

**CITY OF MEQUON  
WISCONSIN  
PLANNING COMMISSION MINUTES  
June 8, 2015**

Commissioners present: Mayor Dan Abendroth, Ald. Pam Adams, Becky Schaefer, Brian Parrish, Pat Marchese, Jim Schaefer, David Fuchs, LeRoy Bessler,

Staff members present: Jac Zader, Asst. Director of Community Development  
James Keegan, Engineering Services Manager

Minutes of the meeting held on Monday, June 8, 2015 at 7:00 p.m. in the Common Council Chambers, Mequon City Hall, 11333 N. Cedarburg Road. [Note: Planning Commission meeting was audiotaped.]

**1. a. Call to Order, Roll Call**

**b.** Approval of the May 11, 2015 Planning Commission meeting minutes.

**Action:**

Commissioner Fuchs moved to approve the May 11, 2015 minutes.  
Commissioner Becky Schaefer seconded the motion to approve the minutes.

*A voice vote was called. All voted aye, 8-0.*

Consent  
Regular Business

**2. Joe Bulovich for Glenn and Judy Helgeland**

Address: 7626 w. Donges Bay Road                      Tax Key: #14-028-16-012.00                      District: #4  
Zoning: Lot 1: B-7  
            Lot 2: R3/TDR/PUD

**Request:**

1. Certified Survey Map

**Briefing:** The applicant is certified survey map approval for a 2-lot land division for the property located at 7626 W. Donges Bay Road.

**3. Greg Stadler for Garland and Linda Yarborough**

Address: 9111 W. Hawthorne Road                      Tax Key: #14-008-13-006.00                      District: #1                      Zoning: R-1/OA, C-2/OA

**Request:**

1. Minor Request – Accessory Structure <1,000 sf

**Briefing:** The applicant is approval to construct a 8.640 sq. ft. horse barn for private use at the property located at

9111 W. Hawthorne Road.

#### **4. Gierach Investment Properties/Muellers Crossings**

Address: 16 acres south of Lakeshore Road and west Lake Bluff Lane – Town of Grafton

**Request:**

1. Certified Survey Map

**Briefing:** The applicant is seeking a 4-lot certified survey map for the 16 acre property located at south of Lakeshore Road and west Lake Bluff Lane in the Town of Grafton.

**Action:**

Commissioner moved to approve the consent items.

Commissioner seconded the motion

**Discussion:**

**Action:**

*A voice vote was called. All voted aye, 8-0.*

#### **5. Veridian Homes, Enclave at Mequon Preserve**

District: #4      Tax Key: #14-028-03-006-00      Zoning: R-3/CGO

Address: 10729 N. Wauwatosa Road      Tax Key: #14-028-13-007.00

Address: 10701 N. Wauwatosa Road      Tax Key: #14-028-13-008.00

Address: 10839 N. Wauwatosa Road      Tax Key: #14-028-04-012.00

**Request:**

1. Minor Request – Fill Permit > 10,000 cubic yards

**Briefing:** The applicant is seeking a fill permit for the property located 10729 - 10839 N. Wauwatosa Road to allow for grading of the Enclave at Mequon Preserve subdivision.

**Discussion:**

Commissioner Becky Schaefer asked about #4 if we are changing the zoning and for clarification for #5.

Asst. Dir. Zader explained that we have to approve any plats in front of the PC from the Town of Grafton. They are going to require a deed restriction to require a minimum of 3 acre lots.

James Keegan, Engineering Services Manager, explained that the grading plan is in the process of being approved. They have not yet provided exact numbers for their final quantities; this is somewhat typical in how the process works.

Commissioner Bessler asked if this fill will have any affect on the drainage of the adjacent properties.

Mr. Keegan answered that there will be a storm water management plan that will be approved and a grading plan that will be approved. Through the review of these two plans the drainage concerns will be addressed. The fill is just a function of construction the subdivision. This fill is for the sub base under the roadways.

Mayor Abendroth asked how many acres are included in this subdivision.

Asst. Dir. Zader answered that the whole sub-division is 50-60 acres and the first phase will be about 20-30 acres. Mr. Keegan replied that this fill permit is for the first phase; the first 17 lots and the roadway improvements.

**Action:**

Commissioner Bessler moved to adopt the 4 consent agenda items.  
Commissioner Fuchs seconded the motion.

*A voice vote was called. All voted aye, 8-0.*

Regular Business

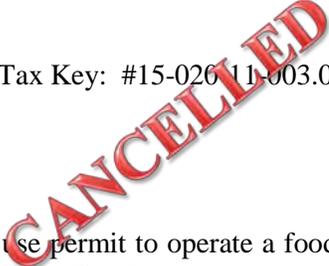
**6. Ronny & Chrissy Strolis for Falafel Guys**

Address: 11210 N. Port Washington Road      Tax Key: #15-026-11-003.00      District: #5      Zoning: B-2

**Request:**

1. Temporary Use Permit

**Briefing:** The applicant is seeking a temporary use permit to operate a food truck for a period of five months at the Mobil gas station located at 11210 N. Port Washington Road.



**7. Richard Kos for Midwest Sign for Mequon Investment Group, LLC**

Address: 10330 N. Port Washington Rd.      Tax Key: #15-107-01-14-001      District: #7      Zoning: B-2

**Request:**

1. Sign along I-43
- 2.

**Briefing:** The applicant is seeking approval for I-43 signage for the Baymont Inn and Suites property located at 10330 N. Port Washington Road.

**Discussion:**

Asst. Dir. Zader stated that Baymont Inn was before the PC last month for their free standing monument sign and this month they are back for approval for their I-43 signage. Their request is for a little larger sign than Best Western had and it does comply with the code square footage requirements. They designed a shallow cabinet to hide the electronics of the sign because there is a hotel room behind the sign. This makes sense for this application but would not be recommended for other properties. Staff feels that the sign is a little large for the space between the window and the end wall. Staff does recommend approval for their request.

**Action:**

Commissioner Parrish moved to approve the I-43 signage requested.  
Commissioner Becky Schaefer seconded the motion.

Ald. Pam Adams asked if the motion intended that the applicant would work with staff to agree on an appropriate size sign.

Asst. Dir. Zader answered that the sign does meet the code size requirements and that staff did not make a recommendation to change the size.

Commissioner Jim Schaefer stated that it does seem a little large but that it probably could not be much smaller and still be visible from I-43. He prefers that it be smaller.

Asst. Dir. Zader commented that the Best Western sign was about 10 sq. ft. smaller and was visible. He stated that the PC could recommend that the sign be smaller as part of the motion.

Commissioner Parrish stated that his motion is firm and he supports the size of the sign proposed.

Commissioner Fuchs stated that the location is not ideal but there are not other options and he approves the size of the sign as is.

*A voice vote was called. All voted aye*

## **8. Richmond Investment Group**

Address: vacant property immediately west of 7606 W. Mequon Rd

Tax Key: #14-051-02-01-000

District: #3      Zoning: R -3

### **Request:**

1. Consultation

**Briefing:** The applicant is requesting a consultation regarding the development of an office building on the vacant lot west of 7606 W. Mequon Road, next to Worzella Photography.

### **Discussion:**

Director Kim Tollefson stated that this is a consultation only. The proposal is to construct a 1 story, owner occupied office building, approximately 5,000 sq. ft. The building would be designed to accommodate other tenants as well. Rezoning would be required as it is currently zoned single-family residential. The applicants did invite nearby neighbors to an open house meeting and they have consulted with the alderman of the district. There were a few options presented to staff and option "C" is the preferred option. The area has mixed land uses. At the corner there are a high volume of commercial uses and then it transitions into plex residential and then to single family residential neighborhoods. When looking to rezone an area, the area is looked at to see if there have been changes to the general area. There have been several changes to this area; in 2007 the area to the east was rezoned to Town Center zoning and in the past 10 years there were 2 new plex residential developments approved. There was also 380 acres to the south that were rezoned to Central Growth zoning. There is also consideration of public interest in making a change. There is public interest in providing owner occupied businesses in the city, services that provide services to the local residents. Another factor looked at is whether the current zoning allows for reasonable accommodations for other uses. Staff did discuss with the applicant the policy of the city to preserve the residential character of Mequon Road.

The preferred option "C" staff is in favor of this as a starting point due to these factors:

- Locates the parking and access to the east of the structure and maintains a greater distance from the north property line / adjacent single family residential neighborhood
- The majority of the open space is kept to the rear of the property
- Connection to public sewer and public water would be required and storm water management

If the PC finds merit for commercial zoning, staff would recommend rezoning to B-3 (office and service district).. The parcel is 1.2 acres. The B-3 zoning does require the lot to be 1.5 acres so this project would require a CUG application to be allowed this zoning district on this size lot. The CUG will outline the operations and the site and would give control over the operations. Any future amendments to the building or the site would need to come before PC for approval and there would be neighborhood notification.

Tim Cullen, 11359 N. Solar Ave. is opposed. He has concerns about traffic flow. He feels there will be more traffic on Solar Ave.

Harry Sutton, 11316 N. Solar Ave is opposed. He is against the rezoning to commercial zoning. He feels traffic would be increased on Solar Ave.

Thomas Czechowski 11232 Solar Ave. He lives in the property right next to this parcel. He has concerns about other potential businesses in that building.

Residents opposed in attendance who do not wish to speak:

Doloris & Leo Si Onge 11427 N. Solar Ave.

Alice Kelch 11315 N. Solar Ave.

Marla Keeler Czechowski 11323 N. Solar Ave.

The applicant; John Richmond, Matt Richmond and Jim Mickelson from Mickelson Builders were present. John Richmond stated they hosted an open house meeting with the neighboring residents to present their plans and discussion of the project. Only 9 residents attended. He said that this lot is the perfect location for them. The building will be a reddish brick office building, approximately 5,000 sq. ft. There will be a storage shed that looks like a 3-car garage that will house all of their refuse and containers will be stored inside. They are planning for a significant landscaping plan with a privacy buffer for the neighbors to the north. They will have 73% green space ratio to their building size. They will not egress onto Solar Avenue, all traffic will come through the Worzella entrances and parking lot. Their business is a comprehensive wealth management business open from 8am – 5pm, Monday through Friday. This is a very low impact operation. They plan to occupy 60% of the building space themselves. They have a tax planner, an accountant and a 2-person law office as the other potential tenants in the building. They are looking for approval of their exploratory plans and want to be totally transparent in their process.

Commissioner Bessler asked for a rendering of the building. He also asked about landscaping and buffering along Solar Avenue from the neighbors. He asked if the other potential tenants would also be 8am-5pm operations.

Mr. Richmond answered that he was under the understanding that this consultation was for discussion only and did not go through the cost of the renderings. He stated it will be similar to the Mid-State building, but a smaller footprint. He reiterated that they would have significant landscaping with a berm and evergreens and that their building would not be visible. Any lighting would resemble a garage and would be away from any of the neighbors. He answered that the other tenants would also operate from 8am-5pm.

Commissioner Fuchs asked for confirmation that they would be using Worzella access and parking and stated that they are 6 parking spaces below the minimum. He also asked about the large specimen trees on the site.

Mr. Richmond stated this is true and that Worzella would use their lot for overflow on weekends, holidays and evenings. He would want more spaces if allowed and they will preserve the trees.

Ms. Tollefson stated that they would try to get a better handle on the true demand for parking spaces from the office tenants. The code tends to be more conservative and in this particular case the more green space and open space achieved and balanced with the parking would be ideal.

Commissioner Marchese stated that he believes that the community likes Mequon Road as it is. His concern is if this would be the last property on the north side going west that would be asked to have the zoning changed.

Ms. Tollefson answered that there are not any other vacant parcels like this one proactively seeking zoning change. The legal opportunity to request a change is not preventable. This is a challenging site as to where to draw the line.

Commissioner Parrish stated he is interested in the next phase. He does not feel a single family house will be built there. He appreciates the concept review and that a neighborhood meeting was held. He is opposed to the detached garage.

Commissioner Jim Schaefer stated that this is a transitional location with a low impact business and a small building. He prefers the “C” option. He thinks the garage is acceptable if it is consistent with the main building.

Mr. Richmond stated that he is flexible on having the garage building.

Ald. Adams stated that this is a hard decision for her. She has concerns for the neighbors who feel they are losing the feel of their neighborhood. She does prefer option “C” as well. She appreciates that there was a neighborhood meeting and she likes all the green space. She would like to see the support from residents in that neighborhood.

Ms. Tollefson reminded the PC that a B-3 zoning is an office and service district and retail is prohibited. Some of the allowed usages would be a daycare center, a sit down restaurant is allowed with conditions: no drive-thru, no fast food, limited to 5,000 sq. ft. or no more than 50% of the building and must be an occupant of a multi-tenant building. A restaurant would require a CUG.

Mayor Abendroth stated that the setbacks for a single family home are 20 feet. There would be a driveway onto Solar Avenue, no landscaping requirements, people living there 24 hours a day and the house could be 5,000 sq. ft. He feels that there are benefits to having this commercial project located on this site instead of a residential home. He does not feel anyone would suggest going further west than Solar Avenue with commercial properties.

Commissioner Becky Schaefer stated that she has empathy with the neighbors and appreciates the approach taken to meet with the neighbors. It has been vacant for a long time and the likelihood of having a single family built there seems unlikely.

Commissioner Fuchs approves of the project thus far and encourages the applicant to go forward. He feels the intended use and intensity of the use need to be considered. This project is very low intensity.

Commissioner Bessler stated that he does not feel that it is likely a single family would build a home there. He likes the green space and the generous buffer between the adjacent neighbors. He asked about whether the area had enough parking spaces for their tenants. He also recommended a smaller building for the refuse instead of a detached garage.

## **9. Policy – City of Mequon**

The City of Mequon seeking a text amendment to Chapter 58 of the zoning code relating to the rental of single-family homes.

### **Discussion:**

Director, Kim Tollefson stated that this amendment is sponsored by the Mayor in response to some concerns of rentals in single family homes. The city maintains the goal of preserving the stability of single family neighborhoods by controls such as density, traffic and unenclosed parking which leads to control over noise and safety. There has been an increase in the frequency of internet based services that connect home owners willing to rent their homes to travelers for short term rentals; from a weekend to a week long. When this happens the use or environment of the home or yard may not be how the long term home owner would use it and this can create a more transient occupancy of a neighborhood. Staff is aware of a few of these circumstances happening in the city. There could be controls over the owners use of dwellings by requiring CUG for guest homes and mother-in-law suites. Neither of these allows for rentals. Given the concerns raised, the city may want to look at ways to regulate short term rentals and how to do so. There are not currently any regulations or controls in place. Staff has looked at how other communities regulations to create some policy guidelines.

The definitions created:

Accessory Short Term Rental of Dwelling units is where an owner residing in a dwelling unit rents bedrooms for up to four overnight guests, and no more than 8 accumulative days annually.

- Type 1 Accessory Short-Term Rental of Dwellings: A type 1 Accessory Short-Term Rental is where the owner rents no more than 2 bedrooms to overnight guests. A type 1 Accessory Short-Term Rental Dwelling Permit is required. A part of a permit approval, neighborhood notification is required.

Ms. Tollefson explained that the permit would be approved through the Community Development department. The neighborhood notification forces the owner to be up front and open to the neighborhood that they intend to use their property this way. 3 property owners in each direction would be notified.

- Type 2 Accessory Short-Term Rental of Dwellings: A type 2 Accessory Short-Term Rental is where the owner rents between 3 and no more than 4 bedrooms to overnight guests. A Conditional Use Grant Approval and a Type 2 Accessory Short-Term Rental Dwelling Permit is required. As part of a

permit approval, neighborhood notification is required.

Principal Long-Term Rental of Dwellings: A principal Long-Term Rental is where the owner rents the dwelling as the principal use for no less than 30 days consecutively and more than 180 days annually.

Mayor Abendroth stated that he had received complaints from residents that neighbors were renting out their homes and the residents were not pleased about different guests coming and going every weekend. He asked staff to look into what regulations could be established.

Ald. Adams suggested 9 nights which would include 2 weekends and that residents be permitted to rent out their homes two times a year. She agrees that it should not be allowed on a weekly basis but that people have rights to rent out their homes. She asked how the permit would work. She wants to look at different scenarios. She would like the limitations to be broader and not so rigid. She raised the issue of trading homes.

Ms. Tollefson stated that the point of the neighbor notifications is simply to put the neighbors on notice that understand the conditions in their neighborhood. It allows staff to ensure that the resident wanting to use their dwelling in this way understand the way in which the process needs to operate. It also gives the staff the ability of compliance, it gives the city staff access to the property if necessary and for staff to ensure that building codes in terms of occupancy lodes in terms of the number of bedrooms and sq. footage of bedrooms. The permit gives staff greater ability in terms of enforcement process and procedure to address any matters.

Commissioner Fuchs stated that this activity brings a new environment to neighborhoods. He raised the issue of how many homes in a specific neighborhood would be allowed to do this at the same time. He feels that this could be a burden to law enforcement. He asked about liability issues and exposure for a homeowner. He says this could change drastically over the next several years and the ordinance as written seems simple and that there are more issues to think through.

Ms. Tollefson answered that the city is not responsible for liability issues for owners homes. She stated that spacing regulations would be challenging and limiting some residents and not others would not be fair.

Commissioner Bessler stated that this issue is a can of worms. He dislikes the whole idea and flat out would like to ban it.

Ms. Tollefson responded that there are currently instances of this happening in the city and as of now there is nothing in the zoning code to regulate this. This is not to proactively promote more of this activity; it is simply to create an opportunity to make sure that there are the policies in place to regulate it the intent.

Commissioner Fuchs stated that the notification process is very important.

Commissioner Marchese asked if there is any data on how much activity is currently being done.

Ms. Tollefson answered that staff is aware of 3 instances this year. She also commented that there are several single family homes being rented out but that there are not specific numbers available. She feels that given the internet based services that there will be much more short term rentals happening. Recent case law shows that there is an increase in this type of activity.

Commissioner Marchese asked what other municipalities are doing to regulate this and what the trend in other similar communities is. He is wary about the control but does support staff being able to take action when needed. He appreciates the issue being addressed now but he would like the issue to be further researched.

Ms. Tollefson answered that many communities do restrict this in the single family neighborhoods. She also stated that PC does not have to take action tonight. She will take away feedback from tonight and it will go before CC tomorrow night for discussion as well.

Ms. Tollefson stated that CC will have a 1<sup>st</sup> reading at CC tomorrow night and discussion. Staff will take feedback and regroup before July meetings. CC will not take action until August because PC meeting is later in July.

## **10. Policy**

The City of Mequon is seeking a text amendment to Chapter 58, Zoning Code, regarding the drainage financial guarantee.

Director of Public Works, Kristen Lundeen stated that this text amendment was requested by a developer but has been part of the work plan by the Engineering Department for some time. The specific request is the review of the city's drainage financial guarantee. The city implemented a policy to acquire a drainage guarantee to ensure the proper installation and maintenance of storm water facilities. The existing drainage requirement is based upon either the number of lots for a specific development or the increase in the impervious surface for a commercial development. The feedback from the developers is that the amount that the city is requiring and the length of time that the city requires it not of context with most of the other neighboring communities but is also much more than what the actual cost is for the installation of the storm water facilities themselves. After much review of municipalities, most communities are following the DNR's model ordinance which requires the establishment of 125% of the cost of the installation and maintenance of the storm water facility. On top of this financial agreement, the city also requires a storm water easement and storm water agreement that gives the city the right but not the obligation to enter and maintain any storm water facilities that are negligent and then special access the cost accordingly. Staff is recommending that the city adopt the DNR model ordinance language that requires the 125% of the cost and then also outlines the trigger for release after the initial certification is provided.

Commissioner Fuchs expressed concern that the interval layer of time to recoup funds be long enough to fully evaluate if a project is operating correctly.

Commissioner Marchese stated support of staff's approach and stated that the DNR's ordinances are very well vetted and should work the way it is planned. He asked if there is a performance bond.

Ms. Lundeen answered there is not a performance bond because it is very hard to draw on these bonds. The storm water and easement agreement are in place for issues that may occur post development.

### **Action:**

Commissioner Marchese moved to approve the text amendment to ordinance 1453.

Ald. Adams seconded the motion.

*A voice vote was called. All voted aye, 8-0.*

## **11. Announcements**

Development Inquiry

The next meeting is July 20, 2015 at 7:00 pm

## **12. Adjourn** - the meeting concluded at 9:15 pm

Commissioner Fuchs moved to adjourn.

Commissioner Marchese seconded the motion.

*All voted Aye.*