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Department of Community Development
Taped and Televised

PLANNING COMMISSION
Regular Meeting
Monday, January 23, 2023
6:00 PM
Christine Nuernberg Hall

Minutes

1) Call to Order, Roll Call

Present:
Chair Andrew Nerbun
Alderman Robert Strzelczyk
Commissioner Martin Choren
Commissioner Dan Gentges
Commissioner Rick Lemke
Commissioner James Schaefer
Commissioner Rebecca Schaefer
Commissioner John Stoker
Alternate Gregg Bach
Alternate Bruce Barnes

Mayor Nerbun called the meeting to order at 6:00 p.m.

a) Approval of Minutes from December 12, 2022.

Action
Ald. Strzelczyk made a motion to approve the December 12, 2022, meeting minutes. Commissioner R. Schaefer seconded the motion.
A voice vote was taken, vote passed (8-0)

RESULT:	**APPROVED [8 TO 0]**
MOVER:	Robert Strzelczyk, Alderman
SECONDER:	Rebecca Schaefer, Commissioner
AYES:	Nerbun, Strzelczyk, Choren, Gentges, Lemke, J. Schaefer, R. Schaefer, Stoker

Public Hearing/Consent

a) Jilly's Car Wash. The applicant is seeking conditional use grant amendment and building and site plan amendment approval to allow for modifications to previously approved plans on May 23, 2022, for a car wash facility for the property located at 10829 N. Port Washington Road.

Action
Ald. Strzelczyk made a motion to open a public hearing.
Commissioner R. Schaefer seconded the motion.
A voice vote was taken, vote passed (8-0)

No public comment

Action
Commissioner Gentges made a motion to close the public hearing.
Commissioner R. Schaefer seconded the motion.
A voice vote was taken, vote passed (8-0)

RESULT:	**APPROVED [8 TO 0]**
MOVER:	Rebecca Schaefer, Commissioner
SECONDER:	Robert Strzelczyk, Alderman
AYES:	Nerbun, Strzelczyk, Choren, Gentges, Lemke, J. Schaefer, R. Schaefer, Stoker

b) John Mikkelson for Therapeutic Massage and Wellness Center. The applicant is seeking conditional use grant approval to allow for a therapeutic massage and wellness center for the property located at 11431 N. Port Washington Road, Suite 101.

Action
Commissioner Stoker made a motion to open a public hearing.
Commissioner Choren seconded the motion.
A voice vote was taken, vote passed (8-0)

No public comment

Action
Commissioner Stoker made a motion to close the public hearing.
Ald. Strzelczyk seconded the motion.
A voice vote was taken, vote passed (8-0)

RESULT:	**APPROVED [8 TO 0]**
MOVER:	Rebecca Schaefer, Commissioner
SECONDER:	Robert Strzelczyk, Alderman
AYES:	Nerbun, Strzelczyk, Choren, Gentges, Lemke, R. Schaefer, J. Schaefer, Stoker

c) John Mikkelson for Galleria for Better Health. The applicant is seeking conditional use grant approval to allow for a therapeutic massage center for the property located at 11431 N. Port Washington Road, Suite 101 E.

Action
Ald. Strzelczyk made a motion to open a public hearing.
Commissioner Gentges seconded the motion.
A voice vote was taken, vote passed (8-0)

No public comment

Action
Commissioner R. Schaefer made a motion to close the public hearing.
Commissioner Lemke seconded the motion.
A voice vote was taken, vote passed (8-0)

RESULT:	**APPROVED [6 TO 0]**
MOVER:	Rebecca Schaefer, Commissioner
SECONDER:	Robert Strzelczyk, Alderman
AYES:	Nerbun, Strzelczyk, Choren, J. Schaefer, R. Schaefer, Stoker, Gentges, Lemke

d) John Mikkelson for Cedar Creek Massage. The applicant is seeking conditional use grant approval to allow for a therapeutic massage center for the property located at 11431 N. Port Washington Road, Suite 101 E.

Action
Commissioner Choren made a motion to open a public hearing.
Commissioner Stoker seconded the motion.
A voice vote was taken, vote passed (8-0)

No public comment

Action
Commissioner Stoker made a motion to close the public hearing.
Commissioner Lemke seconded the motion.
A voice vote was taken, vote passed (8-0)

RESULT:	**APPROVED [8 TO 0]**
MOVER:	Rebecca Schaefer, Commissioner
SECONDER:	Robert Strzelczyk, Alderman
AYES:	Nerbun, Strzelczyk, Choren, Gentges, Lemke, J. Schaefer, R. Schaefer, Stoker

e) John Mikkelson for Embrace Your Face. The applicant is seeking conditional use grant approval to allow for an aesthetics studio for the property located at 11431 N. Port Washington Road, Suite 135.

Action
Commissioner Choren made a motion to open a public hearing.
Commissioner R. Schaefer seconded the motion.
A voice vote was taken, vote passed (8-0)

No public comment

Action
Commissioner Stoker made a motion to close the public hearing.
Commissioner R. Schaefer seconded the motion.
A voice vote was taken, vote passed (8-0)

RESULT:	**APPROVED [7 TO 0]**
MOVER:	Rebecca Schaefer, Commissioner
SECONDER:	Robert Strzelczyk, Alderman
AYES:	Nerbun, Strzelczyk, Choren, Gentges, Lemke, J. Schaefer, R. Schaefer, Stoker

Action
Commissioner R. Schaefer made a motion to approve all 5 consent agenda items.
Ald. Strzelczyk seconded the motion.
A voice vote was taken, vote passed (8-0)

There was mention that there are approximately 20 more businesses in the Mikkelson building that may come forward with CUG approval requests.

3) Public Hearing

a) Concord Development Company. The applicant is seeking conditional use grant amendment approval to allow for an extension to meet conditions of original CUG approval on July 25, 2022, for a fitness center for the property located at 1300-1380 W. Mequon Road (Anytime Fitness).

Action
Commissioner Stoker made a motion to open a public hearing.
Commissioner R. Schaefer seconded the motion.
A voice vote was taken, vote passed (8-0)

Public Feedback:

A representative for Concord Development asked for a consideration on the condition for the fence to be replaced. He stated the owner of the property understands the condition that the fence is to be made to look new but he believes that it simply needs to be painted and his proposal is to power wash it, paint and repair the existing fence instead of replacing it.

Action
Ald. Strzelczyk made a motion to close the public hearing.
Commissioner R. Schaefer seconded the motion.
A voice vote was taken, vote passed (8-0)

Mayor Nerbun stated that if the applicant can paint and repair the fence so that it appears new that he is supportive of those efforts and believes a new fence may not be necessary.

Planner Laurie Miller stated that that the fence is located at the walkway between the north and south buildings and shields the back access area. She explained that on the north side of the fence, over half of it is either rotted or leaning to the side. It appears that it needs to be replaced (pictures on pg. 93 in the packet).

The applicant stated they believe that some of the boards need to be replaced and the fence needs to be cleaned but they do not believe the entire fence needs to be replaced. They will make it appear in “good condition” with final review by staff.

Planner Miller replied that staff report states that the fence be either removed or replaced.

The Commission discussion included a recommendation that staff make a property visit to determine the current condition of the fence and that staff has final decision whether repair or replacement of the fence is necessary.

The applicant clarified that the lighting near the Anytime Fitness entrance stay on 24-hours but that the entire parking lot should not stay on 24-hours.

Mayor Nerbun supports the lights near the entrance remaining on at all times but that the entire parking lot is not on around the clock so as to eliminate light pollution and to be more efficient.

Action
Ald. Strzelczyk made a motion to approve per staff conditions with the exception of the requirement of staff to schedule a site visit with the applicant to determine whether the fence can be repaired or whether it must be replaced; staff has final discretion. Additionally, that the parking lot lights shall remain on 24-hours near the Anytime Fitness entrance but that the

remainder of the parking lot lights shall be off to mitigate light pollution and energy conservation, per staff review and approval. PD approval must also be considered.
Commissioner Stoker seconded the motion.
A voice vote was taken, vote passed (8-0)

RESULT:	**APPROVED WITH CONDITIONS [8 TO 0]**
MOVER:	Robert Strzelczyk, Alderman
SECONDER:	John Stoker, Commissioner
AYES:	Nerbun, Strzelczyk, Choren, Gentges, Lemke, J. Schaefer, R. Schaefer, Stoker

b) Concord Development Company. The applicant is seeking conditional use grant amendment approval to allow for an extension to meet conditions or original CUG approval on July 25, 2022, for a restaurant for the property located at 1400-1412 W. Mequon Road (GF-Smoothie).

Action
Commissioner Stoker made a motion to open a public hearing.
Commissioner R. Schaefer seconded the motion.
A voice vote was taken, vote passed (8-0)

No public comment

Action
Commissioner Gentges made a motion to close the public hearing.
Commissioner R. Schaefer seconded the motion.
A voice vote was taken, vote passed (8-0)

Planner Miller stated that this item is the same as the Anytime Fitness item and staff recommends mimicking what was just decided for that item. It was mentioned that the fence issue is the same but not the lighting issue as this business is not a 24-hour operation.

Action
Ald. Strzelczyk made a motion to approve based on the same conditions in the previous approval for Anytime Fitness excluding the lighting requirements.
Commissioner Stoker seconded the motion.
A voice vote was taken, vote passed (8-0)

RESULT:	**APPROVED WITH CONDITIONS [8 TO 0]**
MOVER:	Robert Strzelczyk, Alderman
SECONDER:	John Stoker, Commissioner
AYES:	Nerbun, Strzelczyk, Bach, Barnes, Lemke, Schaefer, J. Schaefer, R. Stoker, Choren

4) Regular Business

a) Tim O'Brien Homes for Gehrett. The applicant is seeking wetland setback waiver and specimen tree removal approval to allow for the removal of specimen trees for the property located at 12333 N. Lake Shore Drive.

Action
Commissioner Stoker made a motion to remove this item from Table.
Commissioner R. Schaefer seconded the motion.
A voice vote was taken, vote passed (8-0)

Asst. Eng. Cole McCraw stated that the staff report is very similar to the original report from November 21, 2022, and is a request for removal of two specimen trees for a residential home build. He explained the two changes from the original submittal:

1. There are two wetland strips on the site (1 west of the proposed house, and 1 east of the house) which both require setbacks:
    - West wetland is a 50-foot setback for a protected area.
    - East wetland is a 10-foot setback.

The original proposed house was 14-feet off the west wetland, which was not approved. The current proposal is 30-foot setback, and the applicant is requesting the waiver for reduction. The east setback is met with the new proposal.

Asst. Eng. McCraw explained that staff had recommended lowering the elevation of the house by 3 feet but the proposal being considered tonight has the house located at 1 foot higher than the previous application.

Staff recommends approval of the two specimen trees being removed, west wetland 50-foot setback be met to preserve stands of trees and that the house elevation be 4-feet lower than current proposal.

The Commission agrees that this is a very challenging site and that the appearance of this site will be vastly different looking with the removal of all the trees there.

Forester Mike Gies stated it was understood that about 1/3 of the trees on the lot were going to be removed (mostly dead ash and buckthorn).

The specimen trees to be removed are #23 and #27 (as noted in the packet) and cannot be saved if a house is to be built on this site. He recommends enforcing the 50-foot setback to preserve 11 of the 31 american lindens on site. He explained that if the requested 30-foot setback is allowed that all 31 trees will be removed.

There was a long discussion about the quality of the two wetlands as well as the flow of water there and the intention not to disrupt it. Due to the grading plan and site constraints being so difficult to understand, the Commission believes they should rely on staff recommendations. There is feedback that the proposed house is not the right fit for this lot as too many concessions need to be made including:

- Water flow concerns.
- Tree preservation issues.
- Wetland setback issues and requested waivers.
- Neighbor feedback.
- Home height.

Action
Ald. Strzelczyk made a motion to deny the approval requests based on the bullet points above.
Commissioner R. Schaefer seconded the motion.
A roll call vote was taken, vote passed (5-3) (No votes: Mayor Nerbun, Stoker, Gentges)

RESULT:	**DENIAL [5 TO 0]**
MOVER:	Robert Strzelczyk, Alderman
SECONDER:	Rebecca Schaefer, Commissioner
AYES:	Strzelczyk, Choren, Lemke, J. Schaefer, R. Schaefer
DEEMED NO:	Nerbun, Gentges, Stoker

b) Norway Fence for Congregation Chabad. The applicant is seeking site plan amendment approval to allow for a fence along Mequon Road for the property located at 2233 W. Mequon Road.

Asst. Dir. Zader stated that this request is from the Center for Jewish Life to install fencing along the front of the property which was generated from a security study that was conducted. The applicant is proposing to install a 6-foot metal fence; approximately 300-feet in length. Originally the fence was proposed to cover the entire frontage including the road but other residences use the road for access. As a result, there will be columns on each side of the road with security cameras and lighting. The fence will continue to the east and there will be a gate with a code for pedestrians to use. Staff recommends approval of the fence with some recommendations:

- Landscaping be added to the front.
- Fence shall be straight and not jog around the existing monument sign.
- There are a few easements that need to be addressed:
    - Need permission from WE Energies that the fence can be placed in the easement.
    - Sewer utility easement needs to be modified to allow for the fence with the condition that if sewer repair is needed that the fence is the responsibility of the

property owner.

Planning Commission asked for clarification that there would not be any visual impairments due to the high volume of traffic on Mequon Road. Staff confirmed the fence placement will be vetted to ensure all safety measures are considered.

Action
Commissioner Stoker made a motion to approve per staff recommendations.
Commissioner Lemke seconded the motion.
A voice vote was taken, vote passed (8-0)

RESULT:	**APPROVED [8 TO 0]**
MOVER:	John Stoker, Commissioner
SECONDER:	Rick Lemke, Commissioner
AYES:	Nerbun, Strzelczyk, Choren, Gentges, Lemke, J. Schaefer, R. Schaefer, Stoker

c) Parish Survey & Engineering, LLC for Ozaukee Country Club. The applicant is seeking building and site plan amendment and specimen tree removal request approval to allow for a proposed 11,400 sq. ft. building with parking lot, driveway and rain garden for the property located at 10823-11185 N. River Road.

Planner Miller stated that when the applicant was before the Commission previously one of the conditions was to ensure that no specimen trees would be removed between the parking lot and River Road, as part of the site plan approval, but that is not able to be achieved. A tree survey was conducted which triggered the specimen tree removal request. The City Forester does recommend removal of the two requested specimen trees noted in the report due to limited options of adjustment of the proposed building without impacting additional trees. She explained that the new proposal includes minor changes to the building, including recommendations to add two windows on the east elevation and to change the roof color to match the other existing roofs on site. Several changes were made to the site plan to reduce the impact to trees on the property and the amount of grading to accommodate the parking lot and structure. The proposed location of the structure has not changed but the building does not comply with setback requirements from River Road; 50-foot ultimate right-of-way (“ROW”) and a 60-foot setback from the ultimate ROW. The proposed building is situated at 83-feet instead of the required 110-feet. Staff does support this as the existing buildings are closer to the road.

Planner Miller explained that the existing parking lot and drive aisle do not meet the IPS zoning district standards. The standard requires 20-feet off of the property line for the drive aisle and the parking lot. The parking lot extends into the ultimate ROW by 18-feet. The applicant is requesting CUG waiver to forbode that 20-foot setback as well as a ROW waiver for the 18-foot encroachment into the ultimate ROW.

The applicant stated that the parking must be placed in the proposed location because the building will provide a buffer for golf balls from the nearby tee boxes and the cars located on the west side of the building.

The city has a 20-foot offset requirement for drive aisles to provide room for landscaping and buffering between the buildings, roads and adjacent properties. The 50-foot ultimate ROW was created to allow for future road expansion as well as bike and pedestrian accommodations.

Staff recommends denial of the CUG waiver and ROW waiver as staff believes there is sufficient open space to construct a parking lot to the south of the proposed building and buffering could be achieved from the golf balls with landscaping and fencing.

Should the Commission approve the parking lot to exceed the 20-foot setback and encroachment into the ultimate ROW; staff recommends that a ROW waiver for the parking stalls location be executed and recorded including the following conditions listed in the staff report, including the property owner removing that portion of the parking lot and installs landscaping in accordance with the code.

Mayor Nerbun stated there was confusion at the last meeting regarding the number of parking stalls that were approved but agrees that there was guidance not to cut down any trees.

Forester Gies stated that the two trees proposed for removal on the north end are not due to the parking lot. He explained there is a small grouping of trees and two white spruces, that are both in poor condition, that are approved to be removed. The two proposed specimen trees to be removed are located west of the building. Both trees are western red cedars, and they are not in desirable condition.

Action
Ald. Strzelczyk made a motion to approval with the parking lot as proposed in the packet including the alternate conditions made by staff (all 14 conditions on pages 144 & 145).
Commissioner Choren seconded the motion.
A voice vote was taken, vote passed (8-0)

RESULT:	**APPROVED WITH CONDITIONS [8 TO 0]**
MOVER:	Robert Strzelczyk, Alderman
SECONDER:	Martin Choren, Commissioner
AYES:	Nerbun, Strzelczyk, Choren, Gentges, Lemke, J. Schaefer, R. Schaefer, Stoker

d) Neumann Development, Inc. The applicant is seeking concept plan, preliminary plat, fill permit and development agreement approval to allow for a 37-lot subdivision for the property located at 1310 W. Highland Road (Highland Meadows).

Asst. Dir. Zader stated that this request is for concept plan, preliminary plat and fill approval This was in front of the Commission in February of 2022, but the concept plan has changed to

37-lots due to sewer service on the parcel. An updated plan was submitted after the packet was published which addresses some of staff's concerns. The plan complies with the new Ulao Creek Residential Cluster District which requires at least 30% open space, this plan shows roughly 34% open space as well as designated lots to have side-loading garages. Staff requested a no-mow path to extend around the entire property as a requirement. The applicant added a tot lot as required as well; a final plan will need to be approved. There has been some feedback about the glare from the lights at the medical clinic and staff has been trying to work with the electrician that installed the lights to resolve the issue. One issue that needs to be modified is that the no-mow path is required to continue through the development. He explained that per the Development Agreement they are allowed to build three spec homes before the final plat is approved. All the other conditions of the zoning district have been met and staff recommends approval.

Commission feedback includes support for the project although there is strong response that the lights are an issue that need to be addressed. Staff commented that the lights will be checked to ensure the correct colored bulbs were installed. The Commission requested that the grading plan be reviewed and that the neighbor (Weyenberg) be consulted regarding the proposed development plan. Overall, the Commission is supportive of this proposed development. There was a discussion regarding bypass lanes, and it was reported by staff that the traffic count does trigger a bypass lane on Highland Road, and it will be included as part of this development as well as acceleration/deceleration lanes.

Action

Ald. Strzelczyk made a motion to approve with the modification to condition #1 that the color and temperature of the lights be reduced at Ascension, the no-mow path be continued through the entire development and final plans of the pocket park be required.
Commissioner Choren seconded the motion.
A voice vote was taken, vote passed (8-0)

RESULT:	**APPROVED WITH CONDITIONS [8 TO 0]**
MOVER:	Robert Strzelczyk, Alderman
SECONDER:	Martin Choren, Commissioner
AYES:	Nerbun, Strzelczyk, Choren, Gentges, Lemke, J. Schaefer, R. Schaefer, Stoker

e) St. Johns Evangelical Lutheran Church. The applicant is seeking certified survey map approval to allow for modified property lines and rezoning recommendation approval from R-4 zoning to B-1 and IPS zoning for the property located at 1600-17174 W. Mequon Road.

Planner Miller stated that the applicant is proposing to split the parcel so that one lot is 1.55 acres and to rezone this to B-1 to be used for an insurance company. They plan to retrofit the existing barn and house on site for that use. The remaining 4.36 acres will retain the existing childcare center, church and home. The childcare center is currently zoned R-4 and is requested to be rezoned to IPS to match the remaining zoning on that parcel and dissolve the split-zoning there.

The proposed zoning changes are not completely consistent with the land use plan map designation which designates adjacent properties as residential and institutional. However, Children's Hospital is directly across the street and has traditionally been used as a transition mark between the commercial zoning and residential district.

She explained that both lots meet their proposed zoning districts dimensions and permitted use standards, however staff has some concerns about the future buyer's proposal to retrofit the barn and the house for commercial use and the ability for the building plans to meet state code standards.

Staff recommends that the B-1 zoning change would not take effect until the CSM is recorded, building and site plans have been approved by Planning Commission and future buyer Joe Woelfle State Farm Insurance plans have been approved by the state.

Mayor Nerbun stated that he agrees that the split zoning is undesirable, and he believes the insurance agency would be a good fit, but the concern is for possible uses moving into that space in the future.

The Commission discussed the options regarding rezoning to B-1 but with the ability to prohibit a restaurant from moving into that space in the future. Staff explained that an IPS/B-1/PUD Overlay could be applied to the entire site to restrict the B-1 use to office use only if both parties would agree (the smaller parcel is too small on its own to qualify for a PUD which requires 2 acres).

The applicant answered that the only item that would be stored in the barn is a vintage 1989 firetruck. He commented that he plans to run the insurance agency for many years.

Action
Ald. Strzelczyk made a motion to approve the rezoning to IPS/B-1/PUD Overlay for the entire site to prohibit a restaurant in that location.
Commissioner Choren seconded the motion.
A voice vote was taken, vote passed (8-0)

RESULT:	**APPROVED WITH CONDITIONS [8 TO 0]**
MOVER:	Robert Strzelczyk, Alderman
SECONDER:	Martin Choren, Commissioner
AYES:	Nerbun, Strzelczyk, Choren, Gentges, Lemke, J. Schaefer, R. Schaefer, Stoker

5) Announcements

The next meeting is Monday, February 27, 2023, at 6:00 p.m.

6) Adjourn

Action
Commissioner Stoker made a motion to adjourn the meeting.
Commissioner Gentges seconded the motion.
A voice vote was taken, vote passed (8-0)

The meeting adjourned at 8:10 p.m.

Respectfully Submitted,

Jac Zader