

CITY OF CEDARBURG  
PLAN COMMISSION

PLN20180702-1  
UNAPPROVED MINUTES

July 2, 2018

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, July 2, 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 O'Keefe.

Roll Call: Present - Mayor Michael J. O'Keefe, Council Member Patricia Thome, Mark Burgoyne, Greg Zimmerschied, Heather Cain

Excused - Adam Voltz, Sig Strautmanis

Also Present - 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**

Council Member Thome moved to approve the minutes of both June 4, 2018 and June 20, 2018. The motion was seconded by Vice Chairperson Burgoyne.

Commissioner Cain requested that the changes listed below be made to Page PLN20180620-4 of the June 20, 2018 minutes:

1. Under **New Motion**: specify that Exhibit A is the City's proposed Exhibit A.
2. Under **New Motion**: the last sentence should read "Use of umbrellas are prohibited on the south side the Brandywine restaurant."
3. Under **Continued Discussion**: the sentence should be reworded to read: "Commissioner Cain requested that the license agreement include an indemnification provision that is not limited to the insurance coverages in the insurance obligation section of the Agreement."

The amendments were acceptable to both Council Member Thome and Vice Chairperson Burgoyne. The motion as amended carried without a negative vote, with Commissioners Voltz and Strautmanis excused.

**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.

**CONSIDER APPROVAL OF PLANS FOR A NEW HOME AT W51 N740 KEUP ROAD – BOB AND SUE THIERFELDER**

Planner Censky reported that Sue and Bob Thierfelder recently purchased an 0.405-acre lot with plans to design and construct their new home. Before construction begins they will be removing a number of trees to prepare the site for development. Since this lot is located in a predominately built-up area where it is bounded on two or more sides by existing homes, it is classified as an infill lot. According to Section 13-1-122 of the Zoning Code, architectural plans for infill lots shall be submitted to the Plan Commission and this Commission shall determine that the structure is compatible with the surrounding area and either approve, approve conditionally or reject the plans.

Planner Censky advised that staff's review of the plans indicates full compliance with the dimensional requirements of the Rs-3 Zoning District. The sanitary sewer and water laterals are installed to the property line and to extend those laterals to the home bedrock removal will likely be required. In addition, some impact fees were paid by the previous owner when the land was divided, but new impact fees of \$3,746.06 are due at the time of building permit issuance. Staff recommends approval with the condition that the impact fees are paid, and that Mr. and Mrs. Thierfelder secure a building permit prior to commencement of construction.

**Action:**

A motion was made by Commissioner Zimmerschied, seconded by Commissioner Cain, to approve the architectural plans as presented as compatible with and would complement the neighborhood. The motion carried without a negative vote with Commissioners Voltz and Strautmanis excused.

**CONSIDER RECOMMENDATION OF LAND USE PLAN MODIFICATION AND REZONING OF LOT 3 OF CSM 3769 ON THE EAST SIDE OF EVERGREEN BOULEVARD APPROXIMATELY 224 FEET NORTH OF PIONEER ROAD TO ALLOW FOR CONSTRUCTION OF AN ORTHODONTIST OFFICE – ALISON MANTEL, DDS, MS**

Planner Censky reminded Commissioners that at the April 11, 2018 Plan Commission meeting, they voted to recommend changing the Land Use designation and the Zoning District for the two parcels located at the northeast corner of Pioneer Road and Evergreen Boulevard for a future orthodontics clinic for Alison Mantel, DDS. Since that meeting, Dr. Mantel has decided to purchase the third parcel and incorporate it into the plans for her clinic. The Land Use Plan amendment and rezoning process for this third site is the same as that which was just completed for the first two sites. Dr. Mantel proposes combining all three lots together into one and then to construct a 4,000 square foot clinic with supporting onsite parking similar to the Today's Dentistry across the street at W68 N101 Evergreen Boulevard.

Planner Censky noted that City records indicate that Mr. Stroebel's three parcels were annexed into the City as one 39,360 square foot parcel in January 2009. That parcel

was subsequently classified on the Land Use Plan as High-Medium Density Residential and zoned Rd-1 Two-Family Residential District. Later in 2009, the parcel was divided into the three separate lots with plans to construct a two-family structure on each lot. However, due to the downturn in the economy at the time, no building permit was ever pursued and consequently these lots have remained without activity.

The proposed Land Use Plan amendment is to change the classification for this site from the High-Medium Density Residential (5.2 to 10.8 units per acre) classification to the Office classification. The second step in this process is then to rezone the site from Rd-1 Two-Family District to the B-4 Office and Service District.

Planner Censky noted that since this project is consistent with the existing office development across the street, the use is compatible with the use pattern established for this area.

**Action:**

Commissioner Zimmerschied moved to recommend the Land Use Plan amendment for Lot 3 of CSM 3769 from High-Medium Density Residential to the Office classification and to recommend rezoning the lot from RD-1 Two-Family Residential District to B-4 Office and Service District. The motion was seconded by Commissioner Cain and carried without a negative vote, with Commissioners Voltz and Strautmanis excused.

**CONSIDER RECOMMENDATIONS TO AMEND THE LAND USE PLAN AND CHANGE THE ZONING FROM 1-1 INSTITUTIONAL AND PUBLIC SERVICE DISTRICT TO THE B-3 CENTRAL BUSINESS DISTRICT THE PROPERTY N56 W6093 PORTLAND ROAD AT THE SOUTHWEST CORNER OF MILL STREET AND PORTLAND ROAD – CORNERSTONE BUILDINGS LLC/GREG ZIMMERSCHIED**

Commissioner Zimmerschied recused himself from the Plan Commission.

Planner Censky advised that property owner Greg Zimmerschied is requesting the rezoning to the B-3 Commercial District in order to make the building more marketable for leasing purposes. Under the I-1 Institutional zoning, he is limited to nonprofit or quasi-public uses, such as a church, library, school or government office etc. This site borders the B-3 District across Mill Street to the north and behind the property, and is located across from Cedar Creek Park. Mr. Zimmerschied argues the uses listed in the B-3 District are more appropriate for the site than the uses in the Institutional District.

Planner Censky reminded Commissioners that before any decision on this project can be made, the 2025 Land Use Plan and zoning must be amended so both the Land Use Plan and Zoning Map are consistent with each other and they reflect the use being proposed. The first step is to amend the Land Use Plan from the Governmental and Institutional classification to the Commercial classification. The second step in this process, if the Land Use Plan amendment is approved, is to rezone the site from I-1 Institutional and Public Service District to the B-3 Central Business District.

Planner Censky noted that while this site borders the B-3 Central Business District to the north, west and southwest, it also borders the Rs-6 Single-Family Residential District directly to the southeast and the P-1 Park District to the northeast. The closest neighbor is a single-family home next door. While that neighbor has indicated no objection to this proposed zoning change, it is noted that any of the uses listed in the B-3 District may be established on the property, now or in the future.

If Commissioners recommend approval, a public hearing will be schedule for the August 13, 2018 Common Council meeting for the final decision on the request.

Council Member Thome would prefer that the Church is preserved but understood the difficulty of finding institutional tenants.

Mayor O'Keefe reminded Commissioners that any of the uses in the Central Business District could be established at the site.

Planner Censky noted that the site and building will restrict the type of use.

Greg Zimmerschied, the property owner, advised that he has been unable to find a church interested in renting the building. He pointed out that a nearby resident would like to see a sandwich or coffee shop at the site and that the building not remain vacant. Although the building was constructed in 1904, it is not in the Historic District. There have been modifications to the original structure and the building is vinyl-sided.

Commissioner Cain recognized the challenges in finding an institutional tenant and felt that this zoning change would prevent the building from sitting vacant. She pointed out that Mr. Zimmerschied owns several buildings in the City and has an excellent reputation for maintaining and improving his properties.

**Action:**

A motion was made by Commissioner Cain, seconded by Council Member Thome, to recommend both the Land Use Plan amendment from the Governmental and Institutional classification to the Commercial classification and to rezone the property from the I-1 Institutional and Service District to the B-3 Central Business District. The motion carried without a negative vote, with Commissioners Voltz and Strautmanis excused.

**CONSIDER RECOMMENDATION TO REZONE PROPERTY AT W62 N535 WASHINGTON AVENUE AND THE VACANT LOT AT THE NORTHEAST CORNER OF HANOVER AVENUE AND MILL STREET FROM THE B-3/HPD TO B-3/HPD/PUD -CEDARBURG LAND AND CATTLE LLC/GREG ZIMMERSCHIED**

Commissioner Zimmerschied recused himself from the Plan Commission.

Planner Censky noted that the plans are in support of TID No. 3 that was approved back in 2014, which included a cash grant Developer's Agreement requiring the developer to create a total real estate increment with an equalized value of \$950,000.00

to be realized no later than January 1, 2020. The plans serve as the first step in the approval process to honor the value-added commitment required by TID No. 3. This concept consists of three buildings; one facing Washington Avenue, another facing Hanover Avenue, and the third facing Mill Street, for a total commercial space of 6,900 square feet.

Based on the discussion from last month, property owner Greg Zimmerschied reduced the number of onsite parking stalls by six and the project will now be supported by 25 on-site stalls and 34 street stalls located within 250 feet of the entrance to these buildings. According to **Section 13-1-82(h)(1) and (g) one parking space is required per one hundred fifty (150) square feet of gross floor area plus one per employee.** This results in a parking requirement of 59 stalls for the project. **Section 13-1-83 (b)(3) states that available nearby on-street parking may be counted toward visitor parking needs. This may only be allowed when on-street parking is permitted in a specific location, and then only when such on-street parking spaces are within two hundred fifty (250) feet of the entrance they are intended to serve.** Using the street stalls available to these proposed buildings is Code-compliant as regards to parking.

Planner Censky advised that because of the limited depth of this property, these plans will need certain Code-modifications pertaining to parking offset, setback and vision triangle encroachment. Mr. Zimmerschied is therefore pursuing the PUD (Planned Unit Development) Overlay Zoning District. Commissioners are reminded that the PUD District was recently amended to provide flexibility in administering the regulation of the underlying district to provide for better unified development.

***Nonconformity to Standards:***

Due to the size and depth of the existing parcel Mr. Zimmerschied is unable to design a layout that conforms to the basic B-3 District regulations. Accordingly, as part of the PUD request, he is seeking a Plan Commission recommendation to adjust the following standards of the underlying B-3 basic use District:

1. **Code Requirement – Sec. 13-1-80 Traffic Visibility** States: **No obstructions, such as structures, parking, or vegetation shall be permitted in any district between the heights of two and one-half feet and ten feet above the plane through the mean curb grade within the triangular space formed by any two existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines located a minimum of fifteen feet from their intersection. In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distance establishing the triangular vision clearance space shall be increased to fifty feet.**  
**Nonconformity** – The southwest corner of the Hanover building encroaches on this clearance space by three feet and the southeast corner of the Washington Avenue building encroaches by six feet and two sets of tables and chairs encroach.
2. **Code Requirement – Sec. 13-1-82(f) (3) Parking Requirements (Landscaping)** States: **A perimeter greenbelt of at least five (5) feet in width shall be installed along the street frontage and along all interior lot lines.**

**Nonconformity** – Parking is proposed up to the Mill Street right-of-way line and ranges between 3.2 feet and .6 feet along the north property line.

3. **Code Requirement – Sec.13-1-82 (c) Parking Stall Size** States: **Each parking space shall not be less than one hundred and eighty square feet, exclusive of the space required for ingress and egress.**

**Nonconformity** – The five parking stalls on either side of the dumpsters and directly behind the Mill Street building measure 150 square feet.

***Landmarks Commission Recommendation:***

The building facing Washington Avenue is located in the Historic Preservation District (HPD) and requires a recommendation from the Landmarks Commission on the issuance of the *Certificate of Appropriateness* for this building only. At their June 14, 2018 meeting, the Landmarks Commission did recommend issuance a conditional Certificate of Appropriateness for the building footprint, location and mass but asked that the architectural/design be changed so that it looks less like a replica of an old building in the downtown district. They advised that the Secretary of the Interior Standards indicate that new buildings in an historic district shall be differentiated from the old. Therefore, the Landmarks Commission asked that the architectural plans be revised and come back for approval. Since the Plan Commission approves the Certificate of Appropriateness, Commissioners were encouraged to review these Washington Avenue plans and offer comments on design.

Mr. Zimmerschied assured Commissioners that the Landmarks Commission request would not drastically affect the design of the Washington Avenue building. Also, its construction is not on such a tight timeline so there will be no problem working out a design that is best long-term for the City of Cedarburg.

Mayor O'Keefe opined that with the design and colors, that the proposed Washington Avenue building is not seeking to replicate an historic building and would blend well within the Historic District.

In response to concern about the proposed corrugated roof on the Mill Street building, Architect Don Stauss responded that the metal roof was appropriate for the building and would develop a patina that would eliminate the shine. The board and batten would be painted white with silver windows on both the Hanover Avenue and Mill Street buildings.

**Action:**

Council Member Thome stated that she was comfortable with the site proposal as presented and moved to recommend the Planned Unit Development rezoning to the Common Council subject to the following conditions:

1. The Fire Department needs assurance that the parking lot turning radius is adequate for their equipment.
2. Fire protection needs will be determined as the project progresses.
3. Parking is a concern with high traffic generating uses such as restaurants.
4. Impact fees will be applied.

5. The basements must be designed for high groundwater and potential petroleum contamination.

Mayor O'Keefe seconded the motion.

**Continued Discussion:**

Mr. Zimmerschied noted that the incremental increase in value on the property is expected to be about \$1 million.

The Commissioners discussed the basic architectural design of each of the three buildings and whether the Washington Avenue building and proposed site plan would create a problem with traffic visibility on Mill Street at both the Hanover Avenue and Washington Avenue corners. Commissioner Cain had fewer concerns with the vision triangle reduction when she learned that parking is prohibited along Washington Avenue at this site. Mr. Zimmerschied advised he would be amenable to prohibiting left turns from the east drive to avoid conflicts with Washington Avenue.

Commissioners reviewed each item that would not conform with the base zoning.

**Final Action:**

The motion carried without a negative vote, with Commissioners Voltz and Strautmanis excused.

**REVIEW PROPOSED POCKET NEIGHBORHOOD DEVELOPMENT ORDINANCE**

Planner Censky reminded Commissioners that at the June 4, 2018 meeting Commissioners received a presentation on Pocket Neighborhood-type development from Kit Keller, Paul Rushing and Tom Kubala and there was little discussion on the draft ordinance. The draft ordinance needs careful review and comment for direction to help guide staff in putting this draft into ordinance form. He asked Commissioners to review the list of uses and the proposed density at 7 to 12 units per acre as this ordinance will be used for infill sites. He added that the unspecific portions of the proposed code would need to be eliminated. Planner Censky noted that the drawing in support of the height determination would permit buildings in Pocket Neighborhoods to exceed the 35-foot maximum allowed elsewhere in the City and the drawing will need to be adjusted to 25 feet.

Commissioner thoughts and comments will then be incorporated in the final draft that will be brought back for final review and recommendation. Following Plan Commission recommendation a Public Hearing will be scheduled before the Common Council.

Comments from Commissioners included:

1. Some uses, such as chicken coups, are already controlled by City Code and such items should be woven into the current ordinance.

2. Discuss why carriage homes would be permitted if all parking is to be separated from the residences.
3. The Pocket Neighborhood Ordinance should not supersede the City's Code.
4. Assurances should be built into the Ordinance to prevent substandard high-density development.
5. Provide for ideal public access, such as connections with bike paths.
6. Clarify whether the common area would have public access or be solely accessed by the Pocket Neighborhood residents.
7. Honestly identify the demographic that would be purchasing these homes.

Ms. Keller urged Commissioners to check out links she provided regarding pocket neighborhood ordinances.

A member of the audience urged the City to adopt a Pocket Neighborhood Ordinance because these communities allow neighbors to look out for one another, provide a safe area for children to play, and are highly desired.

Commissioners expressed doubts that the homes in a Pocket Neighborhood would be affordable in Cedarburg. However, such a development would make use of the City's existing infrastructure.

Mr. Rushing stated that the first one in the area would have to be a stellar example and push limits on variety of housing, sizes and costs.

Commissioners concurred that they were in support of Pocket Neighborhood development, but that the ordinance would need to be well thought out to provide tight control of the developments. The ordinance would not be used as a deterrent. The market will determine whether Pocket Neighborhoods would be built.

### **COMMENTS AND ANNOUNCEMENTS BY PLAN COMMISSIONERS**

Commissioner Zimmerschied questioned what the City Code allows people to do in their front yards. He is aware of storing or parking cars in front yards on a property on Western Road and would like to find out if the Code allows that use and if it should be updated.

Commissioner Burgoyne believes enforcement is the problem and that City Ordinances are solid.

### **MAYOR'S ANNOUNCEMENTS**

Mayor O'Keefe did not offer any announcements.

### **ADJOURNMENT**

A motion was made by Council Member Thome, seconded by Commissioner Zimmerschied, to adjourn the meeting at 10:12 p.m. The motion carried without a negative vote.



PLAN COMMISSION  
July 2, 2018

PLN20180702-9  
UNAPPROVED MINUTES

Darla Drumel,  
Administrative Secretary