City of Mequon

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Department of Community Development
Taped and Televised

PLANNING COMMISSION
Regular Meeting
Monday, May 24, 2021
6:00 PM
Virtual Meeting

Minutes

1) Call to Order, Roll Call

Present:
Chair John Wirth
Alderman Robert Strzelczyk
Commissioner Martin Choren
Commissioner Dan Gentges
Commissioner James Schaefer
Commissioner Rebecca Schaefer
Commissioner John Stoker
Alternate Gregg Bach
Commissioner Joe Goldberger
Alternate Stephanie Hawley
Commissioner Rick Lemke - **Absent**

a) Approval of Minutes from May 3, 2021

Mayor Wirth called the meeting to order at 6:00 p.m. and he stated the four protocols of process for the hybrid meeting.

Action
Commissioner Bach made a motion to approve the meeting minutes from May 3, 2021.
Commissioner Stoker seconded the motion.
A voice vote was taken; vote passed (8-0)

RESULT:	**APPROVED [8 TO 0]**
SECONDER:	Greg Bach, John Stoker
AYES:	Wirth, Strzelczyk, Bach, Choren, Gentges, J. Schaefer, R. Schaefer, Stoker
ABSENT:	Lemke

2) Public Hearing/Regular Business

a) ICAP Development. The applicant is seeking conditional use grant and building and site plan approval for an approximately 5,000 sq. ft. multi-tenant retail building with a 2,500 sq. ft. fast-food restaurant for the property located at 10911 N. Port Washington Road.

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

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)

Mayor Wirth recused himself from the item and appointed Ald. Strzelczyk as acting chairman.

Asst. Dir. Zader stated that the request is for building and site plan as well as conditional use grant approval for a multi-tenant building located at 10911 N. Port Washington Road. This is part of the ICAP PUD that was approved in 2019 and 2020 for a 9-acre property that includes the Landmark Credit Union. The CUG is for a 2,500 sq. ft. fast food restaurant; Arby's, which will be located in one of two tenant bays of the building. It complies with all of the B-2 zoning district standards either through the PUD or within the city code except for the parking requirement.

He showed the concept plan, which was approved as part of the PUD, which is typical. The concept plan showed all 3 proposed buildings with a uniform set back and aligned to each other. The proposed building has been shifted back with the two sides of the building exposed. Staff is not supportive of this change and believes the buildings should be kept aligned. The applicant stated that the building needs to be moved back due to deliveries, pedestrian conflicts with the drive-thru and the loss of roughly 9 parking stalls. The issues are caused by the selection of a fast-food tenant with a drive thru and staff recommends tabling the item or denying the request based on this issue.

Asst. Dir. Zader stated that the site plan shows a shortage of parking. The code is very restrictive for parking for fast-food restaurants. The applicant owns multiple franchises all over the Midwest and believes that the proposed parking is adequate to supply the demand. Staff does support this request, although because the other tenant is unknown at this time, the request will be reviewed when it comes forward to ensure ample parking for both tenant spaces. Other than the parking, the site plan does meet the required code requirements. The drive thru is located around the back of the building and there is ample stacking for cars. The menu board is located in the back and is shielded from public view from Port Washington Road.

The proposed building looks similar to the last ICAP multi-tenant building, which has been approved but constructed has not yet been started. Building elevations for the proposed building are similar with the same brick, the same color combinations, and same fiber cement panels. This building does have a hip roof on the corner. The difference between this building and the previous one is that this building has a longer elevation on the north and south and staff is recommending that additional windows be added to those elevations. Staff recognizes that the south elevation will contain back of house operations and will allow some type of opaque window treatment to minimize any conflict with these types of operations. Staff is supportive of the building plan.

The lighting plan matches the same wall packs and the same parking lot lights as the building that was previously approved to the north, and everything there has been in compliance with the code requirements.

The landscaping plan was originally submitted to Terry Higgins, the landscape consultant. The applicant did revise the plan and changes have been made and staff is not recommending any additional changes.

The only issue in regard to the CUG is the volume of the drive thru speakers and a condition has been added that after 9:00 p.m. an attenuator must be placed on the speaker system so that it reduces the volume down to a decimal level of 36 dBA at 16 feet.

Staff recommends tabling or denying this request based on noncompliance with the concept plan. If the Commission decides to approve the request, there are 14 conditions listed in the staff report to be included.

The applicant, Jerad Protasky, stated that in 2018 the initial plans were put together based on a wide range of interested users that are allowed in the B-2 district, but they are all different with different needs. The initial concept was to develop parcels long Port Washington Road that could be developable into retail or professional uses allowable under the B-2 zoning. He explained that the original concept plan that was shown is not very adaptable for retail use as typically parking is on one side of the building and does not offer two main entrances from the east and the west. It is difficult for them to stay consistent with the initial concept plan as their current users have differing needs.

An applicant representative from Arby's stated that the back side of the building is multipurpose and is where the storage and all production will take place. The parking in the back will be for the employees. All customers will utilize the front parking and the front door. Traffic on Port Washington Road will see the activity at the location and that the drive thru handles about 65-70% of the business. They feel this layout provides more safety for their customers and they are looking forward to opening their business in Mequon.

Mr. Protasky gave examples of several buildings in the surrounding area with varying setbacks from Port Washington Road. He stated that there are many benefits to a greater setback for the drive thru including fewer vehicular conflict issues, better traffic flow, bigger queue lines and better exiting lanes. They believe the proposed plan is harmonious with surrounding developments.

Discussion among the Commission revealed that the south side of the approved building to the north would require some fenestration as it would be exposed if the proposed building is set back further. A few Commissioners commented that they do not oppose the building being pushed further back than the 90-foot setback requirement. There was discussion that the proposed building is designed based on the needs of this specific user and may not be the best location or use of this development.

Action
Commissioner Stoker made a motion to approve the requests subject to the 14 conditions listed in the staff report as well as the additional condition that staff review and approve a revised south elevation of the building to the north.
Commissioner Hawley seconded the motion.
A roll call vote was taken; vote passed (7-1) (No: Becky Schaefer)

RESULT:	**APPROVED WITH CONDITIONS [8 TO 1]**
MOVER:	John Stoker, Commissioner
SECONDER:	Stephanie Hawley, Alternate
AYES:	Strzelczyk, Bach, Choren, Gentges, Hawley, J. Schaefer, Stoker
NAYS:	R. Schaefer
ABSENT:	Lemke
RECUSED:	Wirth

3) Public Hearing/ Consent Agenda

1) Mequon Lawn & Garden. The applicant is seeking conditional use grant approval to allow for an outdoor power equipment store, including the servicing, repair and sales of new and used outdoor power equipment (equipment containing small engines or motors) and related parts, supplies, attachments and accessories for the property located at 6809 W. Donges Bay Road.

Action
Commissioner Stoker made a motion to go into public hearing.
Commissioner Bach seconded the motion.
A voice vote was taken; vote passed (8-0)

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

Items 3b (Trau) and 4a (Lakeshore Estates) were removed from the Consent Agenda by request of the Commission.

Action
Commissioner Stoker made a motion to approve the 3 remaining consent agenda items.
Ald. Strzelczyk seconded the motion.
A voice vote was taken; vote passed (8-0)

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

2) Curt & Tammy Trau. The applicant is seeking conditional use grant approval to allow for a 1,278 sq. ft. detached guest house for the property located at 13071 N. West Shoreland Drive

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

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

This item was removed from the Consent Agenda.

There was a request from the Commission that the CUG state that commercial use is not allowed at this property and that it cannot be rented out. Staff stated that the hours of operation will be removed from the final CUG as they should not be included. Condition 9a will be deleted from the final CUG.

Action
Ald. Strzelczyk made a motion to approve with the amendment that condition 9a be removed from the CUG.
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:	Wirth, Strzelczyk, Bach, Choren, Gentges, J. Schaefer, R. Schaefer, Stoker
ABSENT:	Lemke

4) Consent Agenda

1) Pinnacle Engineering Group for Lakeshore Estates. The applicant is seeking preliminary plat and landscape approval to allow for a 9-lot subdivision for the property located at the southwest corner of Lakeshore Drive and Pioneer Road.
2) Chaput Land Survey for Kellner Krug, LLC. The applicant is seeking certified survey map approval for a 3-lot land division the property located at the northeast corner of Green Bay Road and Highland Road.
3) Wisconsin Lutheran Seminary. The applicant is seeking building and site plan amendment approval for a 2,137 sq. ft. proposed single-family faculty residence on the seminary's 79-acre property located at 11813 N. Seminary Drive.

5) Regular Business

a) Charles Zens. The applicant is seeking rezoning recommendation approval to the zoning designation from R-2B, R-1B, FW to R-2B, R-4, FW for 9961 N. Baehr Road and R-4 to R-2B for 9931 N. Baehr Road.

Planner Vang stated that this is a rezoning for two existing lots on Baehr Road. The current configuration consists of a larger lot at 9961 N. Baehr which is 6.4 acres and the smaller lot located at 9931 N. Baehr Road is roughly .75 acres. The applicant is seeking approval to reverse the configuration so that the smaller lot is to the north and the larger lot is to the south. This will be achieved through a property lot line adjustment but rezoning to R-4 is required due to the smaller lot being created to the north. Staff recommends rezoning the parcel to the south to R-2B. This area is a mixture of residential and industrial uses, and the rezoning is consistent with the current uses and the rezoning will not change the character of the area. Staff recommends a condition of approval that the boundary lot line adjustment create conforming parcel sizes. In addition, staff recommends dedication of right of way along Baehr Road as the property line goes to the center of Baehr Road. Staff recommends approval of the rezoning request subject to the conditions in the report.

Action

Commissioner Choren made a motion to approve the item subject to the conditions required in the staff report.
Ald. Strzelczyk seconded the motion.
A voice vote was taken; vote passed (8-0)

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

b) Beautiful Savior Lutheran Church. The applicant is seeking sign waiver approval for a free-standing sign that exceeds 6 feet in height for the property located east of 11149 N. Crestline.

Planner Vang stated that the applicant is requesting a monument ground sign that is 15 feet in height and the code requirement is that a sign not exceed 6 feet in height for this religious use. The proposal is a steel gate and archway with aluminum lettering signage. The applicant is also requesting a setback waiver as the sign does not meet the 10-foot setback requirement as it is approximately 5 feet from the right of way. Staff is supportive of the setback waiver for the sign location, but staff does not believe there is a hardship to justify the sign height waiver. There are several signs along Mequon Road that meet the height requirement while providing identification.

The applicant, represented by Elmer Prenzlow, chairman of the cemetery committee, commented that there is no signage identifying the cemetery, making it difficult for people visiting the church cemetery for services. He stated that there are safety and logistical issues including parking, plowing and way finding. They are requesting a gateway feature with a double gate of steel construction and an arch, that provides a 12-foot clearance for commercial traffic, transporters, front-end loaders, and others. This blends well with the existing foliage and is harmonious with the neighborhood.

The applicant, Pastor Hildebrandt, stated he feels that the proposed sign is a respectful and vastly improved frontage sign that blends in well with the surrounding area.

The applicant provided a handout to the Commission of a colored rendering of the proposed archway and gate.

Feedback from the Commission supports the proposed archway signage and gate with the condition that it is not illuminated.

Mayor Wirth stated that he finds the proposal attractive, and he believes that cemeteries should be in a different category. He typically does not like to approve sign waivers as he prefers consistency throughout the city.

Action
Ald. Strzelczyk made a motion to approve the item with the condition that the sign is not illuminated; also to allow cross symbols on the sign.
Commissioner Hawley seconded the motion.
A roll call vote was taken; vote passed (7-1) (No: Jim Schaefer)

RESULT:	**APPROVED WITH CONDITIONS [7 TO 1]**
MOVER:	Robert Strzelczyk, Alderman
SECONDER:	Stephanie Hawley, Alternate
AYES:	Wirth, Strzelczyk, Choren, Gentges, Hawley, R. Schaefer, Stoker
NAYS:	J. Schaefer
ABSENT:	Lemke

c) Lisa Frommelt for La Marie Beauty. The applicant is seeking minor request approval for window coverings for a medical spa located at Mequon Town Center 1 located at 6036 W. Mequon Road.

Asst. Dir. Zader stated the request is for a front window covering with a vinyl opaque film for the lower 60 inches of a tenant space in the Town Center (MTC1). He included the ordinance pertaining to window coverings in the Town Center in the packet as this was a big issue a few years back. He explained that the applicant applied for a building permit in January of this year and at that time staff questioned whether the front window would need to be covered and communicated that Planning Commission approval would be required. The applicant expressed they did not intend to cover the window; there is a correspondence in the packet supporting this; thus a building permit was issued on February 12, 2021 for the tenant space build out. The project is near completion, and the applicant is now requesting window covering approval. Staff does not support the exception. He commented that if the request was made at the time of building permit application, staff would have suggested floorplan modification so that the treatment room would not be located at the front of the space.

The applicant, Lisa Frommelt, stated that at the time of building permit application submittal they were focused on obtaining occupancy first, and they were deciding between a few different floorplans. They are a lux boutique medispa specializing in facial procedures and treatments. She explained that these procedures are treated as a medical procedure and require privacy. She stated that the requested opaque covering is only for a small portion of the window and is aesthetically appealing to the public view. There are limited floorplan options due to the small size of the tenant space.

Mayor Wirth stated that he feels that the city's position on window coverings is absurd. Although he feels this way, he feels that consistency is most important in making approval decisions to be fair to all businesses.

Discussion from the Commission included Forward Dental and their approval for window coverings a few years ago and the main difference being that they qualified for medical exemption category qualifying under HIPA.

Asst. Dir. Zader explained there are different standards city-wide regarding window coverings; and the Town Center was created as a pedestrian walkable neighborhood that the windows should be seen into. He commented that staff strives to identify issues early on during the building permit submittal process to eliminate these exception approvals.

Feedback from the Commission is that staff was proactive and did try to help the applicant avoid this situation and it is important to maintain consistent when making decisions. Other businesses have previously been denied the same request. It was also commented that the original intent of the Town Center was primarily for retail businesses and there has been a shift in the market.

Mayor Wirth stated that offices and service businesses usually have a way to close windows to avoid the sun and provide privacy and they put the blinds up and down as needed. He does not feel that the bank should have been denied.

Action
Commissioner Hawley made a motion to approve the waiver as requested.
Mayor Wirth seconded the motion.
A roll call vote was taken; vote failed (4-4) (No: Ald. Strzelczyk, Becky Schaefer, Jim Schaefer, Choren)
Action
Commissioner Becky Schaefer made a motion to deny per staff recommendation.
Ald. Strzelczyk seconded the motion.
A roll call vote was taken; vote failed (4-4) (No: Mayor Wirth, Stoker, Gentges, Hawley)

Motion denied.

RESULT:	**DENIAL [4 TO 4]**
MOVER:	Rebecca Schaefer, Commissioner
SECONDER:	Robert Strzelczyk, Alderman
AYES:	Strzelczyk, Choren, J. Schaefer, R. Schaefer
NAYS:	Wirth, Gentges, Hawley, Stoker
ABSENT:	Lemke

d) Neumann Development. The applicant is seeking a consultation of conceptual plan and zoning for a proposed single-family residential development on an approximately 40-acre site located at the northwest corner of Highland Road and Port Washington Road.

Mayor Wirth stated that there was public comment received from Paul Apfelbach stated that the city has an obligation to allow his TDR credits to be used due to limiting the number of residential sites allowed.

Ms. Machare has some questions regarding road widening.

Asst. Dir. Zader stated this is a consultation for a proposed 60-lot single-family residential development on 32-acres on the corner of Highland Road and Port Washington Road. He explained that the Policy Subcommittee has been studying this area for the past few years and has created some new zoning districts for this area. This site is unique in that it is the only parcel in the Ulao Creek area slated for residential use that has access to public utility. The subcommittee created some requirements that allow for ½-acre density lot size with the provision that half the lots are greater than 21, 780 sq. ft. and no lot is smaller than 15,000 sq. ft. The zoning district also requires 30% green space requirement as well as a 85 foot average lot width. The concept plan does meet the ½-acre densities and green space ratio (35%) but it does not meet the average lot size (12,385 sq. ft. - 10,000 sq. f.t). It also does not meet the 85-foot lot width requirement. Staff is supportive of the residential use as the message was sent to the property owner that only residential use would be approved. Staff does not want to deviate from the required standards so early in the process. Although all standards may not be able to be achieved, one standard that may not be met is density; density could be sacrificed for larger lot sizes as long as the green space ratio is met. Staff encourages the applicant to continue to revise the concept plan to meet all required standards.

The applicant, Brian Lindgren from Neumann Development stated that the development of the interstate exchange will continue to bring more traffic to this area and the location of the parcel near a school and hospital led to the high-density development proposed. He stated that it is difficult to meet all the zoning standards required.

A new concept plan was submitted to the Commission (1-acre lots, about 30 lots) that does not include public sewer service.

Feedback from the Commission included the idea that the development does not need to be so dense; some of the lots are very tight. There was discussion about the sewer service costs and the density needed to offset those costs as well as the idea of removing it from the sewer service area and what would be involved. It was determined that the development could be exempted from the sewer system. Some Commissioners provided feedback was that new concept plan showing larger lots (approx. 30) are preferred over the concept plan with smaller lots with a higher density (approx. 60). There was also discussion about what size homes; and house costs, are appropriate at the site.

The applicant expressed confidence in either concept plan being workable.

6) Announcements

The next meeting is Monday, June 28, 2021, at 6:00 p.m.

7) Adjourn

Action
Commissioner Stoker made a motion to adjourn.
Ald. Strzelczyk seconded the motion.
A voice vote was taken; vote passed (8-0)

Respectfully Submitted,

Jac Zader