

CITY OF CEDARBURG  
PLAN COMMISSION

PLN20180305-1  
UNAPPROVED MINUTES

March 5, 2018

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, March 5, 2018 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, Greg Zimmerschied, Heather Cain, Daniel von Barga

Excused - Mark Poellot

Also Present - City Attorney Mike Herbrand, City Planner Jon Censky, 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**

Commissioner Zimmerschied moved to approve the minutes of February 5, 2018 and the motion was seconded by Commissioner Cain. Commissioner Zimmerschied requested that the second sentence in the seventh paragraph on Page PLN20180205-3 be deleted: *He would be more favorable to applying the permit to just fundraising events.* The motion carried without a negative vote, with Commissioner Poellot excused.

**COMMENTS AND SUGGESTIONS FROM CITIZENS**

Mayor Kinzel offered the opportunity for the public to speak on any issue unrelated to the agenda items. None were offered.

**PUBLIC HEARING TO CONSIDER CONDITIONAL USE REQUEST FOR AUTO SERVICE, REPAIR AND USED CAR SALES AT W68 N954 WASHINGTON AVENUE – VLADISLAV OSIPYAN d/b/a GRAND MOTORSPORTS AND SERVICE INC.**

Mayor Kinzel declared the public hearing open at 7:02 p.m. Administrative Secretary Drumel confirmed that proper legal notice had been provided.

Planner Censky noted the Hometown Car Care business that previously occupied this building has relocated to the Five Corners area in the Town of Cedarburg and the building has been vacant for some time. Since this building and site were designed to

support an auto service use, Vladislav Osipyan feels it is ideal for his auto service center and has submitted an application for conditional use approval consideration for used auto sales. He proposes to operate under the same terms and conditions of the Hometown Car Care business and that his business hours will be limited to Monday-Saturday, 9am to 6pm. He further advises that all cars for sale would be kept within the fenced area as previously required.

Planner Censky reminded Commissioners that conditional uses are listed separately from permitted uses by right and processed differently in that a public hearing is required to solicit neighborhood comments intended to identify potential problems for which to establish appropriate conditions. According to the American Planning Association's Zoning, Development, and Planning Terms ***a conditional use is one that because of special requirements or characteristics, may be allowed in a particular zoning district only after review by the commission and granting of conditional use approval imposing such conditions as necessary to make the use compatible with other uses permitted in the same zone or area.*** According to State law, those conditions must be based on substantial evidence, be reasonable and, to the extent practicable, measurable. The conditions may include such things as the duration, transfer or renewal of the permit. The City's decision to approve or deny the permit must also be supported by substantial evidence.

This site is centrally located within an area zoned B-2 Community Business District with the Johnson Chiropractor Clinic to the north and Budiac Plumbing business (former Schuette Woodcraft) to the south. South of the Budiac Plumbing is the Covered Bridge (multi-tenant) Center and across the street from this site is the Groth Water and Wells Inc. business.

Business Owner Vladislav Osipyan of Grand Motorsports and Service Inc. advised that he would not be providing towing services, but vehicles needing repair would be towed to the site. In response to Commissioner's comments, Mr. Osipyan agreed to requiring vehicles to enter the site at the north drive and exit out the south drive to avoid having headlights glaring onto residential properties. He also advised that the exterior building light would be directed more downward.

Carol Kuehn of W68 N961 Cambridge Avenue advised that if the operation is operated as the previous one was, she had no objections.

**Action to Close Public Hearing:**

A motion was made by Vice Chairperson Burgoyne to close the public hearing at 7:19 p.m. The motion was seconded by Commissioner Zimmerschied and carried without a negative vote, with Commissioner Poellot excused.

**Action on Conditional Use Permit Request:**

Commissioner Zimmerschied moved to approve the conditional use request subject to:

1. All vehicles stored for sale shall be parked in the existing fenced area as depicted on Exhibit B.
2. All other outside vehicle parking shall be per Municipal Code.
3. Onsite signage shall be limited to the stand-alone business identification out front and the use of a sandwich board sign per Municipal Code. No additional signage is allowed on the site or on the building.
4. All vehicular traffic is to enter the business at the north driveway and exit to the south driveway.
5. Hours of operation shall be 8:00am to 6:00pm Monday –Friday and 9:00am to 6pm Saturday.

The motion was seconded by Council Member Czarnecki and carried without a negative vote, with Commissioner Poellot excused.

**REQUEST FOR TEMPORARY USE PERMIT TO ERECT TENT FROM APRIL 2, 2018 TO MAY 13, 2018 AT W62 N630 WASHINGTON AVENUE – STILT HOUSE/GORDON GOGGIN**

Planner Censky reminded Commissioners that this request was tabled last month because the business owner, Gordon Goggin, was not in attendance to answer questions regarding the intent and use of the tent. This tent will be installed in the outdoor seating area directly north of the Stilt House. The tent measures 20' by 40' and stands approximately 10' tall. Mr. Goggin proposes to install the tent on April 2, 2018 and to remove it on May 13, 2018 for a total of 6 weeks.

Records reveal that Mr. Goggin had previously installed and used this tent for a period of time last fall without going through the required approval process but when informed of that process he immediately filed an application. While no official action was taken on last year's request, staff did receive permission from this Commission to sign off on the request with the understanding that future requests would be processed through the Landmarks and Plan Commissions. Accordingly, having now received his new request, staff first presented it to the Landmarks Commission for their input and it was approved unanimously on January 25, 2018.

Business owner Gordon Goggins of the Stilt House advised that the tent costs \$2,200 to rent, with most of the cost associated with the set up and not the length of time. Along with the propane heaters that he occasionally has to use, he needs the tent up for a significant period of time to recoup the cost plus the additional dollars to donate. He also needs the regular dining to make up for the costs. At this time, he has made commitments to Ronald McDonald House, Heaven's Gate Ranch and Mel's Pig Roast and all net costs go to the charities. Nearly \$100,000 went to charities in 2017. A

structure cannot be built because of the lot size and he has exhausted all options to expand his restaurant up to the second floor. He noted that he might be able to set up the tent closer to the Creek noting that wires cross over the area. He might be able to set up the tent north to south along the Creek.

Commissioner Cain explained that while it is wonderful that Mr. Goggin supports charities, her concern is that six weeks is a long time to use a tent, especially in the historic area where there are many discussions on aesthetics of the buildings and outside seating. She has trouble reconciling this approval with what has been allowed for other Historic District businesses. In addition, the tent serves to expand his business, not necessarily for charitable functions. She empathized with the restrictions the small size of his building imposes, but the concern here is that a precedent would be set to allow any bar or restaurant to set up a tent during the winter months to maximize their profits.

Vice Chairperson Burgoyne agreed that granting the temporary use would be precedent setting, which would require identifying the special circumstances to allow the use or deny the use to future petitioners.

Council Member Czarnecki advised that he did not want to stand in the way of anyone increasing their business. The City should be helping businesses to succeed, which is good for Cedarburg. He would not have a problem if Mr. Goggin could put the tent farther back on the site. If the use of tents becomes a problem, then the City would deal with it.

Mayor Kinzel concurred stating that if the downtown becomes a tent city, then the problem should be addressed. Each time the tent is used, it requires Plan Commission approval.

In response to Commissioner's question, Planner Censky advised that the Landmarks Commission recognized the benefit to the community unanimously approved the tent. There was no discussion on whether regular dining would occur in the tent.

In response to a question from Commissioner von Barga, Mr. Goggin advised that out of 28 days, the tent was probably fully-occupied 12 days.

Commissioner von Barga advised that he could see both sides of the issue: why have restrictions in place if they are not enforced, but yet he does not want to stand in the way of business expansion nor deny fundraising opportunities.

Mayor Kinzel clarified that staff can approve the use of the tent for fourteen days, but a request for more than fourteen days requires Plan Commission approval.

**Action:**

A motion was made by Council Member Czarnecki to approve the Temporary Use Permit for the use of a tent from April 2, 2018 to May 13, 2018 provided that the tent is moved as far back as possible on the lot. The motion was seconded by Mayor Kinzel and carried with Mayor Kinzel, Council Member Czarnecki, Vice Chairperson Burgoyne, Commissioners von Barga and Zimmerschied voting in favor; Commissioner Cain voting against; and with Commissioner Poellot excused.

**CONCEPT REVIEW FOR LAND USE PLAN AMENDMENT AND REZONING FOR PROPOSED CONDOMINIUM DEVELOPMENT IN THE VACANT 5.520-ACRE PARCEL IN THE CEDARBURG BUSINESS PARK ALONG EVERGREEN BOULEVARD JUST NORTH OF PIONEER ROAD – CONDO DEVELOPMENT INC./GREG JAMES**

Planner Censky reported that, as directed by the Plan Commission, this request was sent to the Community Development Authority (CDA) for their thoughts and recommendation on the proposed Land Use Plan Amendment and rezoning. At their February 21, 2018 meeting, the CDA considered three things: should the City consider purchasing the site and then resell it for industrial development or, should the site be left to develop under the M-3 Zoning District, or would they support the rezoning as proposed. After some discussion on the issue, the CDA indicated support for the proposed two-family condominium project and recommended rezoning and Land Use Plan amendment by unanimous vote.

In the interim, a review of the original Business Park and TIF files from the early 1990's revealed that Business Park Covenants were created as part of the creation of the Business Park and those Covenants continue to be in effect and legally govern all development within the Park. Since this property is part of the Business Park as legally defined in the Covenants, it is subject to the restrictions contained therein.

These Covenants run with the land and can only be amended by recording at the Register of Deeds office a document agreeing to release the Doornek property from the Covenants that is executed by the owners of all land and their mortgagees within the Business Park. Until an amendment to these Covenants is properly drafted and approved, the City cannot process Developer Greg James' request further. However, to undertake an attempt at amending the Covenants, Mr. James would like a commitment and support for his project going forward. Any comments the Commissioners may have will aid in his decision whether or not to pursue this project.

As previously reported, Mr. James is requesting consultation regarding plans to develop either a 24-unit condominium project consisting of 12 two-family structures or, if the City agrees to sell a portion of the adjacent Outlot, a 28-unit project consisting of 14 two-family structures.

The purpose of this consultation is to provide meaningful feedback and direction regarding whether or not the Plan Commission would support this type of land use and also to offer specific feedback regarding the site layout and building concept plans. If Commissioners feel comfortable with this project, Mr. James will then submit his Land Use Plan amendment and rezoning petitions to change the use classification from Business Park to Two-Family Residential and the zoning from M-3 to Rd-1.

A review of City records indicates that a request for an assisted living elderly housing project was considered for this site by the Plan Commission in November of 2010 but was rejected because of concerns that this was the only vacant manufacturing site left in the City. While this is the last vacant site in the City's first Business Park, there currently are planning efforts are currently underway for a second business park along the south side of Highway 60 west of Sheboygan Road.

Planner Censky provided the following issues for Plan Commission consideration:

1. Mr. James proposes a 958-foot long private cul-de-sac which exceeds the maximum length of 750 feet allowed by Code. This parcel has frontage on both Evergreen Boulevard and Pioneer Road and from a traffic circulation standpoint the Planning, Engineering and Fire Department staff would prefer that the cul-de-sac be eliminated and instead the proposed roadway turn to the south for a second egress/ingress be provided to Pioneer Road. However, from a crime prevention standpoint, the Police Chief prefers the cul-de-sac as proposed.
2. Because of the narrow and long shape of the parcel, Mr. James is limited in how creative he can be with his street layout and site design. He is, therefore, proposing a long straight cul-de-sac lined by cookie-cutter designed duplex structures that lack creativity. More interest can be achieved by incorporating things like staggering setbacks, providing change in architectural design and color scheme more reflective of the existing two-family structures along the west side of Evergreen Boulevard at Pheasant Court and Partridge Court, providing quality landscaping and attractive low-intensity residential lighting, etc.
3. Mr. James proposes to buy a portion of the adjacent City-owned Outlot or acquire an easement to allow for less than the required rear yard setback. While staff does not oppose the sale, that request will need your recommendation and Common Council approval.
4. The developer will be required to pay all impact fees at the time of building permit acquisition.
5. For informational purposes, there is an existing siren located at the east end of this property which is slated to be relocated this year to an area slightly to the west on the City-owned land behind the Journal Sentinel building.

Vice Chairperson Burgoyne noted that after receiving the recommendation from the CDA he feels more comfortable changing the Master Plan to duplex zoning. He added that the community is short on condominiums, the proposed design is popular, and he encouraged Mr. James to proceed. However, he cautioned that he was not looking for spartan architecture.

Commissioner Zimmerschied agreed that the project is a good use of the parcel. He also advised that the architecture would be an important aspect of the approval.

Mayor Kinzel echoed that the architecture is a significant element of the development review.

The consensus of the Plan Commissioners was that they were in support of the proposed condominium development.

**CONSIDER ALTERNATE PARKING LOT LIGHT FIXTURES FOR THE ARRABELLE PROJECT BEHIND ST. FRANCIS BORGIA CHURCH – HSI PROPERTIES/TONY DeROSA**

Planner Censky noted that the Commissioners asked Tony DeRosa of HSI Properties to consider alternate light poles for those fixtures closest to the Church. It was felt that because of the historic character of the Church, the light poles should be ones that better fit that character.

Tony DeRosa of HSI Properties described the alternative lighting as a decorative bell-shaped dark bronze fixture, which has a good ability to control the lighting. All seven lighting fixtures in the parking lot are proposed to be changed to this fixture. In addition, steps will be taken regarding the light fixture on the southwest border of the site, directly next to W60 N417 Hilgen Avenue so that light from the project does not shine into her property.

**Action:**

Council Member Czarnecki moved to approve the DSCP1 Dark Bronze bell-shaped LED light fixture as proposed. The motion was seconded by Commissioner Zimmerschied and carried without a negative vote, with Commissioner Poellot excused.

**CONSIDER REQUEST TO MODIFY APPROVED LANDSCAPING PLANS FOR HAMILTON HOUSE SENIOR LIVING LOCATED AT W76 N629 WAUWATOSA ROAD – TUKKA PROPERTIES/TOM PIENKA**

Planner Censky advised that City records indicate that the current version of the landscape plan for the Hamilton House project was approved at the Plan Commission's October 2015 meeting. While the plan shows an attractive planting scheme throughout the site, the focus was to establish a good buffer along the west property line to address the concerns of the neighbors. Based on that discussion the 2015 plan serves to

preserve the existing tree line along that property line supplemented by an assortment of high-growth deciduous trees.

However, because of the costs associated with the delay in getting this project underway coupled with winter construction, Tom Pientka of Tukka Properties is asking for consideration to modify the landscaping plan by reducing the amount of plant material. The landscaping that they propose to remove from the plan does not impact the approved buffer along the west property line but does remove plant material at areas elsewhere throughout the site where the impact of its removal is moderated.

City staff's review of the revised plans indicates that they are removing a number of the approved trees throughout the site and some of the low-growth shrubbery. The proposed plan still complies with Code requirements.

The registered Director of Operations for Hamilton House Senior Living, Allan Barr, confirmed that the buffer at the west property line would not be affected.

**Action:**

A motion was made by Commissioner Zimmerschied, seconded by Vice Chairperson Burgoyne, to approve the landscape modifications as requested. The motion carried without a negative vote, with Commissioner Poellot excused.

**CONSIDER ARCHITECTURAL MODIFICATIONS TO THE FORMER CEDARBURG LUMBER BUILDING LOCATED AT W61 N397 WASHINGTON AVENUE – BIRD HOUSE RENTALS/JENNIE AND DANNY CRAWFORD**

Planner Censky explained that Jennie and Danny Crawford are the new owners of the commercial property at the southwest corner of Washington Avenue and Jackson Street. Their plan is to continue the current uses within the building and to maintain the B-2 Community Business District zoning into the future. While their short-term plan is to repaint and fix up the principal building, their long-range plan for the warehouse has yet to be formalized. Because of the drab color and the deteriorating condition of the principal building, they propose to repair and paint the exterior siding, replace the windows that have fallen into disrepair and add a new storefront window on the east elevation. On the north elevation, their plan is to merge the two existing doors closer together and then provide a single deck with two stairs leading down. Over the deck and stairs on the north elevation and the new storefront window on the east elevation they propose to introduce a small canopy for aesthetic reasons and to help protect from the elements. The pavement on the north side of the building will be removed and planted with grass.

City records indicate that the principal building is non-conforming due non-compliance with the setback requirements of the B-2 Zoning District. **Section 13-1-142 of the Zoning Code** however, states: **The use of a structure existing at the time of the adoption of this Chapter may be continued although the structure's size or**

**location does not conform with the established building setback line along the streets, or the yard, height, parking, loading, access, and lot area provisions of this Chapter. Section 13-1-140 States: Total lifetime structural repairs or alterations shall not exceed fifty percent of the City's equalized assessed value of the structure at the time of its becoming a nonconforming structure.**

Since the work under this request is not classified as structural work but rather is considered general maintenance, the plans are Zoning Code compliant.

Architect Don Stauss presented the plans to the Plan Commissioners. He noted that the main two-story building and the shed roof section will have complete tear-off of the siding with new Tyvek and "Black Panther" board and batten. The rear portion with the overhead garage door will just have repairs to the vertical tongue and groove. Most of the windows and doors will be new, along with the new stairway and the "Antique Palm" color decking. Light fixtures will be changed to galvanized stainless steel. The building trim will be semi-gloss "Tricorn Black" and the Marvin windows are to be clad in "Ebony."

**Action:**

Commissioner Zimmerschied moved to approve the architectural modifications as presented. The motion was seconded by Commissioner von Bargaen.

**Continued Discussion:**

Council Member Czarnecki questioned whether something could be done with the angled windows on the south elevation that have a 1970s look while the rest of the building will look very retro. Mr. Stauss noted that the windows are vital to the interior space, so they should not be removed. He felt that putting in square windows would be detrimental to the exterior architecture of the building and draw too much attention to them.

**Final Action:**

The motion carried without a negative vote, with Commissioner Poellot excused.

**CONSIDER ARCHITECTURAL AND SIGN CHANGES TO McDONALD'S LOCATED AT W62 N270 WASHINGTON AVENUE - HAAG MÜLLER, INC/STEVE JESKE**

Planner Censky advised that McDonald's is requesting approval of their plans to remodel their restaurant. Plans include changes to the interior and exterior of the building and some minor changes to the parking lot. Otherwise the site, landscaping and exterior lighting will remain untouched. The purpose of these changes is to update the facility to meet the current restaurant design standards of the McDonald's Corporation.

City records indicate that the McDonald's building was constructed in 1990 and has remained as originally built for the last 28 years. The purpose of this meeting is to

provide feedback on the plans to make any necessary adjustments before returning with detailed plans for City approval. The most significant change to the look of the building is the removal of the existing mansard style roof and replacing it with a parapet roof. The existing brick material on the lower facade will remain but the upper parapet portion of the building will be covered with E.I.F.S. (Exterior Insulation Finish System) material. The center portion on the west (front) elevation and the matching element on the south elevation will be covered with Nichiha Architectural Wall Panels of Iron Mountain BM color.

While McDonald's will be updating their signage as well, and signage is subject to review and approval by the City Building Inspector.

Commissioner Burgoyne stated that the current McDonald's was designed after a Virginia McDonald's and that he is not in favor of McDonald's corporate look.

Steve Jeske of Haag Müller, Inc. advised that he lives in Port Washington and is familiar with the standards of the City of Cedarburg. In 2009, McDonald's began a major remodel process and expect to finish all remodels by year 2020. Their intent is to modernize both the interior and exterior of their stores and he does not have much flexibility in the design features.

Commissioner Zimmerschied opined that the proposed building would be an improvement and would be compatible with the Walgreens building.

Mr. Jeske was asked to contact Beyers True Value to discuss the maintenance of the retaining wall and steps that connect the two properties.

**Action:**

A motion was made by Commissioner Zimmerschied, seconded by Council Member Czarnecki, to approve the proposed remodeling plans for the McDonald's restaurant at W62 N270 Washington Avenue. The motion carried without a negative vote, with Commissioner Poellot excused.

**COMMENTS AND ANNOUNCEMENTS BY PLAN COMMISSIONERS**

Council Member Czarnecki noted that the next meeting of the Plan Commission is scheduled the day after Easter and wondered if a quorum would be available. Due to the spring break, it was determined that the next meeting date would be changed to Wednesday, April 11, 2018.

**MAYOR'S ANNOUNCEMENTS**

No announcements were offered.

**PLAN COMMISSION**  
**March 5, 2018**

**PLN20180305-11**  
**UNAPPROVED MINUTES**

**ADJOURNMENT**

Commission Zimmerschied moved to adjourn the meeting at 8:20 p.m. The motion was seconded by Council Member Czarnecki and carried without a negative vote, with Commissioner Poellot excused.

Darla Drumel,  
Administrative Secretary