City of Mequon

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Department of Community Development
Taped and Televised

**PLANNING COMMISSION**
**Regular Meeting**
**Monday, February 11, 2019**
**6:00 PM**
**Christine Nuernberg Hall**

**Minutes**

## 1) Call to Order, Roll Call

**Present:**
Chairman Dan Abendroth
Commissioner Martin Choren
Commissioner Rick Lemke
Commissioner Brian Parrish
Commissioner James Schaefer
Alderman Robert Strzelczyk
Commissioner Rebecca Schaefer - **Absent**
Commissioner John Stoker - **Absent**

a) Approval of Minutes from January 14, 2019

**Action**
Ald. Strzelczyk made a motion to approve the minutes from January 14, 2019.
Commissioner Choren seconded the motion.
*A voice vote was taken; vote passed (6-0)*

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| **RESULT:** | **APPROVED [UNANIMOUS]** |
| **MOVER:** | Robert Strzelczyk, Alderman |
| **SECONDER:** | Martin Choren, Commissioner |
| **AYES:** | Abendroth, Choren, Lemke, Parrish, J. Schaefer, Strzelczyk |

## 2) Consent

a) First Weber for Catherine & James Hurth. The applicant is seeking certified survey map approval for a 2-lot land division for the property located at 12501 N. Lake Shore Drive and parcels to the west and north.

**Action**

Ald. Strzelczyk made a motion to approve the consent item.
Commissioner Parrish seconded the motion.
*A voice vote was taken; vote passed (6-0)*

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| **RESULT:** | **APPROVED [UNANIMOUS]** |
| **MOVER:** | Brian Parrish, Robert Strzelczyk |
| **AYES:** | Abendroth, Choren, Lemke, Parrish, J. Schaefer, Strzelczyk |

## 3) Regular Business

a) New World Montessori School, Ltd. The applicant is seeking rezoning recommendation approval from B-5 (Light Industrial) to IPS (Institutional and Public Service) for a private school for the property located at 10333 N. Industrial Drive.

City Planner Vang stated that the property is currently zoned B-5 and has been used as a child care center since 1994. The applicant is requesting the property be rezoned to IPS to allow for a private school. The proposed private school would offer services to children from 18 months old through 6th grade. The hours of school would be 7:30 am – 5:30 pm weekdays as well as a summer curriculum. Staff believes that the zoning is compatible with surrounding parcels and the property has been used for a similar type of business. There is a public interest in utilizing existing buildings which reduces vacancy and provides a service that meets the demands of residents. The existing building has classrooms and offices which make it suitable for a private school and less desirable for an industrial business. Due to very few IPS zoned parcels nearby, spot zoning should be addressed. The proposed use will not be significantly different than the type of use from the previous owner and it will provide a benefit to the community. Staff does recommend approval of the rezoning.

Asst. Eng. Henk stated that there are two items included in the report that are not exclusive to the rezoning but she wanted to make the potential buyer aware of these outstanding items. One is the recertification of the stormwater management which was extended for this year as it was supposed to be recertified in 2018 and they were granted an extension through June 30, 2019. The second item is a hole in the parking lot near a sewer lateral. The lateral is not showing evidence of materials from the trench within the pipe system so there has not been a need to repair it.

The applicant and potential property owner, Thomas Hodgert, stated they appreciate the engineering staff making them aware of the outstanding issues. They are hoping to have the rezoning approved so that they can buy the property and open the school. They do not believe it will have any negative impact on the surrounding area as it is simply changing from a daycare to a school that includes older children.

Ald. Strzelczyk asked that a PILOT program be mandatory if the business applies for a non-exempt status.

**Action**

Mayor Abendroth made a motion to approve the rezoning request subject to the conditions in the staff report and the condition that if the applicant applies for a tax-exempt status that there be a negotiated PILOT prior to Common Council rezoning.
Ald. Strzelczyk seconded the motion.
*A voice vote was taken; vote passed (6-0)*

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| **RESULT:** | **APPROVED WITH CONDITIONS [UNANIMOUS]** |
| **MOVER:** | Dan Abendroth, Chairman |
| **SECONDER:** | Robert Strzelczyk, Alderman |
| **AYES:** | Abendroth, Choren, Lemke, Parrish, J. Schaefer, Strzelczyk |

b) ICAP Development for Jewish Home and Care Center, Inc. The applicant is seeking rezoning recommendation approval from IPS (Institutional and Public Service) to B-2/PUD (Commercial Business/Planned Unit Development) for the property located at 10865-10911 N. Port Washington Road.

Commissioner Parrish recused himself from this item.

Asst. Dir. Zader stated that this is a request for a rezoning request from IPS to B-2/PUD. The surrounding area is zoned B-2 and it does make sense to rezone these parcels as they would be compatible to neighboring properties. He explained that historically this section was rezoned to Institutional due to a demand for this zoning and inventory was not available. The deed restriction limits many uses that would normally be permitted for IPS zoning which has made it difficult to market the site. The property has been vacant since 2006. Staff is supportive of rezoning to B-2/PUD but has concerns regarding commercial or retail uses in the back of the property as the Winding Hollow Condominium development is directly to the south. A condition has been added that no commercial or restaurant use beyond 300 feet are permitted in the rear of the development.

The concept plan was done to try to coordinate the entire site as a master plan development. It was also done to provide some protection to the city if there are uses the Commission does not want at this site. The proposed plan shows a total of five buildings with three access points from Port Washington Road. The curb cut openings would line up with the medians on Port Washington Road. Port Washington Road is under the jurisdiction of the Ozaukee County and there have been preliminary conversations about access. They are supportive of the access points based on approved traffic study. All tenants would share the stormwater management ponds. Staff asked the applicant for a conceptual plan layout if the property is going to be divided in the future (the black lines on the concept plan show a possible divide for a future CSM). Regarding the PUD, the perimeter offsets and setbacks would need to be complied with but the setbacks would be waived in regards to the parking lot. Both the FAR and open space for the whole development is required to be in compliance. If an individual parcel would require a waiver it would be allowed as long as the entire site meets the 40% open space and 30% FAR requirements.

Staff prefers that the buildings along Port Washington Road be turned so that the length faces the road. Any drive-thru would need to be located on the rear of the site. There are wetlands on the site and the developer has received approval from the DNR to fill the wetlands. There are two areas with clusters of specimen trees as identified by the City Forester. The City Forester was not able to do a thorough review of the area due to recent cold and snow conditions, so there is not a report from him yet. Asst. Dir. Zader stated that the applicant is interested in feedback from the Commission regarding the types of uses they would like to see at this proposed development. He recommends tabling this item until the next meeting when the specimen trees can be addressed as well as different design options proposed to adjust the buildings to be more in line with Port Washington Road.

Feedback from the Commission included the support to rezone to B-2, no restaurants or commercial uses in the rear shall be allowed and no fast food restaurants anywhere on the site. They are supportive of the access points as well as the condition that any drive-thru be located to the rear of the site.

The applicant, Jerad Protaskey, VP of Development for ICAP, stated that he met with the City Forester and many trees were marked although a full inventory has not yet be conducted. They are supportive of keeping as many trees in the southwest area of the site as it helps provide a buffer zone between the residential neighborhood and the proposed development. The tree area to the northeast is more of a struggle due to positioning of the buildings in the front of the development facing Port Washington Road. They are aware of the tree policy but it is essential to their proposed development that they have as much frontage on Port Washington Road as possible in order to be a viable project for potential tenants.

It was recommended that the applicant work with staff to save as many trees as possible and position the buildings appropriately. An updated concept plan shall be brought back as well as a full inventory report from the City Forester.

**Action**
Ald. Strzelczyk made a motion to table this item.
Commissioner J. Schaefer seconded the motion.
*A voice vote was taken; vote passed (5-0; Parrish was recused)*

Dewey Strobel lives at Mequon Court apartments - stated that he is concerned about the impact of the traffic that this development would have on the neighboring elderly residents. He is concerned about the one access point that does not line up with a curb-cut.

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| **RESULT:** | **TABLED [UNANIMOUS]** |
| **MOVER:** | Robert Strzelczyk, Alderman |
| **SECONDER:** | James Schaefer, Commissioner |
| **AYES:** | Abendroth, Choren, Lemke, Parrish, J. Schaefer, Strzelczyk |

c) Plunkett Raysich Architects, LLP for Lumen Christi Catholic Parish. The applicant is seeking building and site plan amendment approval to remodel the existing church building for the property located at 2750 W. Mequon Road.

Commissioner Marty Choren recused himself from this item.

City Planner Vang stated that the request is for building and site plan amendment approval for a 2-story, 5,000 sq. ft. addition to Lumen Christi Catholic Parish. The applicant is also seeking setback waiver for the addition and height waiver for a new bell tower. The proposed addition is shown to the east of the existing building. The first floor will be roughly 2,800 sq.ft. and will include a narthex, vestibules and a ministry. The lower level is roughly 2,000 sq. ft. and will be limited to storage and crawl space. The IPS zoning district requires a 95 foot setback if there is parking between the road and the building; as it is with this property. The existing building setback is 66.9 sq. ft. The proposed addition will be set back further to 67.75 sq. ft. but a setback waiver from the Planning Commission is required for the addition.

There are many properties along Mequon Road that do not meet the setback requirement due to their property shape or size. In addition, many of the properties setback were affected when the road was widened and reconstructed. The existing church building and the addition will be set back further than other neighboring residential properties on Mequon Road. Staff does support the setback waiver and believes the addition is harmonious with the neighboring properties and does not cause a hardship or inconvenience.

The site plan shows the parking lot to the south is reconfigured to angled parking and one additional handicap space will be added. No parking stalls will be eliminated as part of the project. There will be a new concrete sidewalk to the east entrance. The proposed building is consistent with the existing building with the use of brick and asphalt shingled roof. A new bell tower is proposed over the east entrance. The height of the tower is shown at 46.9 feet which exceeds the maximum height allowance for the IPS district. A 7.4 foot tall cross is proposed for on top of the tower which brings the overall height to 52.3 feet. The Commission does have the authority to exempt decorative towers from the height requirements. The tower is the only portion of the addition that exceeds the height requirement. Staff does support the height of the proposed bell tower as it will be lower than the existing height and it does enhance the new entrance and helps to distinguish the main entrance to the church.

There will be additional modifications to the building and elevations. The new proposed sign meets all the requirements of the sign code as message centers are permitted for places of worship. This will be approved at staff level. The lighting plan was included and revised plans showing the output of the proposed lanterns will be required to ensure it meets 1,000 or less lumens per fixture. Additional information for the two proposed wall sconces is also needed.

There was not any additional landscaping included in the proposal but staff has added a condition that any landscaping affected during the construction must be replaced as is once the project is complete.

Asst. Eng. Henk stated that there is additional parking proposed on the south side of the building. The remainder of the parking lot will be pulverized and repaved. Any additional impervious area would need to be quantified for the storm water management; storm water management reporting is required for this project. Staff expects the filling and excavating to be less than 1,000 C.Y., so Planning Commission approval will not be required.

The applicant, Marty Choren from Plunkett Raysich Architects, thanked the staff for their help and stated that this is the second phase of the project to consolidate all of the facilities at one site. The work on the exterior is a function of the work on the inside.

Commission provided feedback that they like the design and the applicant has done a good job of the integrating the new section with the existing building and matching the existing materials. There was support of the bell tower exceeding the height code restriction.

Action
Ald. Strzelczyk made a motion to approve the building and site plan amendment, height waiver and setback waiver subject to the conditions in the staff report.
Commissioner Lemke seconded the motion.
*A voice vote was taken; vote passed (5-0) (Choren was recused)*

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| **RESULT:** | **APPROVED [5 TO 0]** |
| **MOVER:** | Robert Strzelczyk, Alderman |
| **SECONDER:** | Rick Lemke, Commissioner |
| **AYES:** | Abendroth, Lemke, Parrish, J. Schaefer, Strzelczyk |
| **RECUSED:** | Choren |

d) Shaffer Development for Spur 16. The applicant is seeking master sign plan approval for the Spur 16 mixed use project located at 6100-6300 W. Mequon Road.

Asst. Dir. Zader stated that the request is for a master sign plan for Spur 16. The St. Paul Fish Company received a separate approval for their sign. The master sign plan will include a monument sign, wall signs for the two other commercial buildings and some directional signage. The proposed monument sign is 18 feet in height, which exceeds the Town Center height requirement of 6 feet, and 90 sq. ft. in area, which exceeds the Town Center sign code by 50 sq. ft. The height of the monument sign is somewhat driven by the desire to list all of the tenant names as there will not be signage on the building. Staff prefers that the sign be 15 feet in height. Although the Town Center height requirement is 6 ft., the height allowance in other areas of the city is 10 ft.

The request for the Wellness building is for two signs for each of the tenants on the east and south elevations. The code only allows for one sign up to 30 sq. ft. for each tenant space; because the building is not located on a corner. Staff does support the request for the two signs as one will face the street and one will be interior and will face the parking area; this has been approved for other developments in the Town Center. The two tenant spaces share the same entrance so it makes sense to place the signage above the entrance. The signs are within the 30 sq. ft. requirement and do comply with the code.

The site plan shows the requested directional signage on the site. Staff has worked with the sign company but does not feel that the additional way finding sign for St. Paul's Fish Company, the Public Market or Wellness building are necessary off of Mequon Road. Staff is supportive of the directional sign off of Buntrock Road. The landscaping plan has not been finalized so it is difficult to see exactly where some of the proposed signs would be located due to some of the hardscape, trees and fencing surrounding the parking lot. There are some miscellaneous signs throughout the development and the signs on the private roads have a different color scheme. It is recommended that these signs be 9 ft. in height and not the proposed 12 ft.  A condition was added that the Engineering department will need to approve the proposed stop sign as it is located in the right of way. The clubhouse parking signage is recommended to be 5 ft. in height as staff feels it is better to scale than the proposed 6 foot height signs. The Public Market building has not changed since the building and site plan were approved and it is allowed two signs because it is located on a corner. It does require a waiver for the Public Market marquee sign as it is larger than the code allows. There is also a sign on the west elevation over the entrance. Staff is supportive of the individual building signs but recommends that they be lower to the 9 ft. height; more consistent to a typical street sign. Staff does recommend approval based on the conditions listed in the staff report.

The applicant, Michael Dlugi from Sign Effectz, stated that they worked with staff to include open spaces between the tenant panels on the monument sign. He explained that they are carrying the same design throughout the signs in the development. He stated that if the monument sign is brought down to 15 ft. as recommend by staff, there will not be spaces between the tenant panels and this is not desired by the applicant as the visibility of the panels is poor. He offered that the Spur 16 logo could be decreased by he stated it is very difficult to read. Mr. Dlugi stated that he recommends that tenant logos be allowed but will all be the same white lettering.

There was discussion among the Commission regarding the monument sign. The overall feeling is that the 18 foot sign is acceptable in order to read all 10 tenant names.  It is desirable to have the slightly larger monument sign as there are not individual tenant signs on the Public Market building. The Commission suggested the sign be limited to only 10 tenant panels and that only white lettering is allowed.  They like the tie to the historical and architectural style.

There was discussion regarding the staff recommendation to limit some of the directional signs as staff does not want the development too cluttered and spacing is limited. It was recommendation by the Commission that the directional signs be re-evaluated and that staff and the sign company work together to find appropriate locations for the signs.  There are also safety issues with too many signs blocking visibility. As a part of obtaining occupancy permits, each building will need to have an address sign for emergency services.

Dir. Tollefson stated that the three commercial buildings are very easy to locate in the development and the additional wayfinding signs are unnecessary. Part of the sign code requirement is to work to declutter the site from too many signs.

**Action**
Ald. Strzcelzyk made a motion to approve subject to staff conditions, eliminating condition #4 regarding the 18 foot height restriction, limiting the monument sign to 10 tenant panels and all lettering must be the same font and same color and no logos.
Commissioner Parrish seconded the motion.
*A voice vote was taken; vote passed (6-0)*

Ald. Strzcelzyk made a second amendment to the motion to add back in the way finding signs.

Commissioner Choren seconded the amendment.
*A roll call was taken; vote failed (3-3) (No: Parrish, Lemke, J. Schaefer)*

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| **RESULT:** | **APPROVED WITH CONDITIONS [UNANIMOUS]** |
| **MOVER:** | Robert Strzelczyk, Alderman |
| **SECONDER:** | Brian Parrish, Commissioner |
| **AYES:** | Abendroth, Choren, Lemke, Parrish, J. Schaefer, Strzelczyk |

## 4) Policy

1) Planning Commission Determination of Unclassified Use

Dir. Tollefson stated that staff is looking for direction from the Commission regarding an unclassified use for a Business Occupancy Permit (BOP) for Legacy Pools & Hottubs for the property located at 6619 W. Mequon Road, located in the Arrival Corridor district. In the Town Center (TC), Arrival Corridor (AC) and Neighborhood Commercial (NC) zoning districts, there is a move to specifically list the types of uses allowed in each zoning district as it helps with interpretation and administration of the code. There is no expressed use for this type of retail and service use in the AC zoning district, so the submitted BOP would be denied. As an interim step, the property owner inquired whether staff could interpret this as an existing use in the AC district as Home Furnishings and Accessories. Staff does not believe that it fits in this use category. This was then vetted by the City Attorney who agreed with staff's interpretation. One of the things staff relies on is the NAICS (North American Industry Classification System), which categorizes all of these groups and the zoning code indicates that staff can rely on that as well for their interpretations. The types of uses considered under the Home Furnishings and Accessories category is listed in the staff report. During the analysis of the hottub and pool retail and sales, it was determined that these uses qualify under a miscellaneous category. Staff recommends that the Commission not interpret this unclassified use as Home Furnishings and Accessories. If the Commission feels that staff should continue to explore this use, along with some other miscellaneous shops and retailers that are not allowed in the AC district, they will be happy to do that analysis and come back with a text amendment for those.

Dir. Tollefson stated that she was requested to bring this to the Commission just last week, so the assessment was narrowly defined to the particular issue of whether this use qualified under the Home Furnishings and Accessories category. Staff is not necessarily opposed to this use being allowed in the TC or AC district, but staff would like time to do a more thorough analysis and look at the other types of uses that would be similar and make sure that this category is grouped accordingly, while making the decision that the use is appropriate for the TC neighborhood overall. It is important not to dilute all of the business zoning districts; so that the uses and the make-up of the uses are the same. She stated that there have been a number of amendments to the TC and AC districts including adding some uses to it, so it is not unprecedented.

The applicants; Vince Schmuki property owner and Mike Sterns, owner of Legacy Pools & Hottubs, stated that they believe the retail sales fall under the definition of Home Furnishings.
Mr. Sterns stated that he has been in the business for 21 years and sells high-end products. He

believes there is a need in this area for his services and products. He says that hardware stores are his competition as they sell the products but do not offer the services. He expressed the urgency to get this approved as his business is seasonal and starts in the spring.

The Commission stated that staff followed the correct process for this request. There was collective agreement that this location is appropriate for this type of business. They strongly recommend no outside storage be allowed.

Dir. Tollefson advised that it is best to create a category with specific design standards to this specific business as opposed to a general approve of a permitted use which has no control over operations. She agrees that this type of business is more similar to the types of services offered by hardware stores (which require a conditional use grant).

The Commission agreed that this use fits under the current uses; most similar to a hardware store and they prefer to approve it as such and not require a text amendment.

**Action**
Commissioner Lemke made a motion to allow for this spa business to fall under the hardware store category; which requires a conditional use grant.
Commissioner Parrish seconded this motion.
*A voice vote was taken; vote passed (6-0)*

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| **RESULT:** | **APPROVED WITH CONDITIONS [UNANIMOUS]** |
| **MOVER:** | Rick Lemke, Commissioner |
| **SECONDER:** | Brian Parrish, Commissioner |
| **AYES:** | Abendroth, Choren, Lemke, Parrish, J. Schaefer, Strzelczyk |

**5) Announcements**

The next meeting is Monday, March 11th at 6:00 p.m.

**6) Adjourn**

**Action**
Ald. Strzelczyk made a motion to adjourn.
Commissioner Choren seconded this motion.
*A voice vote was taken; vote passed (6-0)*

Respectfully Submitted,

*Jac Zader*