

CITY OF MEQUON WISCONSIN
PLANNING COMMISSION MINUTES
January 11, 2016

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

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, December 7, 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 December 7, 2015 Planning Commission meeting minutes.

Action:

Ald. Strzelczyk moved to approve the December 7, 2015 minutes.
Commissioner Mason seconded the motion to approve the minutes.
A voice vote was called. All voted aye, 8-0.

Consent
Public Hearing

2. Fresh Healthy Eatery & Juice Bar

Address: 11319 N. Port Washington Road Tax Key: #15-019-16-025.00 District: #5 Zoning: B-2

Request: 1. Conditional Use Grant

Briefing: The applicant is seeking conditional use grant approval to operate a restaurant, including a juice bar, at the property located at 11319 N. Port Washington Road (Citgo Gas Station).

Action:

Commissioner Fuchs made a motion to go into public hearing.
Ald. Strzelczyk seconded the motion.
A voice vote was called. All voted aye, 8-0.

Action:

Ald. Strzelczyk made a motion to close the public hearing.
Commissioner Parrish seconded the motion.
A voice vote was called. All voted aye, 8-0.

#3 was moved off of the consent agenda.

Consent
Regular Business

4. Veridian Homes

Zoning: R- 3/CGO District: #4 Tax Key: # 14-028-03-006.00

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. Open Space Plan
 2. Street Tree Plan

Briefing: The applicant is seeking open space plan and street tree plan approval for the property located at 10729 - 10839 N. Wauwatosa Road for the proposed Enclave at Mequon Preserve subdivision.

Commissioner Parrish asked about item #2 having a bathroom in close proximity to the food prep area. He also asked about the facade be required there.

Asst. Dir. Zader stated that the health department and inspections department will be reviewing and approving this so that they would catch any issues. He stated that several years ago mechanicals were put in place and they were never screened.

Commissioner Fuchs asked if there would be tables for a sit down type restaurant and if there is adequate parking.

Asst. Dir. Zader stated that there are two small tables shown. Due to the small operation of the business there is not a concern regarding the parking available.

5. Highlander Estates, LLC

Address: lands immediately south of Brighton Ridge and Knightsbridge subdivision between Swan and Wauwatosa Roads.

Tax Key: #14-028-07-001.00 & #14-028-03-005.00 & #14-028-04-007.00 District: #4 Zoning:R-3/CGO/R-4

- Request:**
1. Development Agreement – Phase II (Addition #1)
 2. Fill Permit in excess of 1,000 cubic yards

Briefing: The applicant is seeking development agreement and fill permit, for 17,000 cubic yards, approval to allow for Phase II (Addition #1) consisting of 30 lots of the 111 lot single family subdivision located immediately south of Brighton Ridge and Knightsbridge subdivision between Swan and Wauwatosa Roads.

Action:

Commissioner Bessler made a motion to approve the consent items #2, #4 & #5.

Ald. Strzelczyk seconded the motion.

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

3. Ryan Companies

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. Fill Permit in excess of 1,000 cubic yards

Briefing: The applicant is seeking a fill permit, for 8,000 cubic yards, approval for the construction of a three-story, 86,000 square foot medical office building located at the northeast corner of Port Washington Road and Venture Court

Engineering Manager, James Keegan, stated the applicant is requesting approval for 8,800 cubic yards of fill for the property. The engineering department has reviewed the application and does recommend approval. There are several recommendations in the staff report which are all agreeable to the applicant except #7 which prohibits hauling on Venture Court. Staff feels that this is important because Venture Court is not built to the structural standards that Port Washington Road is built. The additional truck traffic causes concerns for the road. The neighbor that shares the road has expressed concern about the construction traffic as well. The applicant is contesting this issue.

The applicant, Mr. Ryan Marks, representing Ryan Companies, stated that if the trucks are forced to exit onto Port Washington Road they have to head north. They will need to get back to the freeway, so they will need to make a U-turn on Port Washington Road or drive through residential neighborhoods. He does not think this is a desirable idea for the City. Venture Court is a signaled intersection and that provides consistency and safety for the trucks leaving the site.

Mayor Abendroth stated that Venture Court was previously used for fuel trucks to turn around and that it should be strong enough to handle the dump trucks.

Mr. Keegan stated that it was indeed reconstructed. If it is permitted for the trucks to use Venture Court, the City would require a road bond for any damage caused. An analysis of the condition of the road would be done before it is used.

Commissioner Bessler asked why so much fill is requested. He stated that sometimes fill is used to divert water onto adjacent properties by building the property higher than other properties.

Mr. Keegan stated that regarding the drainage issue, there has been a storm water management plan that accounts for the drainage that has been approved by the City, it has not yet been approved by MSSD. He stated that the City feels that the neighbors will not be adversely affected by the drainage. The fill brought to the site is for the base aggregate, the parking lot, sanitary and sewer trenches; it is an engineer fill which is a stone material, it is not just a dirt fill.

Ald. Strzelczyk stated that the neighbor has voiced concern about the drainage onto his property during this process and he asked the applicant to take a little extra care during the construction and fill process to avoid any spill over to the properties to the east or north. He stated that the road to the property to the north does get a little soggy, so he recommended that when putting in the silk fences that the applicant ensures that the water can also get off that property.

Mr. Marks stated that they have had several conversations with the Mikkelsons (neighbor to the north) and they have designed some features that they think will help quite a bit. He said they have signed some access agreements together and they have a very good working relationship.

Ald. Strzelczyk asked the applicant that if the request is slightly amended to allow the trucks to enter from Port Washington Road and exit from Venture Court, if that would be agreeable to them.

Mr. Marks confirmed that would be acceptable to them.

Action:

Ald. Strzelczyk made a motion to allow construction fill traffic to exit only on Venture Court and use the clearly marked entrance on Port Washington Road to enter the site. He added a friendly amendment to include a road bond requested by staff.

Commissioner Bessler accepted the amendment and seconded the motion.

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

Public Hearing

6. Oldenburg Farm

Address: 11446 N. Farmdale Road Tax Key: #14-020-01-004.00 District: #3 Zoning:R-1/OA,C-1/FW/OA

Request: 1. Conditional Use Grant

Briefing: The applicant is seeking conditional use grant approval to allow for a commercial horse stable at the property located at 11446 N. Farmdale Road.

The applicant showed a video of the property.

The applicant, John Graham talked about the structure of the barn. They are very proud of the appearance of the project and he stated it is a state of the art building.

The stable has 19 stalls with a large indoor riding arena and two outdoor areas.

Asst. Dir. Zader stated that the conditional use grant is for a commercial horse stable. It has been a private horse facility for a number of years. The facility currently includes a 24,000 sq. ft. stable and arena, a storage building, an outdoor practice area and some paddocks. The proposed use will include boarding, training and riding events throughout the year. The proposed hours of operation are from 8:00 am to 9:00 pm during the week and 8:00 am – 6:00 pm on the weekends. In accordance with the zoning code the applicant would be allowed up to 19 horses on the 20 acre piece. The removal of waste is always an issue and the applicant agreed that the removal of waste will be collected on a weekly basis. There is an existing dumpster area located adjacent to the storage building that is well screened from public view. The closest residential property is 520 feet to the south. The rest of the land is being proposed as a conservation subdivision.

There was a concern from a neighbor regarding the traffic on Farmdale Road. There are about 900 daily trips which is fairly low for that type of road. In comparison, both Freistadt and Highland Roads have double the traffic. The city engineering department is not concerned about the additional traffic created by the proposed use.

In addition to the boarders there will be small clinics and events with up to 30 spectators at these events. There is adjacent parking on both sides of the building that should be enough to accommodate the spectators that come to the events.

Staff is supportive of the project. A number of conditions have been added that are typical of outdoor facilities;

- Maximum of 19 horses
- Limits on the spectators
- No more than 5 trailers on site at one time

Action:

Commissioner Parrish made a motion to close the public hearing.

Commissioner Becky Schaefer seconded the motion.

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

Action:

Commissioner Fuchs made a motion to close the public hearing.

Ald. Strzelczyk seconded the motion.

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

Commissioner Becky Schaefer asked the applicants to introduce themselves.

John Graham introduced himself as the developer of the project and Karen McClay, along with her daughter Kristen (not present), will be the owner/operator of the training facility.

Commissioner Becky Schaefer clarified that the two Oldenburg Farm agenda items (#6 and #7) are separate. She stated that it is a gorgeous property and that she has loved this property before she even lived in Mequon. She strongly encourages the continued rural character and rural use. She is supportive and will vote to approve this item.

Ald. Strzelczyk stated that the packet information stated that the applicant had indicated the desire to have 20 horses with the intention to grow this business. Based on the zoning and acreage, there is a maximum of 19 horses allowed.

Mrs. McClay stated that they had initially hoped to grow but based on the land analysis they are accepting of the limit of 19 horses.

Ald. Strzelczyk stated that he likes the fact that the waste is being removed weekly given the fact that the wetlands are so close. He appreciates that being done. He commented that it is a beautiful property and he is pleased that it will be used for rural purposes.

Commissioner Mason asked Asst. Dir. Zader if there have been any issues from other approved horse stables in the community regarding the number of participants, the number of trailers or the odor in the past 6 to 9 months.

Asst. Dir. Zader stated there have been a few complaints, as somewhat anticipated, from the O'Connell Lane horse barn regarding traffic in and out. Staff is unable to verify any violation to their conditional use grant. No other complaints.

Action:

Commissioner Fuchs made a motion to approve the item

Ald. Strzelczyk seconded the motion.

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

Regular Business

7. Oldenburg Farm

Address: 11446 N. Farmdale Road	District: #3	Zoning: R-1/OA, C-1/FW/OA
Tax Key: #14-020-01-004.00	#14-020-04-002.00	#14-020-12-000.00 #14-021-07-004.00
#14-021-07-002.00	#14-021-07-001.00	#14-021-07-003.00

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

Briefing: The applicant is seeking rezoning recommendation and concept plan approval to allow for a 20 lot conservation subdivision located at 11446 N. Farmdale Road. The development includes two separate sections of land. There is a 185 acre section of land on the east side of Farmdale Road and a 37 acre piece of land on the northwest corner of Mequon Road.

Asst. Dir. Zader stated that the applicant is requesting approval for rezoning and concept plan for a 20 lot conservation subdivision on 221 acres of land. The conservation plan proposes approximately 71.7 % of open space and lots ranging from 1.25 to 3 acres in size. There are two separate portions of land. The 20 acres of land for the horse stable has been removed from the overall land area and is not being counted. The yield plan shows the 5-acre residential lot size based on currently zoning requirements. The overall density remains the same. The parcel to the east shows a significant wetland and wooded area (the little Menomonee River runs through here). It is a very wet area in the spring and summer.

Although this area is in the floodplain, it was not shown on the 2007 FEMA maps due to modeling errors at the time they were adopted. Wetland delineation needs to be done; this will have to be in the spring once the snow and frost are gone. The preliminary plat will not be approved until the wetland delineation is done.

The typical open space percentage for a conservation subdivision is 60% and the applicant is exceeding the number by showing 71% open space. They have discussed with staff the idea of dedicating open land to the city. There is land owned by MMSD in the southeast corner of the property. The Little Menomonee Park which the city owns is on the north section of the property. The city would like to have a walking trail that would connect these two areas.

The plan includes many characteristics of the conservation subdivision design: open space along the perimeter, pedestrian trails and pockets of open space.

There are a few minor recommendations from staff:

1. Shift Lots 9 - 12 a little bit further south to allow for a larger buffer on the north property line.
2. Add a trail connection between Lots 12 and 13 that connects to the public road.

Engineering also has some recommendations regarding the cul du sac on the north end. Eventually this may tie into Freistadt Road, staff is requiring a road reservation and dedicated right of way to the property line. Staff wants the right of way cut line to reach all the way to the property line to the north, so if there is further development to the west, it could access the same road way. The applicant did not have any objections to these two requests from staff.

The lots on the conservation piece average about 1.33 acres in size. The lots along Mequon Road and Farmdale Road are

roughly 2.75 acres in size. They are shifted a little to the north to maintain a buffer from Mequon Road. The City Forester indicated there are specimen trees on the property but they are mostly located in the wetlands and should not be impacted by any of the development on either of the two pieces. Staff recommends approval according to the conditions in the report.

The applicant, John Graham introduced Dennis Bush as a consultant to him on this project. Mr. Graham stated that the entire project was designed around the guidelines established by Mequon zoning. They have been very careful to minimize the impacts and they intend to take advantage of the topography. He stated that all the housing will be well-above the floodplain levels. They have tried to also minimize visual impacts. There will be trails that run through the development to accommodate the residents. They have talked about dedicating approximately 45-65 acres of land that will be used to connect the park to the north and the MMSD property to the south. Mr. Bush stated that he has worked on many of the conservation neighborhoods in Mequon and he has a good sense of the areas that have had the less amount of impact on the surrounding properties.

Jean Richmond – 11540 N. Farmdale Road – is opposed. She is worried about the small lots and dogs barking in the neighborhood.

Dale Schoessow – 11702 N. Farmdale Road – is opposed. He met with Dennis Bush, but he feels that they did not come to any understanding. He wrote a letter to the PC and has many points listed in it. He feels that any pedestrian paths will be in swampland. He is mostly opposed to the 5 acre minimums and that the lots are shifted to the west. He thinks the houses to the south will be flooded. He says the south end is often under water and houses proposed on the north end will be flooded as well.

Joe Di Frances – 11540 N. Farmdale Road – is opposed. He would like the native plants restored and the natural insect life and songbirds to be there. He feels that green space is a hostile environment and that it wipes out the wildlife there. He would like more information about exactly what the open space will consist of.

Mr. Bush stated that they are going to try to maintain the current uses there (some farming, horse riding, horse stables). Some of them might become more of a field affect. He said that nothing too significant will be changed and 200 acres will be unencumbered.

Asst. Dir. Zader stated that a stewardship plan is required for the open space areas. The applicant will provide how the open spaces will be used and how they will be maintained and this will get passed along to the homeowners association once it is established.

Irene Meyer – 11234 N. Farmdale Road – is opposed. She is concerned about where the water is going to come from and where the sewer system will go to. She is worried that released water from the homes will add to the wet areas already there. She stated that her property does not perk.

Mr. Graham stated that there will be individual wells and septic systems. They have not yet done perk tests.

Kurt Schoessow – 10016 W. Freistadt Road – is opposed. He wonders why the out lots that can be used for horses are not being used with the stable to allow for more horses. He thinks the homes are adding to the wetlands. He does not feel that the pedestrian paths and horses are going to mix.

Mayor Abendroth confirmed that this project must go through the same requirements for run off as all projects in the city. He confirmed that the run off cannot increase from the current undeveloped state. James Keegan, Deputy Director of Engineering, stated that a requirement is that the storm water management plan be reviewed and approved by both the city and MMSD. The report has not yet been received by staff.

Deanna Lee – 1211 N. Briarhill Road – is opposed. She prefers that there not be property division. If there is division she prefers the 5 acre minimum be imposed.

Rudy & Bodil Lange – 11246 N. Farmdale Road – are opposed. They did not wish to speak.

Hermie Stern – 10505 W. Freistadt Road – is opposed. He did not wish to speak.

Gina Suckow – 11702 N. Farmdale Road – is opposed. She did not wish to speak.

Pam Helmig - 11219 N. Farmdale Road – is opposed. She did not wish to speak.

Gerhard Schoessow – 11915 N. Farmdale Road – is opposed because he feels the housing will ruin the rural feel and this area is some of the last remaining rural property in Mequon and he would like to see it preserved as it is. He wants to see the land used for horses and growing grass. He does not feel another subdivision is needed on Farmdale Road.

Tom Zabjeck – 11845 Sand Hill Circle – is in favor of this project. He feels it meets all the criteria of a conservative subdivision and Mequon needs more buildable lots. He stated that this project will bring \$15M to the tax base and a new sewer system to that area. He does have empathy for the neighbors but feels that this is a worthwhile project.

Patty Ayer – 9913 W. Heather Drive – is opposed and does not want to see building on this property. She really likes the open green space and wishes it would remain this way.

Mayor Abendroth stated that PC will make a recommendation tonight and then this will go to the Common Council for a public hearing in February and a second reading of the ordinance and a decision will be made by the Common Council in February.

He stated that the owner of this property has the right to develop 5 acre lots. He emphasizes with the neighbors. He has seen this happen over the last 30 years in Mequon. Undeveloped land gets developed and neighbors are usually not happy about it. The owner has the right to do this as long as they meet the rules and regulations. The PC is not able to say no to someone to build a 5 acre lot subdivision. The city has encouraged conservation subdivisions for the past 58 years. This is not a new concept; almost all the subdivisions built have some element of conservation design. Conservation subdivisions have some benefits to the whole neighborhood.

Commissioner Parrish asked about the different zoning on the property (R-1, OA overlay).

Asst. Dir. Zader stated that that the R-1 and OA occurs on any property over 10 acres in size. R-1 gives the ability to do the 5 acre lots and the OA allows farming as well. The floodway zoning limits development in that area. The lots shown on the concept plan are required as part of the yield plan to be out of the floodway. The rest of the parcel can be in the floodway. The conservation design is meant for properties like this where lots abut natural features. The concept plan does try to keep the lots outside the environmental area as much as possible.

Commissioner Fuchs asked about the expected price of the homes on these lots. His feeling is that these lots are desirable. What is being proposed is in the zoning and the city ordinance. He thinks this is an attractive project with reasonable size lots and homes. He would like to see more of this type of home and less of the smaller lots and smaller homes.

Mr. Bush answered that the minimum square footage at 2,400.

Commissioner Jim Schaefer stated that given the fact the land owner has the right to build and to divide the property into 5 acre lots, he much prefers the conservation subdivision design. He feels that it will preserve the rural character and he prefers the green space that is going to be left natural.

Commissioner Mason asked for more explanation about the blue and red lines on the floodplain diagram. He asked if every lot needed to do a perk test or just a few in the general area. He asked about the water table situation for the wells. He also asked about why the rezoning is necessary.

Asst. Dir. Zader stated that the blue line is the 100 year floodplain line which is zone AE. The red line is a floodway line. Both lines are modeled lines that are part of the study that is underway. The floodway line shows the typical path that the water will flow and the 100 year line will continue to carry water but it won't necessarily be flowing in that area. That line is totally based on elevation. The floodway is an area that you cannot do anything in; nothing to impede the flow of water. The 100 year floodplain can be developed in as long as the flood elevation level is not raised by 1/100 of a foot. These areas can be filled in and developed on, as long as the requirements of the DNR and FEMA are met.

Asst. Dir. Zader answered that there are multiple perk tests per lot. Every lot is required to have a self-sufficient perk test.

There have been a few situations for an out lot of the subdivision to be used, although this is very rare. He answered that the DNR handles all the wells, the city is not involved.

Regarding the requirement for rezoning, the conservation subdivision process is required to be a PUD. This was established as a policy by the CC many years ago.

Commissioner Parrish asked about the connector road. He would like to see more of a landscape buffer along Mequon Road. He likes that this will prevent commercial use from creeping to this location. He would like to see conservation natural landscaping. He would have liked to have had the wetland delineation report already done.

Asst. Dir. Zader explained there at the north end of the subdivision there is a cul du sac. There would be a stub on the north end which would then be available for connection if that property to the north is developed in the future. It would then connect to Freistadt Road and enable a secondary road connection to the property. For public safety reasons, the city prefers two exits.

Ald. Strzelczyk asked about the density of the development. Many residents have expressed concerns about the number of lots. He stated that he prefers the conservation subdivision design plan and the surrounding residents have a stronger buffer. There is much more green space and the rural character is maintained. Regarding the drainage issues, he encourages the applicant to do anything that can be done to mitigate the impact to the neighbors. He would like the applicant to be responsive to the neighbors concerns.

Asst. Dir. Zader answered that at 185 acres and 20 lots proposed; it is about 8 – 9 acres per unit. There are a lot of floodway and wetlands that cannot be developed on, but this far exceeds 1 lot per 5 acres.

Commissioner Becky Schaefer asked about the level of homes expected. She is strongly opposed to this project. She wants to maintain the rural character of this area. She wishes it would not be developed. She said there are many lots in Mequon available. She would like to table this until the wetland delineation report is reviewed. She would like to be able to vote against this project; although that is not an option

Mr. Bush stated that with the 2,400 sq. ft. minimum, it is a great platform for larger homes.

Asst. Dir. Zader stated that the approval for the concept plan and rezone encourages the applicant to go forward and spend money to continue in the process. He has spoken to many neighbors with similar concerns about the wetland report. They will need to have some more issues ironed out before preliminary plat is approved. This is a concept plan only. It protects future approvals. The floodplain line may change but it won't change very much. The wetland set back is about 50-75 feet. It is all within the wooded area, there is nothing outside the wooded area. He stated that over the years the conservation subdivisions have been well received in the market.

Commissioner Bessler asked if the string of houses is between two wetlands.

Asst. Dir. Zader stated there are not wetlands to the west; none that are shown at this time. There is a low spot that drains but there are no known wetlands there.

Ald. Strzelczyk stated that the PC would like confirmation that the drainage from the west to the east is not being encumbered by the development of the subdivision. He wants to ensure that the neighbors to the west are not negatively impacted.

Asst. Dir. Zader stated that all issues regarding drainage will be addressed when the reports are done and when engineering reviews the plans.

Mayor Abendroth stated that rural character means something different to everyone and it is subjective. Rural area in the city means 5 acre density; which is the policy that has been set. 5 acre is what the professional engineers stated that urban infrastructure is not needed; no sewer or water connections are needed; can accommodate with septic systems and wells. Politically, at the time, this is the solution that preserved the lowest density.

Commissioner Mason asked if the applicant understands and agrees with all the staff conditions.

Action:

Commissioner Mason made a motion to approve the item per staff recommendations.

Commissioner Fuchs seconded the motion.

A roll vote was called. All voted aye, 7-1 (No: Becky Schaefer)

8. Announcements

Development Inquiry

2016 Planning Commission Meeting Schedule

Next Meeting is Monday, February 8, 2016

10. Adjourn

The meeting adjourned at 8:45 pm

Ald. Strzelczyk moved to adjourn.

Commissioner Mason seconded the motion.

All voted aye. Vote passed 8-0