

**CITY OF MEQUON
WISCONSIN
PLANNING COMMISSION MINUTES
October 12, 2015**

Commissioners present: Mayor Dan Abendroth, Ald. Pam Adams, Becky Schaefer, James Schaefer, Brian Parrish, John Stoker, John Mason, LeRoy Bessler, David Fuchs

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

Minutes of the meeting held on Monday, October 12, 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 August 31, 2015 Planning Commission meeting minutes.

Action:

Commissioner Mason moved to approve the August 31, 2015 minutes.
Commissioner Fuchs seconded the motion to approve the minutes.

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

Consent

2. Troy Schoessow for John Schoessow Trust

Address: 11520 W. Bonniwell Road Tax Key: #14-006-09-000.00 District: #1 Zoning: R-1/OA, C-1/OA

Request: 1. Certified Survey Map

Briefing: The applicant is seeking certified survey map approval for a two lot land division for the property located at 11520 W. Bonniwell Road.

3. Jim Ramaker

Address: 13400-13598 Northwood Lane Tax Key: #15-008-02-006.00 District # 5 Zoning: R-1B

Request: 1. Certified Survey Map

Briefing: The applicant is seeking certified survey map approval for a three lot land division for the property located at 13400-13598 Northwood Lane.

Action:

Commissioner Fuchs made a motion to approve the consent items (#2, #3).
Commissioner Stoker seconded the motion.

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

Public Hearing

Action:

Commissioner Parrish moved to open a public hearing.
Commissioner Stoker seconded the motion.

4. Cherubini Enterprises, Inc.

Address: 7426 Donges Bay Road Tax Key: #14-027-11-007.00 District: #4 Zoning: B-7

Request: 1. Conditional Use Grant

Briefing: The applicant is seeking Conditional Use Grant approval to allow for a commercial use (sale of wheelchairs) of a historic structure at 7426 Donges Bay Road.

Action:

Ald. Adams made a motion to close the public hearing.
Commissioner Stoker seconded the motion.

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

Asst. Dir. Zader stated that the conditional use grant is for the sale and rental of wheelchairs at the old Sunnyside School, which is a local landmark. It is zoned B-7 which allows for any commercial use not permitted in the B-7 to be a conditional use. It will be used for retail sales, office use and warehousing. The applicant anticipates 10 walk in clients daily at peak demand and there are 5 full time employees. The closest residential property is approximately 540 feet away to the north. The hours of operation are 8:00am – 4:30pm. Staff is supportive of the use as it is fairly low impact which is consistent with the surrounding neighborhood.

The applicant is requesting to make some changes to the building. They would like to add EIFS and stone veneer to the front façade of the metal panel building. The overhead door will be filled in and covered with the same EIFS material. This site is on the historic landmarks list and it will go before the Landmarks Commission for approval as well. Staff was out at the site and has made some additional improvement requirements:

- Additional landscaping at the front of the building.
- Remove existing non-compliant lights on the east side of the building.
- Remove metal screening on the windows of the historic building.
- Seal coating and striping of the parking lot in accordance with city standards.

Staff does approve based on the conditions in the report.

Ald. Adams asked about conforming to ADA standards. She wants to ensure the customers can have access to the building.

Asst. Dir. Zader stated that the retail sales will be in the rear portion of the building. There will be ADA requirements for that access point. The other portion of the building may or may not need to comply depending on how the building is used.

Commissioner Jim Schaefer stated that the exception to accept EFIS in this situation would be a vast improvement for the current status. He stated that the Landmarks Commission may want something more definitive.

Action:

Commissioner Stoker made a motion to approve per staff's recommendations.
Commissioner Parrish seconded the motion.

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

Regular Business

5. Patricia Johnson

Address: 7230 W. Freistadt Road Tax Key: #14-015-11-006.00 District: #3 Zoning: R-2B

Request: 1. Minor Request – Specimen Tree Removal

Briefing: The applicant is seeking approval to remove a specimen tree from the property located at 7230 W. Freistadt Road.

Asst. Dir. Zader stated the applicant is requesting the removal of a 21” Sugar Maple tree that has a severe case of anthracnose, which results in extensive defoliation and unsightly appearance. The City Forester was at the site and he recommends that the PC not approve the removal of the specimen tree. He stated that while there are some issues with the tree, it will not die and it will remain in good condition for many years pending treatment of the tree for anthracnose. If the PC does recommend removal of the tree, the City Forester is asking for \$1,600 for replacement on site or funding to the tree fund.

The applicant, Patricia Johnson, stated that there is not a cure for this particular disease. She asked for permission two years ago to remove the tree and was denied and the tree is significantly worse now. She stated that a certified arborist said that this is the worse case he has seen this season. According to the conditions listed on the city website, she feels the tree meets those conditions for removal: disease and hardship due to constant clearing of the dead leaves.

Commissioner Bessler stated that he sympathizes with the applicant. He sees no benefit to the homeowner or to the city to keep a diseased unsightly tree. He stated that there is a new disease affecting certain Maples, so it would be best to choose another species.

Commissioner Becky Schaefer agrees with Commissioner Bessler. She typically tends to vote to keep specimen trees but this is an exception. She asked about the replacement tree.

Asst. Dir. Zader stated if the PC decides the tree is diseased, the PC can waive that replacement condition overall. If replacement is requested it is, by definition, 16” of replacement trees on the property. The City Forester would work with the applicant to find replace trees.

Ald. Adams stated that she cannot approve this because the City Forester did not recommend removal. She stated that she is the president of the tree board and that many trees have diseases and she does not want to set the precedent that anyone can claim their specimen tree has a disease to have it removed.

Commissioner Parrish stated that he feels that the applicant has demonstrated that she has experienced a hardship dealing with the unsightly tree and he will vote to grant removal of the tree as well as was considering waiving the replacement fee.

Mayor Abendroth clarified that PC does not have the authority to waive the replacement fee because that is a city ordinance.

Action:

Commissioner Fuchs moved to approve removal subject to replacing the trees.

Commissioner Parrish seconded the motion.

Roll call was taken: Voted failed 4-4 (No votes: Adams, Stoker, Jim Schaefer, Mayor Abendroth)

Commissioner Stoker asked if a motion could be made to approve removal and waive the fees.

Asst. Dir. Zader stated that it has been done in the past when it was deemed the tree would die in the next several years. The determination would need to be made that the disease is severe enough that the tree is going to die in the next few years.

Ald. Adams stated that the City Forester should be present at the PC meetings to be able to discuss these matters and answer questions.

Action:

Mayor Abendroth stated that anyone that voted no is entitled to reconsider the motion. He stated that he is reconsidering the same motion of removing the tree and replacing it with 16" of new trees.

Commissioner Becky Schaefer seconded the motion.

Roll call was taken: Vote passed 5-3 (No votes: Adams, Stoker, Jim Schaefer)

6. Mikkelson Builders for Kimberly Pons

Address: 12323 N. Lakeshore Drive Tax Key: #15-017-09-006.00 District # 5 Zoning: R-1B

Request: 1. Minor Request – Specimen Tree Removal

Briefing: The applicant is seeking approval to remove a specimen tree from the property located at 12323 N. Lakeshore Drive.

Asst. Dir. Zader stated this is a request to remove a 17" Oak specimen tree on the property. The applicant is in the process of constructing a new home on the property in front of the existing home and feels that this tree presents a safety hazard because it leans towards the new dwelling and is very close to the where the new house will be. The City Forester is recommending that the tree be saved and not removed.

Applicants Jim Mikkelson, Mikkelson Builders and Kimberly Pons, the home owners were in attendance. Mr. Mikkelson stated that the tree is a hazard because it has an extreme lean of 20 feet from the base of the trunk to the top of the tree. The top of the tree will be over the home if it remains. They tried to reposition the house to accommodate the tree but are unable to do so due to the city utilities. They have pushed the new home as far back as possible. The existing home has water issues in the basement and they do not want to impede and place a new home on undisturbed soil.

Ald. Adams asked how far the tree would be from the new home (23 ft was the answer). She stated that it is a good distance from the house. She stated that the City Forester did say there was a slight lean. She said that Oak trees can last hundred years. She stated that the City Forester is working within the city guidelines and is being consistent. She does not want to set a precedent about easily removing specimen trees. She will follow his recommendation to deny the request for removal.

Mr. Mikkelson stated that the tree will be hanging over the house. He stated that it will fall someday on this house unless it is taken down.

Commissioner Stoker asked if the homeowner objects to the \$1,300 fee to replace the tree.

Ms. Pons answered that she does not object to the replacement fee.

Ald. Adams asked if staff also recommended denial of removal of the tree.

Asst. Dir. Zader confirmed this as accurate.

Ms. Pons stated that this tree will fall down. The tree had a sister tree that has already fallen down. She also said that the replacement money can be used for trees in the city that everyone can see and enjoy.

Action:

Commissioner Fuchs made a motion to approve the request to remove the specimen tree.

Commissioner Stoker seconded the motion.

Roll call was taken: Vote passed 6-2 (No votes: Ald. Adams, Becky Schaefer)

7. Dermond Property Investments, Inc.

- Request:**
1. Rezoning Recommendation
 2. Concept Plan

Briefing: The applicant is seeking rezoning recommendation from TC to TC with a Planned Unit Development (PUD) and concept plan approval to allow a 33 unit multiple family residential development located at 11130 Buntrock Avenue.

Asst. Dir. Zader stated that this parcel is located in the Town Center (TC) zoning. It requires a PUD for all residential developments that are in excess of 16 units. Staff has worked with the applicant and the location and shape of the building is due to the 16 specimen trees located on the north property line. This design allows for a 10 foot setback to keep all the trees as well as a nice buffer for the apartment dwellers from Mequon Road and the Brewery site. The FAR requirement on the TC is 100%. The number is higher (116) than the code allows. This is due to the size of the units (average 1,231 sq. ft.) and on a small site it is harder to meet the FAR because the common space is a larger percent of the apartments. The third issue is that the other TC project to the south has a commercial business on the site that is only 1-story which helps the FAR. Staff is comfortable with the 116% FAR because the applicant does meet all the other requirements and feels that the higher FAR is valid and warranted for this residential only project. Staff approves of the smaller 821 sq. ft. apartments. Staff is pleased with the renderings and the finished architecture of this project. Staff does approve the rezoning recommendation.

Mark Freiberg – 6518 W. Aspen Tree Court – lives at Country Terrace Condos. He stated that the courtesy cards were received late. He is concerned about the impact of traffic on Buntrock. He said it is already very busy during school drop off and pick up times. He questioned whether his property values would be decreased due to the new project. He is not necessarily opposed but wanted to raise some concerns.

The applicant stated that they anticipate the apartment tenants will be young professionals and empty nesters. They will be market rate apartments. The 1-bedrooms start at \$1,400 and go up to \$3,000 for a 3-bedroom. Dermond will continue to own and manage the project once it is completed.

Asst. Dir. Zader stated that the zoning in that area has been TC since 2008. Previously it was zoned industrial and it was felt that the old buildings needed redevelopment and that industrial zoning was no longer appropriate. It was determined that single family and commercial were not the appropriate zoning for this area so it was zoned TC. He stated that at the time of the TC zoning, a traffic impact study was done for the whole TC area. It was anticipated that up to 413 units could be built in that area. TAD conducted an analysis of the area and did state that at some point there may be some modifications needed to some of the intersections in the Buntrock and Mequon Road area; including turn lanes or a longer turn lane timing. At this time it is not warranted but it is anticipated that there may need some improvements in the TC area in the future.

Ald. Adams stated that this project will have less impact than an industrial building. She said that Dermond has an excellent reputation as builders. She feels that the east and north elevations seems to be lacking too much of the brick concept that is in the front.

Commissioner Jim Schaefer stated that he agrees with Ald. Adams. He feels the north elevation needs more red brick and more articulation. The trees that are there now may not last forever and in the future that could be visible from Mequon Road. He feels that the north and the east elevations need some more work.

Commissioner Parrish stated that he is supportive of the rezoning and feels that it is an appropriate use. It is a good location for the work force nearby. The project feels very close to the road and that has been an objection of some of the residents. He would like to see if further back if possible.

Asst. Dir. Zader stated that it is a required maximum setback in the TC zoning. The intention is to keep the buildings close to the road. The sidewalk on Buntrock will be beneficial, many students walk on the road there now.

Commissioner Bessler stated that he feels the aesthetics on the north elevation is disappointing. He would like to see more red brick in that area.

Commissioner Mason asked about what occupancy rate would need to be maintained for the project to be successful.

The applicant answered that there has not been a market survey done but there is not any new product of this type in the area. They purposely chose to do a smaller building. The trend is that there are many people that want to rent and not own a home. They have very low vacancy rates at their other current projects.

Commissioner Fuchs stated he is supportive of this project. He too feels that some of the elevations are somewhat bland and he would like them to look more upscale.

Ald. Adams stated that there are many one bedrooms. She asked about the capability to change those into largest units if the market proves to want larger units than one bedrooms.

The applicant stated that they feel the young professionals will most likely rent the one bedroom units as they typically prefer smaller living spaces and the empty nesters would choose the larger apartments.

Asst. Dir. Zader stated that the different building materials shown on the concept plan are due to staff requesting more elaborate architecture facing the street. The staff will work with the applicant going forward to add some color and elevations.

Action:

Mayor Abendroth made a motion to approve the rezoning recommendation and concept plan subject to staff comments and suggestions and architectural feedback that the PC has provided.

Commissioner Becky Schaefer seconded the motion.

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

8. Ryan Companies – Venture Court

Address: Northeast corner of Port Washington Road and Venture Court District: #2 Zoning: B-2

Tax Keys: #15-053-04-01-000 & #15-020-10-017.00

Request: 1. Building/Site Plan
 2. Certified Survey Map

Briefing: The applicant is seeking building/site plan and certified survey map approval for a three-story, 86,000 square foot medical office building located at the northeast corner of Port Washington Road and Venture Court.

The applicants gave a presentation. They wanted to show the progress and changes they have made based on previous PC feedback of their concept plan:

- Setback increased by 20% to meet greenspace requirements and to reduce overall parking counts
- Worked with the neighbor to the north to make some modifications to widened that shared north entrance to provide an additional lane for both right and left outs
- Plan now shows 40% greenspace
- FAR maintained and is below what is allowed by code (6,000 sq. ft.)
- Additional landscaping along the northern property line
- There is overlapping land which they are rescinding and removed from the legal language and granted to the south neighbor
- They have extended the public water main to the south property for future development
- Shared storm water potential – they can include retention from the south property if needed
- Front center of the building was tan precast has been changed to 2 colors of brick
- Added additional windows
- Reduced the mechanical screen – 10 ft. height now and less foot print
- Wall sign location has been changed
- Canopy design modified to a more traditional design and less of a mass.

Asst. Dir. Zader stated that the applicant did make several changes to meet the code requirements. He added that the project is about 7,000 sq. ft. less than a potential build out could be if Venture Court remained and a new project was built on the vacant parcel.

Staff recommends the approval according to the conditions in the report.

John Mikkelsen – 1025 Glen Oaks – property owner to the north. He has met with Ryan Companies a few times over the past month and they have worked to make changes to alleviate his concerns. He believes this project will increase the value of his property. The project will bring many good jobs to the community and he is supportive of the project.

Scott Nyholm – 1222 W. Venture Court – property owner to the south. He is opposed to this project. He feels that this will decrease the value of his property. He is concerned about the traffic problems and a traffic impact study has not been done. He is concerned about the retention pond and would like an environmental study to be done to determine if this is safe for his property. He feels that Mequon is trying to phase out small businesses.

Mayor Abendroth stated that he appreciates the applicant's responses to the feedback and the comments from the PC last month.

Commissioner Mason asked James Keegan about whether there is a concern by having a retention pond next to a well water system.

Mr. Keegan stated that the wells are regulated by the county and DNR. A compacted clay liner is used which helps with infiltration. He stated that MSND is involved with the approval of retention ponds. There is no discharge to the southeast.

Ald. Adams stated that Ryan Companies responded to many of the concerns of the PC. She likes the entrance cover. She asked about the intent of use for the building in justifying the square footage. She understands the value of having many services under one roof. She feels that this will be a major benefit to the community and the residents.

The applicant answered that there will be many different uses with a major focus on therapy and rehabilitation. It is one premier healthcare provider that will be the sole tenant in the building.

Commissioner Jim Schaefer stated he likes the entrance better, it could use a little more detail. He does not like the painted metal panel. He asked if a traffic study is required.

Asst. Dir. Zader stated that the city can require a traffic study if warranted.

Mr. Keegan ran projections if the vacant parcel was to be developed as a separate project and it would potentially have 725 more car trips.

Commissioner Fuchs stated he applauds the change to more brick. He prefers all the same color brick be used. He would like to break up the roofline so that it looks less boxy.

Commissioner Becky Schaefer stated that she would like to know the tenant of this project as it helps to build credibility and justification for the large building. She has changed her opinion and now supports this project as she understands the value it brings to the city.

Commissioner Parrish stated he is pleased with the additional green space, pond sharing and additional brick added to the plan. He asked Mr. Keegan for further explanation of the water flow from the southeast of the property to the pond. He likes the idea of more jobs coming to the city and a higher tax base.

Action:

Ald. Adams moved to approve subject to staff requirements excluding the entranceway overhang.

Commissioner Parrish seconded the motion.

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

9. Policy – City of Mequon

Request: Text Amendment

Briefing: An ordinance amending Chapter 58 creating regulations for indoor sport shooting ranges as a conditional use.

Ms. Tollefson provided a handout of the requirements to allow for an indoor range. She stated that this text amendment is regarding an indoor sports shooting range and is sponsored by Ald. Mayr. A private business is interested in opening an indoor shooting range. Ms. Tollefson state that there are many public and private benefits to the shooting range: controlled environment to educate and expand experiences, on-site supervision and experienced staff, promotes safely skills, courses offered, individual or family sport, physical and mental discipline, life long sport and appeals to many different groups. Lead management has a public impact concern as well as noise mitigation. Building design and methods of operation are two factors that can help control public impact. Staff researched how other communities handle this issue. They are mostly located in industrial zoning district. There would not be sales or retail permitted. Ammunition and the caliber of firearms are important components are drafting regulations. Staff is looking to best management practices established at the state and federal levels for setting the local standards. The state of WI building code does not have specific design or building construction standards.

A license application would be required. It allows the city to do a background check on the operators as well as the employees to ensure there are not any felonies of the employees at the site. Staff has provided building design performance measures; necessary to confine any projectile. There are operational performance measures included. A licensed architecture or certified engineering would develop plans for particular type of ammunition used at a particular location. All outdoor activity would be prohibited. Staff suggested limited operation of hours suggested (7am-10pm).

Commissioner Mason stated that he feels that service and repair operations should be allowed.

Cheryl and Mark Rebholz addressed the Commission. They are interested in opening an indoor range and they would like to be able to service and repair firearms. Everything gets approved by the NRA and OSHA regarding the construction of the building. They want to open this business in Mequon because they feel there is a need for it here and this is where they live and work. They have been in touch with many neighboring communities that would support and utilize this facility for their own practice.

Commissioner Fuchs stated this has been a long needed service and amenity. He also feels that repairs should be allowed on site. He recommends nothing contrary to federal laws be included (conceal and carry laws).

Commissioner Becky Schaefer asked who monitors the compliance and who would be responsible for background checks. She asked if the caliber of gun is based on the regulation of type of ammunition. She also asked about the zoning.

Ms. Tollefson that background checks would be done in house and licensing would happen on an annual basis or employee changeover. The conditional use grant is the written agreement recorded at the county to maintain what the operator is obligated to do in terms of review with the city.

Action:

Mayor Abendroth moved to recommend subject to sticking the word “service” in #11 of the 58-8 Definition.

Ald. Adams seconded the motion.

A roll vote was called. Vote passed 8-0

10. Announcements

Development Inquiry

Next Meeting is Monday, November 9, 2015

11. Adjourn the meeting concluded at 9:30 pm

Commissioner Stoker moved to adjourn.
Commissioner Fuchs seconded the motion.