

CITY OF CEDARBURG
PLAN COMMISSION

PLN20200302-1
UNAPPROVED MINUTES

March 2, 2020

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, March 2, 2020 at Cedarburg City Hall, W63N645 Washington Avenue, second floor, Council Chambers. The meeting was called to order at 7:02 p.m. by Mayor Michael J. O'Keefe.

Roll Call: Present - Mayor Michael J. O'Keefe, Council Member Patricia Thome, Adam Voltz, Heather Cain, Sig Strautmanis

Excused - Vice Chairperson Mark Burgoyne, Kip Kinzel

Also Present - City Planner Jon Censky, Administrative Assistant Victoria Guthrie

STATEMENT OF PUBLIC NOTICE

Administrative Secretary Guthrie confirmed that the agenda for the meeting had been posted and distributed in compliance with the Wisconsin Open Meetings Law.

APPROVAL OF MINUTES

Commissioner Voltz had two corrections to page PLN20200203-9. Paragraph three states that he sold his home in the City; however, he did not sell this home. In paragraph four, he stated that he was appointed to the Commission two years ago, not three.

A motion was made by Council Member Thome to approve the minutes of February 3, 2020 as corrected. The motion was seconded by Commissioner Strautmanis and carried without a negative vote, with Vice Chairperson Burgoyne and Commissioner Kinzel 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.

PUBLIC HEARING REGARDING CONDITIONAL USE PERMIT FOR A TOURIST ROOMING HOUSE AT W63N676 WASHINGTON AVENUE – THE SHINERY/TROY AND LISA REISSMANN

Mayor O'Keefe declared the public hearing open at 7:03 p.m.

The applicant is seeking Conditional Use Approval to convert the upper level apartment unit of this building into a tourist rooming house via Airbnb. This apartment consists of one unit with two bedrooms, a living room, kitchen, and a full bathroom, which will be fully devoted to this use. The site has parking for up to four cars to the rear of the building and no exterior changes to the site or building are proposed with this request.

Commissioners are reminded that the Zoning Code was amended by **Ordinance 2014-05** to add Tourist Rooming Houses to the list of permitted Conditional Uses in the B-3 Central Business District and consequently short-term rentals of this type are prohibited in all other Districts in the City. Tourist Rooming Houses 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 City Staff believes that this use is appropriate in the downtown area and their review of the site indicates that there is enough parking to support this request. Accordingly, City Staff has no objection subject to the following:

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 (CUP).
2. Cedarburg Fire Department will follow the State Licensing Bureau for Rooming Houses, NFPA 1 Section 20.10 and NFPA 101 Life Safety Code.
3. Smoke detectors and CO detectors are to be installed and properly maintained.
4. The operation shall follow the conditions contained in the CUP.

In answer to Commissioner questions, Petitioner Troy Reissmann verified that he has established a local contact in Cedarburg who will be available in the event there is an immediate issue with renters. He also pointed out that The Shinery is open every day except Monday, meaning there will be staff onsite six days a week to deal with any problems that may arise. He verified that the apartment is separate from the store, with two outside entrances: one to the north, and one to the east. Although there is a second-floor deck on the west side of the building, the door to access that space will not be functional. Petitioner Reissmann stated that dogs will be allowed, which will need to be updated in the proposed CUP. Commissioner Cain indicated that she would like the CUP conditions to state that the permit is non-transferable to a different owner in the event the business is sold.

ACTION TO CLOSE PUBLIC HEARING

A motion was made by Council Member Thome and seconded by Commissioner Cain to close the public hearing at 7:09 p.m. The motion was carried without a negative vote, with Vice Chairperson Burgoyne and Commissioner Kinzel excused.

Action:

A motion was made by Council Member Thome to approve the CUP for operation of a tourist rooming house on the upper floor at W63N676 Washington Avenue with changes to the CUP that removes the statement about prohibiting pets and clarifies that the CUP does not transfer with the Permittee. This motion was seconded by Commissioner Cain and carried without a negative vote, with Vice Chairperson Burgoyne and Commissioner Kinzel excused.

REQUEST FOR TEMPORARY USE APPROVAL FOR A TENT SET UP AT W62N630 WASHINGTON AVENUE – STILT HOUSE/GORDON GOGGIN

The Commissioners will recall that last year Petitioner Goggin received approval of his third request for the Temporary Use of a tent located in their outdoor seating area on the north side of the Stilt House. The Petitioner is making the same request for use of the tent from April 13 to May 11, 2020. This tent will be placed on the paved area directly north of their building, and measures 20' by 40' and stands approximately 10' tall.

Commissioners will further recall that this tent was originally installed in the fall of 2017 without securing the necessary approval from this Commission. In March of 2018, Petitioner Goggin properly requested and received approval of the tent from April 2 to May 13, 2018. In March of 2019, he requested approval for the tent from April 15 to May 15, 2019. During that meeting, the Commissioners discussed concerns about the length of time the tent would be allowed and the precedent nature of temporarily expanding seating for a downtown business. Ultimately, the request was approved by a Commission vote of 5 to 1.

Since this request remains unchanged from last year, Landmarks Commission Chairperson Judy Jepson felt that Landmarks review was unnecessary and accordingly their initial recommendation is again offered for consideration.

Action:

A motion was made by Mayor O'Keefe to approve the Temporary Use for a tent. This motion was seconded by Council Member Thome. The motion carried with Mayor O'Keefe, Council Member Thome, Commissioner Strautmanis, and Commissioner Voltz voting in favor, and Commissioner Cain voting against. Vice Chairperson Burgoyne and Commissioner Kinzel were excused.

REQUEST SITE/ARCHITECTURAL PLAN APPROVAL OF A NEW STAGE AND CONCRETE PAD IN THE REAR YARD AT W63N675 WASHINGTON AVENUE – CEDARBURG ART MUSEUM/DON STAUSS

Some Commissioners may recall that in June 2017, the Cedarburg Art Museum received approval to install a movable stage centered in their rear yard, 3' from the north property line situated in a southward direction. Unfortunately, that placement directs the sound from the stage toward the adjacent neighbors to the south and accordingly, to lessen that impact, they are now proposing to relocate the stage from the north property line to the area at the southwest corner of their site and face it northeast toward downtown. As part of this project, they are also proposing to place a fountain with a statue that will become a focal point of the rear yard. Surrounding the fountain will be a raised concrete ledge for seating, a raised grass element outward from the fountain, and a water reservoir.

The plans indicate the existing one-way traffic pattern, entering the site from Washington Avenue proceeding to the rear yard and then following the exit drive south to Cleveland Street, will remain unchanged. While the paved rear yard is currently used for their daily parking needs, the area is closed to parking during special events. For now, the use of

the rear yard for their daily parking needs will continue as before and will be closed to parking during special events.

The removable stage is classified as an accessory structure and subject to Zoning Code **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 their plans, the platform will be 15' deep by 18' wide (at front) and will have a height of 12.8' at its highest point. As with the original stage, the plan shows a decorative square tubed trellis structure at each corner.

Per City Staff review, as the plan indicates full compliance with the dimensional requirements of the Code, Staff has no objections to this request.

Architect Don Stauss was in attendance to provide clarification and answer questions from the Plan Commission. Architect Stauss stated the fountain will be installed where the current parking area is in the rear yard. He noted that they will lose approximately two parking spaces with this change; however, since no lines are painted in this lot, there is not really a specific set area.

Commissioner Voltz questioned plans for the ground space located in the first row in front of the stage, as it is depicted in the map as green space. Architect Stauss answered that the tentative plan for the future is to turn the rear yard into a garden area, meaning they are planning on leaving any green space as is for now. The only additional asphalt being proposed in this design is on either side of the driveway turning south towards Cleveland Street. He stated that the area where the old stage was will also be turned into green space.

Commissioner Cain questioned the stage area, and whether the door on the back of the structure leads to storage. She also questioned the purpose of the proposed concrete pad behind the existing storage accessory structure. Architect Stauss stated the concrete pad will be used for staging equipment. He explained that the door on the rear of the stage leads to the stage itself, providing an area for equipment to be loaded on and off the stage. Commissioner Voltz questioned the raised grade to the rear of the stage and asked if it could be modified to allow ADA accessibility. Architect Stauss answered that he could make this change.

Action:

A motion was made by Council Member Thome to approve the Site/Architectural Plan for a new stage and concrete pad in the rear yard at W63N675 Washington Avenue. This motion was seconded by Commissioner Cain and carried without a negative vote, with Vice Chairperson Burgoyne and Commissioner Kinzel excused.

**REQUEST OUTDOOR ALCOHOL BEVERAGE LICENSE FOR CCC MUSEUM
LOCATED AT W63N627 WASHINGTON AVENUE – KUHEFUSS
HOUSE/CEDARBURG CULTURAL CENTER**

The Cedarburg Cultural Center (CCC) is requesting an Outdoor Alcohol Beverage License to cover both the rear and front yards at the Kuhefuss House for outdoor entertainment that may include serving drinks. According to their information, there is an existing fence around the entire site except for a small area adjacent to the driveway which would be monitored by staff during events.

As per the Licensing and Regulation Code **Section 7-2-17 Outdoor Alcohol Beverage License** states: ***The applicant for an Outdoor Alcohol Beverage License shall accurately describe the outdoor seating area and shall indicate the nature of fencing or other measures intended to provide control over the operation of the outdoor seating area. The Plan Commission shall review all proposed Outdoor Alcohol Beverage Licenses to determine if they are harmful, offensive or otherwise adverse to the surrounding neighborhood and shall recommend that the license be granted as requested, modified or denied.***

This request was recommended for approval by the Landmarks Commission on February 27, 2020. Staff notes that the Police Chief has also reviewed this request and has no objection and recommends approval. If the Plan Commission approves the application, it will go forward to the Common Council for final approval.

As the CCC Executive Director Stephanie Hayes was unable to attend this meeting, Council Member Thome contacted her prior to the meeting with questions about the proposal. Per Petitioner Hayes, the primary use for the space will be for smaller events such as showers or art classes, and she does not believe any of these events would last past 10:00 p.m. She stated that temporary restroom units will be rented for use during events. Regarding the use of amplified music, Petitioner Hayes stated that this will not be allowed.

Commissioner Cain stated that she is willing to recommend approval to the Common Council if there is a designated serving area for alcohol that is located either in the rear yard or indoors, the area is manned during events, and that events will not be allowed to continue past 10:00 p.m.

Action:

A motion was made by Commissioner Strautmanis to recommend approval of the Outdoor Alcohol Beverage License at W63N627 Washington Avenue on the conditions that a bar service area will be designated in either the rear yard or indoors, the area will be staffed during events, and the events are not allowed to continue past 10:00 p.m. This motion was seconded by Council Member Thome and carried without a negative vote, with Vice Chairperson Burgoyne and Commissioner Kinzel excused.

REQUEST APPROVAL FOR UPDATED LANDSCAPING PLAN FOR INFILL HOME AT W61N734 MEQUON AVENUE – MARK WEILAND

Commissioners will recall having held several meetings where the size and design of Petitioner Weiland's infill home were discussed, and feedback offered before ultimately approving his final detailed architectural plans at their November 4, 2019 meeting. One of the conditions of that approval was that the applicant return to the Commission for approval of a landscaping plan that would serve to screen and buffer this home from neighboring properties. The intent of this landscape buffer was, among other things, to lessen any noise coming from the second-floor workshop and provide privacy.

In response, Petitioner Weiland has proposed to plant a row of arborvitae along his south property line extending back from where the neighbor's existing row of arborvitae ends. These will be planted at an initial height of 6' and will grow to a mature height of 12' to 14' with a spread of 3' to 4' in width.

While this planting scheme may provide some privacy, City Staff is not convinced that it will lessen the noise impact on the adjacent neighbors; therefore, Petitioner Weiland will need to be aware of their concerns when operating his machinery. Any complaints regarding noise will be directed to the Police Department and handled as a nuisance complaint to be addressed immediately upon notice or the Petitioner will face enforcement action.

Two of Petitioner Weiland's neighbors attended the meeting and had the following comments regarding the project.

Racheal Keener, W61N736 Mequon Avenue, lives with her husband in the home directly west of the Petitioner's lot. Mrs. Keener stated that although the Petitioner had initially placed a construction dumpster directly outside of her bedroom window, he did end up moving it in order to accommodate her request. She said her husband is currently serving in Afghanistan but will be returning home at the end of this month, and she is upset that they did not receive notification for the November 4, 2019 Plan Commission meeting. She wanted to know the restrictions on installing a fence on the east side of their property to minimize disruption due to the construction and placement of the Weiland home.

Jeffrey Bublitz, N72W6110 Appletree Lane, lives on the property adjacent to the south side of the Petitioner's lot and wants more details on the arborvitae plantings that are being proposed. Specifically, he wants to know how close to his lot line they will be planted. He also stated that the height of the home is increasing all of the time, and he is upset that he did not get to see the plans of the house. He stated that in the past, other neighbors had restrictions on the height of their additions, but that does not seem to be the case with Petitioner Weiland. He also wanted to know if the Petitioner will be using a silt fence to minimize dust during construction.

Planner Censky answered neighbors' questions by advising Mrs. Keener to work with Building Inspector Mike Baier regarding fence requirements in the City. He stated that Petitioner Weiland has been working with Inspector Baier in order to maintain compliance during construction. Planner Censky pointed out that the 35' height restriction on structures has been in place for many years and has not changed. He further explained

that a house plan does not necessarily need review and approval by the Plan Commission unless it is considered an infill home. He said Petitioner Weiland initially submitted his building plans to Inspector Baier, who determined that, due to the nature of the proposal to build a two-story home in a neighborhood comprised of single story homes, the plan needed additional review to determine if it would be suitable for the area. Therefore, he and Planner Censky decided to classify the parcel as an infill lot, as defined by the Zoning Code **Section 13-1-22(g)**, which describes ***a single vacant lot located in a predominately built-up area, which is bounded on two or more sides by existing development. In addition any lot which contains an existing building, which will be removed and replaced with a new building, shall also be considered an infill lot. The infill status of a lot shall continue until building plans have been approved by the Plan Commission, a building permit acquired, and the building constructed in accordance with the approved plans and an occupancy permit issued.***

Commissioner Strautmanis stated he appreciates that an effort to provide a buffer for the Petitioner's neighbors has been shown by the submission of the Landscaping Plan; however, the Plan fails to reflect quantity, spacing or dimensions of the plantings. Commissioner Voltz pointed out that in order to minimize noise disturbance to his neighbors the workshop should be insulated with double-paned windows, and that all shop windows and doors be closed while loud work is being performed inside. He also requested that no work be conducted on the outside deck.

Commissioner Cain pointed out that although plantings have been proposed to minimize impact on the neighbors to the south, nothing was added for the neighbor directly to the west, whose home sits closest to the property and adjacent to the Petitioner's driveway. She suggested that in order to maintain goodwill with his neighbors, that the Petitioner provide a buffer on that side of his parcel as well. Council Member Thome agreed and suggested adding landscaping on that side, stating that it would add minimal cost to his plan.

It was agreed that Petitioner Weiland will work with his adjacent neighbors to decide the best placement of the plantings and submit the results to Planner Censky in order to finalize the Landscaping Plan.

Action:

A motion was made by Mayor O'Keefe to approve the Landscaping Plan for the infill home located at W61N734 Mequon Avenue on the condition that the Petitioner work with his neighbors and Planner Censky to determine the best placement for plantings. This motion was seconded by Commissioner Strautmanis and carried without a negative vote, with Vice Chairperson Burgoyne and Commissioner Kinzel excused.

RECOMMENDATION FOR REZONING OF BUSINESS PARK LOCATED AT 6603 STATE ROAD 60 – CITY OF CEDARBURG

The Common Council has decided to move ahead with the planning and development of the Highway 60 Business Park; therefore, this site must be rezoned to reflect that use. City records indicate that this site was annexed into the City from the Town of Cedarburg

in 2005 and was placed in the Rs-1 Residential (Temporary) District, as required by Code, until public facilities were available, and the eventual use of the site was certain.

Accordingly, as steps are being taken to begin the process of providing the necessary infrastructure for the future Highway 60 Business Park, Commissioners are asked to consider recommending rezoning the property from the temporary Rs-1 Low-Density Single-Family Residential District Zoning to the permanent M-3 Business Park District Zoning. Since the M-3 District is consistent with the Industrial and Manufacturing classification of the Comprehensive Land Use Plan – 2025, no change to that plan is needed.

If recommended, staff will schedule this rezoning for a public hearing at a near future Common Council meeting.

Action:

A motion was made by Council Member Thome to recommend rezoning for the Business Park located at 6603 State Road 60. This motion was seconded by Mayor O’Keefe and carried without a negative vote, with Vice Chairperson Burgoyne and Commissioner Kinzel excused.

COMMENTS AND ANNOUNCEMENTS BY PLAN COMMISSIONERS

No comments or announcements were offered by Commissioners.

Planner Censky informed the Commissioners that he was contacted by the owners of the vacant parcel located immediately east of N47W6033 Spring Street. The owners currently live in Boston and purchased the lot in December of 2018. They have recently been in contact with architects to work on designs for their new home, and due to the proposed roof pitch, they may need the original PUD height restriction lifted in order to prevent flattening of the peak. He stated they will be submitting plans to the Plan Commission soon.

MAYOR’S ANNOUNCEMENTS

Mayor O’Keefe had no announcements.

ADJOURNMENT

A motion was made by Council Member Thome, seconded by Commissioner Cain, to adjourn the meeting at 7:59 p.m. The motion carried without a negative vote, with Vice Chairperson Burgoyne and Commissioner Kinzel excused.

Victoria Guthrie
Administrative Assistant