

CITY OF CEDARBURG  
PLAN COMMISSION

PLN20170605-1  
UNAPPROVED MINUTES

June 5, 2017

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, June 5, 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 Dick Dieffenbach and Patricia Thome, City Planner Jon Censky, City Attorney Mark Herbrand, 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.

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

All Plan Commissioners acknowledged receipt of the Code of Ethics.

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

A motion to nominate Mark Burgoyne as Vice Chairperson was made by Council Member Czarnecki and seconded by Commissioner Poellot. No other nominations were made. Commissioner Burgoyne accepted the position of Vice Chairperson.

Mayor Kinzel moved to nominate Council Member Czarnecki as Secretary. The motion was seconded by Vice Chairperson Burgoyne. No other nominations were offered. Council Member Czarnecki accepted the position of Secretary.

**APPROVAL OF MINUTES**

A motion was made by Commissioner Zimmerschied, seconded by Mayor Kinzel to approve the minutes of May 1, 2017 as presented.

Carol Miracle of W69 N533 Margie Lane had submitted requests for changes to the May 1, 2017 minutes. It was also noted that a typo needed correction.

Commissioner Zimmerschied and Mayor Kinzel agreed to amend the motion to include changes to the minutes as follows:

1. In the fourth paragraph on page PLN20170501-5 change the phrase “Juniper Line” to “Juniper Lane.”
2. In the sixth paragraph on page PLN20170501-5 replace “Dave Blachmer” with “Randy Roupp.”
3. In the last paragraph on page PLN20170501-5 replace “Mr. Blachmer” with “Mr. Roupp.”

The amended 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.

Ruth Cook of W64 N649 Hanover Avenue had concerns with the proposal to allow a tourist rooming house as requested by Martin and Kathleen Schoenknecht at W63 N667 Washington Avenue. She had concerns such as whether the operators would live on site, parking, lighting and allowing people in the units beyond capacity.

### **PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT REQUEST TO USE THREE APARTMENT UNITS AT W63 N667 WASHINGTON AVENUE AS EITHER SHORT-TERM TOURIST ROOMING UNITS OR LONG-TERM UNITS – MARTIN AND KATHLEEN SCHOENKNECHT**

Mayor Kinzel declared the public hearing open at 7:10 p.m. Administrative Secretary Drumel confirmed that property legal notice of the public hearing had been given.

Planner Censky reported that Martin and Kathleen Schoenknecht were requesting conditional use approval to ultimately use all three of their existing apartment units for tourist rooming purposes as is now permitted in the B-3 Central Business District. Initially they intend to use only one of the units for tourist rooming and the other two will continue as long-term rental units. However, they are asking to have the flexibility to either convert all units to tourist rooming units or to rent them on a long-term basis.

Commissioners are reminded that the Zoning Code was amended in 2014 to add Tourist Rooming Homes to the list of permitted Conditional Uses in the B-3 District. Tourist Rooming Homes are defined as: **All lodging places and tourist cabins and cottages, other than hotels and motels, in which sleeping accommodations are offered for pay to tourists or transients as regulated under Wisconsin Chapter DHS 195.**

The Schoenknecht's property is located directly north of the Settler's Inn restaurant where they currently have two rental units in front facing Washington Avenue and one upper unit off the rear of their building. The applicant currently occupies one of the front units and leases the upper front unit on a long term rental basis. Accordingly, while two of the units are currently occupied, the Schoenknechts want the flexibility to offer all the units for either tourist rooming or long term rental in the future.

There is no proposal to make any changes to the site. This property currently has six onsite surface parking stalls and three garage stalls with the possibility of two more garage spaces.

Planner Censky advised that City staff believes that this use is appropriate in the downtown area and meets the wishes and desires of the Council when they adopted Ordinance No. 2014-04 in March of 2014. Staff's review of the site indicates that there is sufficient parking to support the existing rental use and the proposed tourist rooming use. He suggested conditions if the Plan Commission chose to grant the Conditional Use Permit.

Martin Schoenknecht advised that he would eventually like to have all three housing units as tourist rooming houses, but at this time they have only applied to the State of Wisconsin for one. No interior modifications to the unit are planned and they are meeting with the State inspector on June 6<sup>th</sup>. The current motion sensor lighting turns on for ten minutes and no changes will be made to the lighting.

Kathleen Schoenknecht advised that there is a one-bedroom unit in the upper level of the building on Washington Avenue that will accommodate one person; and a two-bedroom unit in the back that will accommodate a total of four people. No children will be allowed. She confirmed that meals will not be provided.

Planner Censky noted that if there are any substantiated problems with the use, the Plan Commission may reconsider the conditional use grant. Commissioner Burgoyne added that the conditional use is granted only to the petitioners at the identified property and is not transferrable to anyone else or any other location.

**Action to Close the Public Hearing:**

Vice Chairperson Burgoyne moved to close the public hearing at 7:25 p.m. The motion was seconded by Council Member Czarnecki and carried without a negative vote.

**Action on the Conditional Use Permit:**

A motion was made by Vice Chairperson Burgoyne, seconded by Mayor Kinzel, to approve the conditional use permit for one rooming house at W63 N667B Washington Avenue subject to:

1. Any substantiated problems with this use shall be corrected by the owner immediately upon notification and if left uncorrected, may result in the revocation of the conditional use permit.
2. Cedarburg Fire Department will follow the State Licensing Bureau for Rooming Houses, NFPA 1 Section 20.10 and NFPA 101 Life Safety Code.

**Continued Discussion:**

The Commissioners discussed whether it would be appropriate to allow the use to fluctuate between tourist rooming house and long-term tenant leasing. Their conclusion was to grant a conditional use permit only for the one two-bedroom unit in the back (W63 N667B Washington Avenue), that long-term tenancy was not permitted, and that the tourist rooming unit would be permanently subject to room taxes.

Martin and Kathleen Schoenknecht agreed with the proposed conditions.

**Final Action on the Conditional Use Request:**

The motion to approve was amended, with consent of Vice Chairperson Burgoyne and Mayor Kinzel, to add the following provisions

3. The unit at W63 N667B Washington Avenue is permanently subject to room taxes as long as the Conditional Use Permit is in effect.
4. Conversion of any other units on the property would require future action by the Plan Commission on a conditional use permit after a public hearing.

The amended motion carried without a negative vote.

**RECONSIDERATION OF MOTION OF THE MAY 1, 2017 MINUTES – COMMUNITY METHODIST CHURCH**

Planner Censky explained that at the May 1, 2017 meeting, the motion approving the rear yard garage for Community Methodist Church included the condition that three arborvitae trees be planted on the south side of the building. While the neighboring lots located directly south of the proposed garage have mature trees that will screen the garage, the owner of property to the southeast of the garage has little screening. In fact, that property owner was at the meeting requesting some screening on her side of the garage. However, the motion to approve the garage included the condition the three arborvitae trees be planted on the south side of the garage. Accordingly, that neighbor approached the Church and asked if they would consider relocating the trees to the area along the east side of the garage and they responded affirmatively but requested that the Plan Commission amend the motion to document where the trees are to be planted.

**Action:**

Mayor Kinzel moved to modify the motion at the May 1, 2017 meeting to read:

*A motion was made by Council Member Czarnecki, seconded by Commissioner Cain, to approve the proposed new garage at W68 N563 Evergreen Boulevard as proposed with the condition that three arborvitae trees are planted on the south east side of the building. The motion carried without a negative vote, with Vice Chairperson Burgoyne and Commissioner von Barga excused.*

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

**APPROVAL OF A REMOVABLE PLATFORM/STAGE IN THE REAR YARD AT W63 N675 WASHINGTON AVENUE – CEDARBURG ART MUSEUM**

Commissioner Cain recused herself due to a possible conflict of interest as she is a member of the Board of the Museum. She took a place in the audience.

Planner Censky advised that the Cedarburg Art Museum has two requests; first is to install a removable stage that will be used for musicians during the various performances throughout the summer and the second request is for a Mobile Vendor License.

Heather Cain of N50 W6890 Western Road noted that the Mobile Vendor License was being requested by Blue Cow Creperie, LLC, not the Cedarburg Art Museum, so it should be addressed as a separate agenda item.

The removable stage is classified as an accessory structure and subject to **Section 13-1-101(g)** which states: **Accessory uses and detached accessory structures are permitted in the rear yard only; they shall not be closer than ten (10) feet to the principal structure, shall not exceed twenty (20) feet in height, and shall not be closer than three (3) feet to any lot line nor five (5) feet to an alley line.** According to the plans, the depth of the platform will be eight feet with the width at the front of the stage being eleven feet and narrows to ten feet ten inches at the back. This platform will be on concrete footings and will be located 3 feet from the north property line as required by Code. On top of the platform, the plan shows a decorative square tubed trellis structure at each corner. This stage/platform is in full compliance with the dimensional requirements of the City's Zoning Code. It will be installed when needed and removed at the end of each performance.

Architect Don Stauss reported that the structure would be a raised wood platform with the back at grade of the lot. The metal trellis would be powder-coated black and he provided a sample of the awning fabric to be used on the top and the back of the trellis. The awning would probably be visible to the neighbors. The stage would be put up for the summer.

Ms. Cain advised that the Museum is allowed limited amplified events. When an acoustical event occurs, the audience has difficulty hearing the performer. With the stage, the musician would be elevated to avoid the sound being blocked.

Ms. Cook asked if the events ended at 9:00 p.m. and was told that typically the Museum would be closing things up and putting things away at that time. She pointed out that many tend to celebrate for quite some time after each event.

**Action:**

A motion was made by Mayor Kinzel, seconded by Commissioner Poellot, to approve the removable platform/stage, to be set up through the summer, as presented. The motion carried without a negative vote.

**REQUEST FOR A MOBILE FOOD ESTABLISHMENT LICENSE – BLUE COW CREPERIE, LLC**

Planner Censky noted that this Mobile Vendors License will be the first processed since the adoption of the Mobile Vendors and Mobile Food Establishment Ordinance in April restricting where mobile food trucks can be parked. Specifically, **Section 7-18-2 License Required** states: **It shall be unlawful for a person to operate as a Mobile Vendor or Mobile Food Establishment, serve, sell or distribute food from a Mobile Food Establishment or cook, wrap, package, process, serve or portion food in a Mobile Food Establishment in the City of Cedarburg without first having obtained a valid Mobile Vendor or Mobile Food Establishment license from the City of Cedarburg Plan Commission.** The mobile food truck will be moved to the site and serve food to those in attendance on July 27, August 17 and September 6 of 2017.

City Attorney Herbrand advised that the License cannot be issued until a hold-harmless agreement is signed by the petitioner.

Peter Schalk, representing Blue Cow Creperie, LLC, advised the truck would be parked at the rear of the private property.

Commissioners had questions regarding what the License would permit and how it would be administrated.

It was determined that the application was for an annual license that would not be prorated and would expire on December 31, 2017. The number and dates of events would not be regulated by the City, but that proof of permission from each property owner would be required.

The license ordinance would go back to the Common Council for further clarification.

**Action:**

Mayor Kinzel moved to grant the Mobile Food Establishment License for the year 2017 subject to the following:

1. City receipt of fully executed hold harmless agreement.
2. Providing to the City a confirmation that the property owner authorizes the Blue Cow Creperie, LLC to operate on their private property.

The motion was seconded by Vice Chairperson Burgoyne.

**Continued Discussion:**

Ms. Cook again questioned what could be done about people partying after events have ended.

Commissioner Zimmerschied responded that the downtown is the hub of Cedarburg and is its entertainment center. He urged nearby residents to be as flexible as possible.

Ms. Cook noted that she is living nearby, is a taxpayer and should be allowed to express an opinion. She enjoys the festivals and other events during the year, and is a community volunteer. However, during the festivals people trespass through her property, leave trash on her porch, and she has to clean up dog waste from her yard even though she does not have a dog. Lots of things happen that she has to take care of that she does not get paid for and she does not complain. Some of the people who make the rules do not live where there is noise. There is a limit on what the neighbors can take. She pointed out that one year the Strawberry Festival was so loud her windows were shaking and a neighbor has left the area because of the noise. Ms. Cook would just like the music to be played at a level that is amenable to the neighbors.

**Final Action:**

The motion to grant the Mobile Food Establishment License to Blue Cow Creperie, LLC carried without a negative vote.

**APPROVAL REQUEST FOR AN EVENT SHELTER AT W73 N1122 WASHINGTON AVENUE – KURT BAEHMANN/BAEHMANN'S GOLF CENTER**

Planner Censky reported that for the last several years the Baehmann Golf Center has installed a temporary 20' X 30' tent/event shelter just north of the mini golf course area of the golf center. The new open-ended permanent shelter will measure 24' X 40' and will be located in the same spot as the temporary tent, approximately 160 feet back from the Washington Avenue right-of-way. The structure will measure 8 feet to the bottom of the roof and the roof material will consist of Light Gray Pro-Rib steel panels. The trim material will be Red Pro-Rib Steel Panels of a color to match the club house and the floor material will be crushed stone. The proposal is in full compliance with the dimensional requirements of the Zoning Code.

**Action:**

A motion was made by Vice Chairperson Burgoyne, seconded by Council Member Czarnecki, to approve the construction of an event shelter at Baehmann's Golf Center at W73 N1122 Washington Avenue. The motion carried without a negative vote.

**APPROVAL REQUEST FOR BUILDING ADDITION AND SITE MODIFICATIONS TO W57 N481 HILBERT AVENUE – PETER WOLLNER AMERICAN LEGION POST 288**

Planner Censky advised that the American Legion Post is proposing to update their facilities by bringing the bathrooms into ADA compliance and their onsite traffic circulation and parking up to City standards. In addition, this project will serve to expand their indoor dining area and provide outdoor seating to make this facility more attractive for weddings and private parties.

The new addition will be off the east side of the building and will also result in ADA compliant building access, new men's and women's bathroom facilities along with a large storage area and an outside deck. The design of the addition is in keeping with the look of the existing building but the plans show the use of white, 5" exposure, Hardie Plank lap siding exterior material while the main building has brick veneer siding and the roof will be covered with dimensional shingles to match existing. The deck material will be of grooved edge composite board and the will be enclosed by a cast-in-place concrete wall.

Planner Censky noted that the original design of the Legion Post site incorporated a driveway and traffic pattern that is shared with the adjacent City Park lot directly to the north and therefore the proposed design expands on that shared arrangement. Accordingly, the American Legion Post 288 first appeared before the Park Board with these plans and received their blessing.

The current onsite traffic circulation pattern is somewhat disorganized with one-way lanes leading to dead-ends and lanes merging wrongly into other lanes. Accordingly, this project will serve to correct that situation by providing a more efficient system using both the City park land and the Legion's property. As proposed, customers will enter the site from the south access drive off Hilbert Avenue and circle around the building and either exit the site to Portland Road or to the north drive on Hilbert Avenue. Because of the angled parking and the narrow drive the Portland Road access drive will be one-way out. Planner Censky proposed some contingencies should the Plan Commission approve the request.

Greg Jourdain of the Legion's Building Committee was present to answer any questions.

**Action:**

Vice Chairperson Burgoyne moved to approve the addition and site changes as proposed with the following conditions:



1. Directional arrows being painted on the aisle within the parking as shown on the plan.
2. The driveway access to Portland Road shall be one-way out due to its narrow width.
3. The stalls directly south of the building being removed as shown on the plan.

Council Member Czarnecki seconded the motion.

**Continued Discussion:**

Commissioner Zimmerschied suggested that something be placed on the east elevation to break up the expanse of siding. Mr. Jourdain advised that there is a plan underway to do so. Mr. Jourdain also advised that the Ladies Auxiliary were deciding what the color the building would be.

Commissioner Cain questioned whether alcohol would be served for outdoor parties and Mr. Jourdain was advised that the Plan Commission would have to review a change to their liquor license.

**Final Action:**

The motion carried without a negative vote.

**ASSIGN THE APPROVED TOWER CONDITIONAL USE PERMIT TO THE CITY OF CEDARBURG**

Planner Censky advised that the intent of this item is simply to correct an oversight on the May 1, 2017 Plan Commission agenda and to assign the Conditional Use Permit approval from Cedarburg Light & Water to the City of Cedarburg. Specifically, the agenda for the May 2017 meeting listed Cedarburg Light & Water as the applicant requesting CUP approval to construct a monopole on the City-owned site directly north of the water tower at N49 W6411 Western Avenue. Since this is a City-owned site, the agenda should have indicated the City of Cedarburg as the applicant. Accordingly, the purpose of this item is simply to assign the CUP approval from the Cedarburg Light and Water to the City of Cedarburg.

**Action:**

A motion was made by Commissioner Zimmerschied, seconded by Vice Chairperson Burgoyne to assign the approved tower Conditional Use Permit to the City of Cedarburg. The motion carried without a negative vote.

**COMMENTS AND ANNOUNCEMENTS BY PLAN COMMISSIONERS**

Planner Censky reported that Hamilton House Senior Living was proposing some exterior cosmetic modifications and questioned whether those types of changes can be approved by staff or if the Plan Commission would prefer to review them at a meeting. The Plan Commission directed that such modifications be presented to them for action at a formal meeting.

Plan Commissioners also discussed whether or not it was beneficial to have a joint meeting with the Common Council to review the architectural plans for the Arrabelle project on the former St. Francis Borgia school site. It was determined that the Plan Commission have its own meeting wherein the presentation can be made by HSI, preferably in the presence of the Council Members, to make their recommendation to the Council. The Council meeting would then begin immediately after the Plan Commission adjourns.

Commissioners requested that HSI provide plans as soon as possible so that there is time for City officials to review them before the meetings on June 26, 2017.

**MAYOR'S ANNOUNCEMENTS**

There were no announcements.

**ADJOURNMENT**

Commissioner von Barga moved to adjourn the meeting at 9:10 p.m. The motion was seconded by Vice Chairperson Burgoyne and carried without a negative vote.

Darla Drumel,  
Administrative Secretary