring Street. The PUD Planned Unit Development Overlay District is being applied over both basic district zonings to tie the project together as one.

Commissioners are reminded that the PUD Ordinance was recently amended to allow for increased flexibility when determining such things as density, building height, building location, and architectural style. Those limits are to be established on a case-by-case basis, in accordance with the following criteria:

1. Whether the project will provide better utilization of the land than would otherwise be realized if the site were developed with the density requirements of the underlying district or as a PUD without an increased density.
2. Whether the project makes adequate provisions such that an increase in residential density will not have an unreasonable adverse effect on neighboring properties, existing and/or proposed public rights-of-way and/or municipal and other public services as a result of the type, intensity and frequency of the use associated with the proposed project.
3. Whether the structures proposed for the project are harmonious with existing nearby structures and land uses.
4. Whether building materials have been selected and are proposed to be utilized in a manner that is harmonious with the natural environment and the general character of other buildings and structures in the vicinity of the proposed development.
5. Whether the proposed project will result in the construction or upgrade of specific public infrastructure improvements that will benefit the public at no cost to the City.
6. Whether the proposed project will enhance an existing structure that is deemed beneficial to the character of the neighborhood where it is situated.

In addition, the PUD Ordinance requires the Plan Commission and the Common Council shall not give their respective recommendations or approvals unless it is found that:

1. The proposed site shall be provided with adequate drainage facilities for surface and storm waters.
2. The proposed site shall be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.

3. No undue constraint or burden will be imposed on public services and facilities, such as fire and police protection, street maintenance, and maintenance of public areas by the proposed development.
4. The streets and driveways on the site of the proposed development shall be adequate to serve the residents of the proposed development and shall meet the minimum standards of all applicable ordinances and administrative regulations of the City.
5. Public water and sewer facilities shall be provided.
6. The entire tract or parcel of land to be included in a PUD shall be held under single ownership, or if there is more than one (1) owner, the petition for such PUD shall be considered as one (1) tract, lot or parcel, and the legal description must define said PUD as a single parcel, lot or tract and be so recorded with the Register of Deeds for Ozaukee County, and;

For Residential PUD Planned Unit Development Overlay Districts:

1. Such development will create an attractive environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, access to recreation space, and coordination with overall plans for the neighborhood.
2. The total net residential density within the PUD Planned Unit Development Overlay District will be compatible with the City's Smart Growth Comprehensive Plan - 2025 and/or the average density permitted in the underlying basic use district.
3. Provisions have been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities.
4. Provisions have been made for adequate and continued fire and police protection.
5. The population composition of the development will not have an adverse effect upon the community's capacity to provide needed schools or other municipal service facilities.
6. Adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan either by private reservations and maintenance or by dedication to the public.
7. Whether the proposed project will result in the construction or upgrading of specific public infrastructure improvements that will benefit the public at no cost to the City.
8. Whether the proposed project will enhance an existing structure that is deemed beneficial to the character of the neighborhood where it is situated.

Traffic Study

While the applicant understands that a traffic impact study will be required as this request advances through the approval process, because of the cost involved (\$10,000 to \$15,000) that requirement would be a condition of his rezoning request.

Rectory

Since the modified plans do not affect their request to remove the structure from the Washington Avenue Historic District, a second public hearing on that request is unnecessary. Staff notes that the Common Council has held the public hearing on the rectory but action on that request has not been taken. This Commission's recommendation to remove the rectory from the Historic District on October 3, 2016 still applies.

Procedure

Because this project involves an amendment to the Comprehensive Land Use Plan and the rezoning of the site that includes an introduction of the PUD Planned Unit Development Overlay District along with the removal of the Historic Preservation District from the area where the rectory sits, the process includes many procedural steps and therefore is rather lengthy. As Plan Commissioners will recall, the applicant first appeared before the Plan Commission on a consultation basis seeking feedback before feeling comfortable enough to proceed with submittal of his rezoning and Land Use Plan amendment applications. Following is the summary of steps taken and those pending:

- | | |
|--------------------|---|
| August 1, 2016 | Plan Commission reviewed concept plans for a 98-unit apartment complex proposed by HSI Properties Inc. for the St. Francis Borgia property and offered comments. |
| September 6, 2016 | Plan Commission reviewed revised plans showing a reduction in the number of units to 89 and after a lengthy discussion recommended Land Use Plan amendment from the High-Medium Density (10.8 Units/acre) to High Density Residential (26.2 units/acre) and rezoning from I-1 Institutional and Public Service District to Rm-2 Multiple-Family Residential and Planned Unit Development (PUD). |
| September 22, 2016 | Landmarks Commission reviewed the request to remove the Rectory from the Downtown Historic District and to raze the structure. The Commission recommended denial of both the removal of the structure from the District and the razing of the building. |
| October 3, 2016 | Plan Commission reviewed the request to remove the Rectory from the Historic Preservation (HPD) District and to raze the structure and voted to recommended rezoning approval with the condition that a razing permit not be issued until final approval of the PUD plans. |
| November 14, 2016 | The Common Council held three public hearings to;
1) Consider Land Use Plan amendment from High Density Residential 16 units/acre to High Density 26 units/acre. |

2) Rezoning from I-1 to Rm-2(PUD) for the 89 unit apartment complex and to rezone the Rectory out of the HPD District. The Council decided to hold off on making a decision on the requests and asked the Developer to consider certain changes to the plan.

March 6, 2017 The Plan Commission will consider Land Use Plan Amendment recommendation for a change to 18.24 units/acre overall project density and rezoning recommendation from I-1 Institutional and Public Service to Rm-2/(PUD) and Rs-3/PUD.

March 13, 2017 The Common Council will hold public hearings on the Land Use Plan Amendment and rezoning and possibly make a decision on the rezoning request along with the request to remove the Rectory from the Washington Avenue Historic District. These approvals will be conditional based on accomplishing the following steps.

Next Step If the Common Council approves the Land Use Plan amendment and the two rezoning requests, the developer will then be required to have a detailed traffic study conducted.

Next Step Upon receipt of the traffic study, the Plan Commission and then the Common Council will review that study.

Next Step If the traffic study demonstrates the project that it will not have a significant adverse impact on traffic patterns, the developer will then be required to generate fully detailed site, architectural, landscaping, erosion control and stormwater management plans. In addition, the City will work with the developer to draft a development agreement.

Next Step Upon submittal of those plans and the development agreement, the Plan Commission and then the Common Council will review and approve the plans.

Next Step Upon receiving approval of all details and associated plans, the applicant generates construction plans and submits them for review and approval by the State of Wisconsin.

Last Step The applicant submits the State approved plans to Building Inspector for his review and building permit issuance.

Impact fees *(Due at the time of building permit acquisition.)*

69 units @ \$5,202.34/unit =	\$358,961.46
1 single-family home =	<u>\$ 7,592.83</u>
Total =	\$366,554.29

Staff Comments:

The plans now provide a better pedestrian feel along Washington Avenue and a quality vista leading to the historic downtown. If Commissioners decide to offer a recommendation, the following stipulations should be considered as conditions of approval:

1. Submittal of a traffic impact study prior to approval of the final detail plans.
2. The exit onto Washington Avenue will need to be posted "No Left Turn" or designed to functionally prohibit no left turns.
3. Submittal of the detailed site, architectural, landscaping, exterior light etc. after the Common Council's decision on the rezoning request.
4. A development agreement to be processed along with the review and approval of the final detailed plans.
5. Grading, drainage and storm water management plans will be required.
6. Impact fees due at time of building permit acquisition.
7. Building must meet all State Fire Codes (sprinkler, alarms, access, etc.).
8. Submittal of a cross-easement to allow parishioners the right to use the 39 surface stalls when needed.
9. Submittal of a Certified Survey Map of the project area.

Tony DeRosa, Executive Vice President of HSI Properties, LLC (the developer) reported that since the last Council meeting, he met with a representative of the adjacent neighborhood along with the Mayor Kinzel, Planner Censky and the City Attorney. As a result of the meeting, the neighbors found the overall architecture and some building heights at three-story appropriate but expressed concerns over density. The neighbors concluded that only a maximum of 36 apartment units would be acceptable. Mr. DeRosa stated that 36 apartments would not be feasible for the development, of which the land purchase price is only a small component of the development costs. He explained that single-family lots on that site would cost around \$250,000 for a quarter-acre lot, after the school is removed and engineering is completed, which would not be supported by the market.

Mr. DeRosa advised that the desires of the neighborhood have been recognized though not all can be met and significant changes to the original proposal have been made. The revised development, Arrabelle, is now being proposed, with emphasis on a high-end development that is attractive, provides hassle-free living, onsite management and additional optional services for its residents. He emphasized that this would not be simply an apartment complex. Mr. DeRosa added that if the zoning is not changed, uses allowed in the I-1 Institutional and Public Service District could include uses that may not be as desirable as residential uses and would provide no tax base.

Arrabelle is a 30% reduction in the density of the original plan with Building C reduced from three stories to nine two-story townhouses proposed for the former parking lot with private entrances and two-car garages. Building B has been reduced in length by 40 feet, creating a 70-foot green space buffer off Hilgen Avenue. Buildings A and B will have heated underground parking for all residents and setbacks have been significantly increased. Additional green space and landscaping has been incorporated into the design at approximately one-third of the site.

There is a market for rentals and those who choose to live there would likely be walking downtown Cedarburg to patronize the local businesses. In addition, the tax base of the property would rise from zero to approximately \$8.5 million and the City would receive development fees at close to \$367,000. Since the new proposal has been displayed for public review, he has received many positive comments.

Mr. DeRosa introduced his architect, Eric Harrmann, who proceeded to make a presentation on the conceptual architectural and site elements of the proposed Arrabelle development. Mr. Harrmann advised that Building A is designed to complement the gateway along Washington Avenue and is set an appropriate distance from the Church so that the Church is appreciated as a single structure looking south from Washington Avenue. The same setback strategy is applied to Building B south of the Church on Hanover. The townhouses across the street are designed for a little more residential feel. Buildings A and B still step down on the corners that front on Washington Avenue and Hamilton Road. The overall height on Building B is reduced due to the natural site grading and is down from 33 to 28 units. The Hilgen Avenue setback is increased allowing for more green space at the corner of Hilgen Avenue and Hamilton Road.

The Townhouses have the most dramatic changes. The number of units is reduced from 28 to 9 and the height is reduced from three-stories to two-stories. The building layout is adjusted to work with the existing grade to lower building height further on the south end. Every third townhome would require three to four steps for front door access and every third would have access at grade. Building A is roughly 8 feet shorter than the Church elevation as the grade drops.

Mr. DeRosa urged approval of the Arrabelle project because there is a need for high-end rental housing in Cedarburg, the project meets all the requirements for a Smart Growth Area, it is a quality project to be developed by a company with an excellent reputation and a company that would be involved with the community by joining the Chamber, become involved in community events and working with local businesses.

Mr. DeRosa then introduced David Barry of The Barry Company who started to market this property two years ago. Mr. Barry stated that it is not feasible to reuse the existing school building and there has been no one interested in institutional or residential development for less than 100 units on the St. Francis Borgia School site in the two years he has been marketing the site.

Commissioner Poellot asked Mr. DeRosa to describe his company's project in historic downtown Delafield. Mr. DeRosa responded that there is now a successful 30-unit per acre project on a two-acre property on which five boarded-up single-family homes sat. The tenants are commonly snowbirds that have lived in Delafield and continued to have ties to the community. In response to a question by Commissioner Poellot, Mr. DeRosa advised that the median rent for an apartment in Arrabelle would be about \$1,600.00 per month.

Mayor Kinzel announced that public comments would be received but they should be limited to two minutes each. He encouraged speakers to express their support of a previous speaker if no new information is offered. Mayor Kinzel reminded those present that public hearings on the project are scheduled for Monday, March 13, 2017 before the Common Council and that is the formal platform for providing comments. The Plan Commission will only be making a recommendation.

Bob Roessler of N47 W6075 Spring Street objected strongly to the time limit, alleging that the democratic process would allow speakers to have at least the forty-five minutes that the petitioner used to present his plan. In his opinion, the Plan Commission would be making a decision without knowing how the project would really look opposed to the renderings provided by HSI.

Vera Brissman stated that she would have spoken at the beginning of the meeting except for the promise that there would be an opportunity to speak when the agenda item was discussed.

Mayor Kinzel explained that everyone would have an opportunity to speak. In order to hear everyone, a reasonable time limit is being set. It was noted that the long existing City Policy regarding public hearings has always limited comments to two minutes, but he has been lenient enforcing that regulation. The Common Council has the right to vote on the matter whether the Plan Commission recommends in favor or against.

Chris Roessler of N47 W6075 Spring Street stated that while Mr. DeRosa said that he has been very forthright, transparent and open showing his plans at the City Hall and Library, her group has visuals that provide an alternate view superimposing the HSI renderings against the actual buildings at scale as accurately as possible to show what the project would really look like. The group would like equal time for display at the Library for public review.

Bob Roessler of N47 W6075 Spring Street provided an analysis of the project and how it sits in the City and how it compares to the rules, laws, ordinances, architectural review board, and planning commission to determine whether the project should be approved or not. He noted that the renderings are nice, but do not illustrate proportion, size, mass or scale. Mr. Roessler presented photorealistic pictures that he believed more accurately depicted how the project would look in reality once constructed. Mr. Roessler opined that this project's heights, depth, width, scale, mass and placement project

would diminish the Cedarburg brand, damage the City gateway, detract from the historic structures, and dwarf and devalue homes. The project would also decrease residents' quality of life with factors such as lack of privacy, increased traffic, reduced green space, invasive lighting, sunlight deprivation, and increased noise. Mr. Roessler believed that the project contradicts the Common Council's mission statement, deviates from the City's visioning and architectural review board documents, and does not conform to City Codes, ordinances and laws. He emphasized that not only would the neighborhood be affected, it would be the entire City. The Church is now the dominant structure, but would be diminished with the HSI project.

Mayor Kinzel suggested that the analysis should have been provided prior to the meeting to allow the Commissioners time for review. He recommended that Mr. Roessler's analysis be forwarded to the Common Council Members a week prior to the March 13th meeting for their review.

Rachel Wilde of N44 W6010 Hamilton Avenue advised that she supported everything that Mr. Roessler said.

Chris Seward of W71 N396 Cedar Pointe Avenue stated that he has preferred to live in Cedarburg with its variety of homes. He supports this quality project 100% and knows that the City's Commissioners and Council Members have researched the project and will make a decision in the best interests of the City. He has a mother-in-law and a son who would prefer to stay in Cedarburg and this project could possibly accommodate them. Mr. Seward pointed out that there have been other hotly-contested projects in the City, such as Starbucks Coffee and Out & Out Restaurant that have turned out to be assets to the community.

Tom Kandziora of N74 W5408 Georgetown Drive encouraged the Plan Commission and Common Council to move forward with the project. He pointed out that there are enough empty buildings in the City already such as Weil Pump and Amcast and would not like to see another.

William Bujanovich of W61 N459 Washington Avenue noted that there are other Smart Growth sites to develop and this proposal would over-develop the St. Francis Borgia property causing traffic and parking congestion where there are already traffic problems. In his opinion, the City did not envision a 700% increase in density for the site. Mr. Bujanovich suggested that a traffic study should include the traffic that would be generated with development of both the St. Francis Borgia and the Amcast sites.

Mark Peters of N69 W7025 Bridge Road learned that there is a shortage of this type of housing while looking to find a place in Cedarburg for his parents who were downsizing. Opportunities like this do not come along every day and it is worthy of consideration.

Donna McElligott of W59 N380 Hilbert Avenue reported that it is always difficult traveling Hamilton Road, noting she had to weave and wait on her way to this meeting.

The proposal is a massive development in an area not designed for it. She is for development and moving ahead, but in the drawings the totality of the proposal was not shown. Perhaps only once were all the buildings were shown on one drawing. For that reason, she cannot support this project. Ms. McElligott dismissed the notion that rejection of the proposal would mean that Cedarburg is not open for business. The decision should be based on what is best for Cedarburg, not just concentrate on the plans presented.

Vera Brissman of W58 N432 Hilbert Avenue questioned whether residents of Arrabelle would be patrons of Cedarburg businesses if such businesses were located inside the development and that if someone could afford \$1,200 for an apartment they could take care of themselves. If it is retirees that the project would target, St. Francis Borgia should build their own retirement facilities and not sell the property. As far as vandalism, St. Francis Borgia should take better care of their property. Ms. Brissman felt insulted that the developer stated that some in opposition to the project were uninformed when she has attended three presentations. She continued that those supporting the project, St. Francis Borgia Parish, HSI Properties, businesses, and The Barry Company, are there only for monetary gain. The people that do not appreciate the project are not in attendance for monetary gain but in fact paid for the signs, drawings and booklets themselves. They had no businesses backing them up.

Ms. Brissman began reading a speech she had prepared: "I have has spoken as a resident of the City of Cedarburg and as a near neighbor of the old St. Francis Borgia Church and school. I have mentioned that my family and I have been parishioners of St. Francis Borgia since 1990. We moved to our little 107-year old house on Hilbert Avenue specifically so that we could walk to church. And walk to church we did-every Sunday and Feast Day. Soon after, I was hired by St. Francis Borgia as a musician – guitarist and vocalist – to lead many masses – sometimes five in a weekend. It is an honor and a privilege and my favorite thing to do – to sing before God. So I have spoken to you also as a parishioner and supporter of St. Francis Borgia.

Today, however, I speak with you on a different level. Besides Mayor Kinzel, you are appointed members of a City of Cedarburg municipal body, and so am I. Years ago, Mayor John Kuerschner appointed me as Chairperson of the Board of Appeals. I have mentioned before that I take this position very seriously and help to guide the Board to make correct and just decisions – not based upon whom we know, how we may profit, or what we prefer – but based upon the real questions and findings to be answered within the Cedarburg Zoning Codes and Regulations.

As the chairperson, the first question I must ask the Board members is, Can you hear this matter fairly and objectively – without bias for or against any party? If they cannot, or if it is deemed they cannot by someone else – they must recuse themselves. It would be unethical and against the City of Cedarburg's written Code of Ethics to do otherwise. Who comes to the Board of Appeals? Well – YOU do . . . the residents and citizens of the City of Cedarburg who find they cannot comply with the Zoning Rules and

Regulations for some particular project. In 2014 – which was our last Board of Appeals meeting – a gentleman came forward who wished to build a garage. He applied for a permit build a garage that did not meet the 25 foot setback requirement. He was denied the permit. At that time, City Attorney Herbrand said the applicant was seeking a variance from the strict enforcement of law. The Zoning Code required a 25 foot setback. The applicant was seeking a variance to build his garage 11.62 feet from the north property line.”

Mayor Kinzel advised Ms. Brissman that she was over her time allotment and asked her to speak to the issue.

Ms. Brissman answered that she was establishing background and that she was getting to the law of the City of Cedarburg. She continued: “The Zoning Code required a 25 foot setback. The applicant was seeking a variance to build his garage 11.62 feet from the north property line. For those of you who are not publicly quick at math, that would be a difference of 13.38 feet. As the chairperson of the Board of Appeals . . .”

Mayor Kinzel again asked that Ms. Brissman speak to the issue.

Ms. Brissman continued: “As the chairperson of the Board of Appeals, she has five questions to ask. The first one is: Preservation of Intent – according to the City of Cedarburg’s own words no variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. The SFB parcel of land, along with many other pieces of land in Cedarburg which may be in your backyards, is defined by the City of Cedarburg’s Smart Growth and Comprehensive Plan. What HSI is requiring is far beyond the PURPOSE and INTENT of the ZONING regulations – in so many matters of density, height, lighting, parking, green space, retention ponds, traffic – not to mention the changing line of the Historic District and the razing of an architecturally rare historic building. The City Planner has said that the Smart Growth and Comprehensive Plan is not set in stone and can be changed – BUT WILL THE CHANGES REFLECT A PRESERVATION OF INTENT of the Zoning Code. The answer is NO.

Exceptional Circumstances – Are there any exceptional circumstances to the plan. Some may say the razing of the school . . . but any developer can take down the school without changing the Zoning Codes and Regulations. So the answer is NO.

Economic Hardship and Self-Imposed Hardship are not grounds for variance. From the standpoint of the developer . . .”

Mayor Kinzel interjected that the Commission is not considering a variance. Ms. Brissman responded that the questions still require answers. She continued: “From the standpoint of the developer, HSI - it is not the City of Cedarburg’s concern to fill the pockets of an outside business, nor to change our Zoning Codes to accommodate their profits. From the standpoint of the City of Cedarburg – specifically regarding taxes and

impact fees . . .” it is not grounds for a variance. “From the standpoint of St. Francis, it is ridiculous to think that the City of Cedarburg and its citizens are responsible for your mortgage. You caused this issue by demanding far too high of an asking price - \$1.5 million dollars – that only a developer like HSI – who must build a large scale development to recoup the costs – could afford that price.

Preservation of Property Rights – The variance must be necessary for the preservation and enjoyment of the substantial property rights possessed by other properties in the same district and vicinity.

Lastly, Absence of Detriment – No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or BE CONTRARY TO THE PURPOSE AND SPIRIT OF THE ZONING CODE OR THE PUBLIC INTEREST.”

Mayor Kinzel asked Planner Censky to clarify exactly the PUD Overlay District, which is what the petitioner is asking for. Planner Censky explained that the PUD Overlay District is not a variance, but is a unique zoning. It is an overlay zoning over the basic zoning districts that allows the Plan Commission, and ultimately the Common Council, flexibility on how basic district regulations are implemented. It permits adjustments for building heights, building size, building setbacks as long as it produces a community project that makes more sense for the City as a whole.

Mike Houlihan of W74 N1087 Montgomery Avenue advised that he has lived in Cedarburg for 28 years and has been active with the St. Francis Borgia (SFB) Church. About twelve years ago he started the Strategic Planning Committee to address the divesting of the school property, of which their activities have been transparent. The Church has always partnered with the community and still does, with a \$4 million operating budget to maintain the Cedarburg property. The Parish Rectory, however, is non-issue and needs to be razed. Mr. Houlihan advocated for townhouse development within the City as an excellent option for housing and supported the proposed apartments noting that the developments in Grafton and Port Washington were the definition of big boxes, not these buildings. He opined that otherwise development is being pushed out of the City. Mr. Houlihan stated that businesses in Cedarburg go through long and arduous approval processes; the Plan Commission has been very competent and has not let the property owners of Cedarburg down. He trusts them to make the right decision. He suggested that installing mature landscaping around the newly-built project could go a long way to address some of the concerns of the City.

Valerie Loughran of N40 W6096 Jackson Street stated that the job of the petitioner is to sell a project and they are doing a very good job. This is not really considering the neighborhood or the neighbors; it is just to sell a project. Those expressing concerns should be taken seriously. The project is huge, is not compatible with neighboring buildings, would block sunlight and is aesthetically wrong. Ms. Loughran knows that SFB had other offers.

Joe Emmerich of W75 N717 Tower Avenue advised that he had served as a Plan Commissioner and that conformity with the neighborhood has been required of all infill projects. The Church needs to be accommodating and work with the City to find an appropriate development for this site. Perhaps single-family homes can be financed with Tax Incremental Financing (TIF). Public officials are not fulfilling their obligations to serve the City if the proposed development is approved.

Bruce Duncan of 8000 West Bonniwell Road in Mequon advised that he is a member of St. Francis Borgia Church and asked for a show of hands in support of the project.

Chris Frommel of W53 N943 Hawthorne Lane reported that a proposal for four buildings with a total of 16 units on the corner of Washington Avenue and Jackson Street was denied in 2007 and afterwards many recognized that it was a really nice project that should have been approved. He opined that the HSI proposal is a wonderful project. Mr. Frommel advised that he is an architect that works all over the country and there would be competition between many communities to have such a project built. He forecast that the City would have another blighted corner if a project like this is denied.

Chris Roessler of N47 W6075 Spring Street stated that if the project is built it will have a shock value compared to the buildings, Church, rectory and small woods. Buildings will border the entire property line of the site and there will be no green space and they would block the sunlight from the homes on Spring Street. She compared the proposal to the corner of Mequon Road and Cedarburg Road in Thiensville which has no green space. This is a special location with an historic Church and asked the audience to please consider what it will really look like.

Tim Lynch of the St. Francis Borgia Parish stated that Bruce Duncan had the right idea and again asked supporters of the project to stand and clap.

Aaron Olejniczak of W74 N304 Cedar Pointe Avenue advised that he favored the proposal and urged that the previously-submitted analysis and interpretation of law should be viewed with a grain of salt. He said all proposals are about compromise. The developer has listened to the concerns of the neighborhood and the Council, and made significant concessions. He quoted a News Graphic Letter to the Editor and article from former mayors Coutts and Kuerschner in support of the proposal. Mr. Olejniczak noted that when money was raised for their new activity center, the sale of the old school site property was factored in the financial plan. The sale of the property at a fair market price will not be a windfall to the Church. About 325 children attend the school for a Catholic education, but many of their families still pay taxes to the City of Cedarburg. Without encouraging development, the school building could remain empty indefinitely. This project is about providing opportunities for children, building spaces that enrich the community, promotes progress, increases the tax base, and will retain and attract people to our City.

Aaron Schultz of W59 N370 Hilbert Avenue noted that Commissioners have received a rather lengthy packet from him regarding parking, configuration of shared parking and the shared parking agreement referenced. First of all, a written agreement should be required. He added that he found the density calculation to be problematic in that several of the lots will not be part of the overall Arrabelle development, such as the single-family lot fronting on Spring Street that is approximately 4/10ths of an acre. The nine townhomes proposed for the vacant lot, however, do meet the Comprehensive Plan density criteria, while the Zoning Code limits development to no more than 4 units. Crowding the two large buildings of 32 units and 28 units, however, on the school site, increase the density beyond the 16 to 18 units but from 5.2 to 10.8 units to 25 units per acre. The entire project operates as individual lots with several different projects. Providing only 40 lots behind the Church, when 79 are required for daily masses, first requires a cross-easement agreement to use the apartment surface spaces, and assumes that the apartment tenants are not going to use their surface parking spaces. These circumstances will result in that the Church will not have free access anyway forcing on-street parking, which is not allowed per the City's Code. The apartment buildings really has the risk of detrimentally impacting Church operations as parishioners will have to walk up several steps and/or walking 400 feet to get to the Church. The parking plan is not realistic when closely evaluated.

Mr. DeRosa noted that HSI Properties, LLC has an excellent reputation for doing what they say they will do and will partner with services in the City. He clarified services to be offered to tenants, such as the valet dry cleaning service, will be a partnership with a local dry-cleaning business, not a dry-cleaning business in the building. The project meets the parameters of the Comprehensive Plan and the PUD overlay district gives the City considerable control over the details of the development.

Vice Chairperson Burgoyne advised that he received a complaint regarding his participation, and in conferring with counsel, it was suggested that he recuse himself. He did not believe he has a conflict of interest but will recuse himself to avoid the appearance of any conflict. He pointed out that for the last 28 years, he has been involved in the approval process on many projects including three churches. However, because he is a member of St. Francis Borgia, he will recuse himself. Mayor Kinzel thanked Vice Chairperson Burgoyne, but noted that there was no conflict of interest and recusing himself was unnecessary.

Commissioner Poellot reported that as a resident of the adjacent neighborhood he received correspondence that the proposal was for a five-story building and where it was going to go right after a meeting where he was told it would be three stories. He actually believed for a second the neighbors knew more than he did. He appreciated that an effort is being made to work together on the project, but there is misinformation out there that makes it difficult. Commissioner Poellot advised that he is an architect and noted that the perspective on the renderings provided by Mr. Roessler were a bit off based on his architectural knowledge and perhaps more accurate drawings could be

provided. As far as sunlight depravation, he asked that the architect provide sunlight calculations for June 20th and December 21st.

Commissioner von Bargaen thanked all for their time and passion. He wanted to let everyone know that he has listened and have taken all comments seriously. Commissioner von Bargaen advised that he is laboring with the decision, walking the site, and trying to put himself in the neighbors' shoes. He is sympathetic to the homeowners who did not buy into this. The first proposal was monolithic, but there has been cooperation and the current proposal seems one to embrace. The Church has a right to sell their property and realize a margin. This is a big issue that he does not take lightly.

Commissioner Czarnecki acknowledged the historic nature of Cedarburg, but was concerned with the vibrancy of the downtown. He has learned from downtown business owners that they rely on 30% to 50% of their income on two weekends out of the year, which is not a long-term sustainable model. The current demographic for the downtown shopper is a middle-age woman, while the younger generation is shopping on-line. His concern is whether or not young people, in twenty years or so, will travel from Milwaukee or Chicago to shop in Cedarburg. He believes that Cedarburg will not be used the same way in the future. He learned that because of growth around the City and the utility infrastructure, the City of Cedarburg is limited in its ability to grow in the future and will end up with a situation that the City will not be able to accommodate the people who want to come here to live. That will affect the tax base and we will need a vibrant downtown. There are few opportunities to get people shopping in the downtown area. Increasing a business income by even by \$100 a month or \$1,000 a month can make a huge difference in the vibrancy of downtown Cedarburg. Commissioner Czarnecki agreed with Commissioner Poellot that the scale on drawings submitted by Mr. Roessler did not seem correct and suggested they be checked by someone independent of the City or the neighborhood. It has been noted that information, not purposely shared incorrectly, but incorrect information being provided to the public, and he would like the drawings provided by Mr. Roessler checked for accuracy.

Commissioner Zimmerschied first stated he was impressed with HSI's organization, professionalism, architects, and interest in designing a project that is appropriate for Cedarburg. Like a lot of people, he believes Arrabelle would be good for Cedarburg; it is the type of housing the City needs. However, he is not sure the St. Francis Borgia site is the appropriate place for Arrabelle. Changing the density of an existing neighborhood is probably one of the most important decisions Plan Commissioners make and no one takes it lightly. Commissioner Zimmerschied thought that other options are out there; that several people have alluded to that. This process is somewhat constricted as someone makes an offer, the property owner accepts, the property is tied up for a while, and everyone can only focus on that project. Yet people are concerned that there are other projects, more suited to the site, which might come along. He sensed that they will. And perhaps even HSI could have a future role. There are so many important factors on a project like this that it is important to work together. If the property owner

and developer were not asking for increased density, there really would not be an issue here. Whatever the property owner and the developer agreed to on the price of the parcel would be their business. However, because they are asking for an increase in density, with the asking price at approximately \$1.5 million, that number is not cast in stone. He understands that St. Francis Borgia has debts to pay off, but one has to balance that with the needs of the existing neighborhood. He wondered if St. Francis Borgia wants to be a good neighbor to their old neighbors. Trying to maximum the development, no matter how nice, is not being a good neighbor. Commissioner Zimmerschied stated that he did not think project should go forward because it does not meet one of the requirements of the PUD ordinance, which is whether the structures proposed for the project are harmonious with existing nearby structures and land uses. All the buildings are beautiful but when the size of the proposed buildings are shown in the renderings next to the little existing houses that are in that neighborhood, he does not feel they are harmonious. This is not a comment at HSI as he understands the constraints they are working under considering the purchase price from St. Francis Borgia, but is there a better deal out there if the property owner could lower the asking price. He advised that the City has recently formed a Community Development Authority that a lot of cities use to look at issues like Arrabelle to see what funding would be available for a solution that does not have such an overpowering impact on our existing historical neighborhood.

Commissioner Cain reiterated that this is a very difficult issue at hand and none of the Plan Commissioners take the issue lightly. In terms of the historic nature of the area, she understands what it is to live in an historic building and maintain it, but also thinks the plans that are before them are really only what we have before us. The “someday/maybes” are the “someday/maybes” that may never come. Having to walk by the other blighted buildings in the City, such as Amcast, with no real plans in sight is a very difficult situation. HSI and the architect have been very thoughtful in their approach in terms of their response to the City and the neighborhood, but a decision has to be a balance for the whole community.

Mayor Kinzel advised that all would have the opportunity to speak again at the March 13, 2017 public hearing at the Common Council.

Mayor Kinzel expressed concern about hoping for another development proposal. The building proposal for the corner on Washington Avenue and Jackson Street was turned down many years ago and now somewhat less desirable buildings still stand on the site. Discussions on another proposal since then have fallen through as well. At the same it is not desirable to approve just anything. Obviously, this has been a struggle for the Plan Commissioners and all the Council Members. His opinion is that a decision has to be based on what is best for the entire City and thinks this proposal is a very good development and in the best interest of the City to go forward now. Up to this point, the City has not had a developer put as much time and effort into a project like this. They have invested quite a bit of money in the project on a hope and a prayer that the project would go through and thanked them for making the continued effort. Mayor Kinzel stated that he is a proponent of the project and hope that it is built.

Mr. DeRosa confirmed that the price of the property is a relatively small percentage of the cost of developing the property. Even if the property purchase price was cut in half, it would not substantially change the size of the project due to other costs. As he has been working on this project for the last nine months, he does not believe that there are other developers in the market watching from afar that would have a high level of confidence or certainty looking take a shot at this property. If this project is not desired by the City, be prepared to deal with uses in the current Institutional and Public Service District zoning.

Action:

Council Member Czarnecki moved to recommend the Land Use Plan amendment and rezoning recommendation to the Common Council as presented with the following conditions:

1. Submittal of a traffic impact study prior to approval of the final detail plans.
2. The exit onto Washington Avenue will need to be posted "No Left Turn" or designed to functionally prohibit no left turns.
3. Submittal of the detailed site, architectural, landscaping, exterior light etc. after the Common Council's decision on the rezoning request.
4. A development agreement to be processed along with the review and approval of the final detailed plans.
5. Grading, drainage and storm water management plans will be required.
6. Impact fees due at time of building permit acquisition.
7. Building must meet all State Fire Codes (sprinkler, alarms, access, etc.).
8. Submittal of a cross-easement to allow parishioners the right to use the 39 surface stalls when needed.
9. Submittal of a Certified Survey Map of the project area.

Commissioner Cain seconded the motion.

Continued Discussion:

Commissioner Zimmerschied requested clarification on what are the conflicts in the Land Use Plan. Planner Censky advised that the Comprehensive Land Use Plan is made up of two documents, one of which is a map which labels every square inch of the City into use categories. Also, as part of the planning process, redevelopment sites were identified and labeled as Smart Growth Areas. As part of that, certain text suggestions were written for each Smart Growth Area and that is where the conflict occurred. The map shows the St. Francis Borgia site as high-density residential at 16.1 units per acre, but the text specifically states that the site be considered for high-medium density residential up to 10.8 units per acre. The conflict was discovered going through the review process and are addressing that conflict through this amendment.

Continued Action:

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

COMMENTS AND ANNOUNCEMENTS BY PLAN COMMISSIONERS

No comments or announcements were offered.

MAYOR'S ANNOUNCEMENTS

There were no announcements.

ADJOURNMENT

Mayor Kinzel moved to adjourn the meeting at 9:45 p.m. The motion was seconded by Commissioner Poellot and carried without a negative vote.

Darla Drumel,
Administrative Secretary