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Department of Community Development
Taped and Televised

PLANNING COMMISSION
Regular Meeting
Monday, June 27, 2022
6:00 PM
Christine Nuernberg Hall

Minutes

1) Call to Order, Roll Call

Present:
Alderman Robert Strzelczyk
Alderman Brian Parrish
Commissioner Greg Bach
Commissioner Dan Gentges
Commissioner Stephanie Hawley
Commissioner Rick Lemke
Commissioner Rebecca Schaefer
Commissioner John Stoker
Commissioner Martin Choren - **Absent**
Commissioner James Schaefer - **Absent**

Chairman Strzelczyk called the meeting to order at 6:00 p.m.

2) Approval of Meeting Minutes from May 23, 2022

Action
Commissioner Hawley made a motion to approve the May 23, 2022, meeting minutes.
Commissioner Becky Schaefer seconded the motion.
A voice vote was taken; vote passed (8-0)

RESULT:	**APPROVED [8 TO 0]**
MOVER:	Stephanie Hawley, Commissioner
SECONDER:	Rebecca Schaefer, Commissioner
AYES:	Strzelczyk, Bach, Gentges, Hawley, Lemke, Parrish, R. Schaefer, Stoker
ABSENT:	Choren, Schaefer

3) Public Hearing / Consent

a) Kolbrook Design Inc for Brixmor SPE1 LLC. The applicant is seeking conditional use grant approval to allow for a restaurant for the property located at 10990 N. Port Washington Road (Tropical Smoothie Cafe).

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

No comment.

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

4) Regular Business/ Consent

a) Peter Budnik. The applicant is seeking fill permit approval to allow for 4,850 C.Y. for the property located at 11701 W. Freistadt Road.

b) Rob Oldenbury for East Mequon IVA, LLC. The applicant is seeking master sign plan amendment to allow for sign location modifications for the properties located at 12100 & 12200 N. Corporate Parkway (The Pointe).

c) Gan Ami Mequon. The applicant is seeking building and site plan amendment approval to allow for a 638 sq. ft. addition to the existing building for the property located at 10813 N. Port Washington Road.

Action
Commissioner Bach made a motion to approve all 4 of the Consent Agenda items.
Commissioner Lemke seconded the motion.
A voice vote was taken; vote passed (8-0)

RESULT:	**APPROVED [8 TO 0]**
MOVER:	Gregg Bach,
SECONDER:	Rick Lemke
AYES:	Strzelczyk, Bach, Gentges, Hawley, Lemke, Parrish, R. Schaefer, Stoker
ABSENT:	Choren, Schaefer

5) Regular Business

a) An Ordinance Amending Chapter 58, Zoning Code, as it Relates to Permitted Uses in Table 58-301-1 of the Town Center (TC) Zoning District to Allow Event Planning Services with Facilities

Director Tollefson stated that staff does recommend approval for event planning services with facilities. Staff recommends approval for this permitted use with specific design standards that it be small scale and there be control on the amount of the square foot warehouse and storage. The warehouse, storage or other components should not be a larger component of the use than the event services themselves.

The action of the Commission will be forwarded to the Common Council for a first reading in July and action taken in August.

There was a short discussion regarding parking and that parking capacity will be evaluated once an actual business applies for approval.

Action
Commissioner Hawley made a motion to recommend approval of this item to the Common Council.
Commissioner Lemke seconded the motion.
A voice vote was taken; vote passed (8-0)

RESULT:	**APPROVED [8 TO 0]**
MOVER:	Stephanie Hawley, Commissioner
SECONDER:	Rick Lemke, Commissioner
AYES:	Strzelczyk, Bach, Gentges, Hawley, Lemke, Parrish, R. Schaefer, Stoker
ABSENT:	Choren, Schaefer

b) Kwik Trip. The applicant is seeking minor request approval to allow for a fence for the property located at 10360 N. Cedarburg Road.

Director Tollefson stated that there has been a lot of work with neighboring property owners and Kwik Trip representatives. There was a joint meeting with open dialogue and a chance for everyone to be heard between city staff, Kwik Trip representatives and property owners that led to the recommendations presented to the Commission. The application is for the approval of a fence greater than 6-feet in height.

About 18 months ago, a fence was installed at the Kwik Trip property, which per the code was 6 feet in height. It did not do the job of mitigating the spread of trash that it was intended to do for the neighbors. That fence was removed, and the current application was made.

Staff proposes that the fence run along the east property line, but also turn the corners at the northeast and southeast corners to help control the debris. There are single family homes and the Milwaukee River located to the east of the property. The neighbors expressed an interest in a 12-

foot-tall fence, but staff is concerned about the height due to precedent setting. She explained that there is a grade difference of about 1-2 feet along the east parking lot curb line and where the fence would be located. This area of the site contains the vacuum area and is an area where garbage is being unloaded from cars. There are over-sized trash cans located there and Kwik Trip placed additional trash cans in this area over the past year to help control debris blowing around on the site. The shed roof of the car wash building is approximately 10 feet in height and the enclosed brick dumpster is about 9 feet in height, also located near the east property line.

Dir. Tollefson explained that there will be some green space between the fence and the more formal landscape areas of the site as well as a natural buffer immediately east of the proposed fence location. The location of the fence was determined by city staff and Kwik Trip representatives and purposefully winds around some natural landscaping located in the northwest corner of the property. The landscape and trees in that area are all over 14-feet in height, a factor of scale for determining height of fence. Staff is recommending that the fence height drop a bit as it gets closer to Donges Bay Road to soften the look of it at the driveway entrance.

Staff recommends that the fence not be higher than 10 feet and anything over 8 feet should include a decorative top element to the fence. Kwik Trip originally proposed a white fence, but it does not match any of the features on the site. Staff recommends a darker brown color to better match the C-store, car wash and dumpster enclosure. Additionally, there are several other site improvements that are required as part of the approval of the fence, including:

- Dampening the horn in the car wash facility.
- Car wash interior light will be on a sensor.
- Control over the timing of deliveries of services on site – no overnight services.
- Some landscape on the east side of the fence to help mitigate light pollution.
- No Parking Signs to be added along Donges Bay Road to discourage parking there.

Dir. Tollefson stated that prior to the meeting, Kwik Trip communicated they are having difficulty locating the suggested 8–10-foot brown colored fence. She suggested that the Commission make an approval that the fence colors and materials be consistent with the other structures on site and that the final design be subject to staff approval.

The applicant, Carrie Wiggins, Kwik Trip District Leader, stated that the neighbors are justified in their complaints of the debris on their properties. She believes that the fence is the best option to help mitigate this issue.

There was discussion that this is a unique site with a specific issue that needs to be addressed to protect the neighboring residential properties and should not be considered precedent setting. This is the only gas station in the city that is located immediately adjacent to single-family homes and single-family zoning. The grade separation of the finished elements on site compared to where the fence will be located already eliminates a few feet of visual impact the fence would make.

It was discussed that the neighbors left the joint meeting feeling that their concerns were heard. There was collaboration between all parties as to where the fence will be located. Dir. Tollefson has maintained contact with the neighbors regarding the other improvements that will be required along with the installation of the fence.

Action

Commissioner Becky Schaefer made a motion to approve the 10-foot fence subject to the conditions in the staff report.
Commissioner Stoker seconded the motion.

Ms. Wiggins stated that they have implemented several measures to help reduce the trash on site and on the neighboring properties, including these actions:

- Increased number of trash pick-ups throughout the day.
- Increased number of large trash cans on site.
- Mowed lawn and clippings are bagged.

Ald. Strzelczyk made a friendly amendment to add the non-precedent setting reasons for approving the height of the fence is a multi-purpose gas station with grocery and car wash and its location adjacent to single family homes.
The amendment was accepted.

A roll call vote was taken, vote passed (8-0)

RESULT:	**APPROVED [8 TO 0]**
MOVER:	Rebecca Schaefer, Commissioner
SECONDER:	John Stoker, Commissioner
AYES:	Strzelczyk, Bach, Gentges, Hawley, Lemke, Parrish, R. Schaefer, Stoker
ABSENT:	Choren, Schaefer

c) K&B Investment Group, LLC. The applicant is seeking building and site plan amendment approval to allow for a new to lease a portion of the building for the property located at 10903 N. Weston Drive (L & A Crystal).

Asst. Dir. Zader stated that this is an unusual request as the Town Center zoning district requires building and site plan approval any time a single tenant building switches ownership, if not done in the past five years. This site is located on the curve of Buntrock Avenue and Weston Drive. Most of the site will be leased to a graphic design firm, which is a permitted use in the Town Center zoning district. Staff completed an on-site elevation of the property and made recommendations for items that should be addressed which are listed as conditions in the staff report and include:

- All outdoor storage shall be removed.
- Paint the windows and trim.
- Replace some non-conforming light fixtures.
- Update the foundation planning.
- Dead tree removal.

The owner has agreed to all the conditions and many of them have already been completed. The removal of the outdoor storage will be handled when they relocate their business operations in the near future. Staff recommends approval.

The applicant confirmed the list of improvements have been completed except the removal of the outdoor storage.

Action
Commissioner Lemke made a motion to approve the item.
Commissioner Becky Schaefer seconded the motion.
A voice vote was taken; vote passed (8-0)

RESULT:	**APPROVED [8 TO 0]**
MOVER:	Rick Lemke, Commissioner
SECONDER:	Rebecca Schaefer, Commissioner
AYES:	Strzelczyk, Bach, Gentges, Hawley, Lemke, Parrish, R. Schaefer, Stoker
ABSENT:	Choren, Schaefer

d) Michael Perlewitz. The applicant is seeking preliminary plat, development agreement and specimen tree removal approval to allow for a new 7-lot conservation subdivision for the property at the southwest corner of Villa Grove and Freistadt Road (The Green at Mequon).

Asst. Dir. Zader stated this approval request is for a 7-lot conservation subdivision located at Villa Grove Road and Freistadt Road. The zoning change was approved in November and approved by the Common Council in January. The seven lots will be accessed by a private road, Villa Grove Road. At the November rezoning approval meeting there was discussion regarding specimen trees as there are several on this site. The City Forester did recommend the two trees on Lot 4 be removed as they impact the house pad. This was ratified in the PUD to include the condition that tree replacement or donation policy be included as a condition of removal. The applicant is requesting one exception regarding the entrance island sizing which can be addressed by Eng. Dir. Lundeen. Staff recommends approval according to the conditions in the report.

The applicant, Michael Perlewitz is present.

Public Feedback

Wendy Porterfield – 3245 Oak Shore Lane – she is opposed to this development as she has concerns about the river and the high levels of water on Villa Grove Road. She also stated that there has been much increased boat traffic, and this is now a very busy road with limited parking.

David Schlageter - 3827 Freistadt Road - he has concerns about this development as he believes that Villa Grove Road is not sufficient to handle the traffic. He also has concerns about the water that comes out between Lots 2 & 3 and the amount of fill approved as he stated that this area floods.

There was some discussion about the watershed and the storm water management facilities. Eng. Dir. Lundeen stated that the water will follow the overall natural drainage pattern and not block or redirect the water. The applicant is required, per city ordinance that the release rate be equal to or less than what the rate is currently predevelopment.

Asst. Dir. Zader stated that SEWRPC and DNR are currently working on updating and modifying the floodplain maps based on modeling done on the Milwaukee River. For the most part it will remain the same, with some parts slightly increased by less than ½ foot

Staff answered that Villa Grove Road is 20 feet wide and although 22 feet is the standard width, there are other roads in the city that are also 20 feet in width.

The fill total requested is less than 1,000 C.Y. Each individual lot will be required to have a grading plan adhere to the master grading plan. The specimen tree issue was addressed at the PUD rezoning approval meeting in November and the Common Council had the opportunity to address any concerns. It was adopted as part of the PUD that the two trees on Lot 4 are allowed to be removed and the replacement language is included as part of the PUD.

There was discussion from the Commission regarding the concern about flooding in the area. Eng. Dir. Lundeen answered that the entrance island is required at all subdivision entrances and the standard specifications do not distinguish public roads from private roads. The applicant is requesting a reduction in the standard specifications as it relates to the width of the island and the width of the entrance road which is proportionate with the rest of the road.

Action

Commissioner Stoker made a motion to recommend approval subject to staff recommendations.
Commissioner Hawley seconded the motion.
A roll call vote was taken; vote passed (6-2) (No: Becky Schaefer, Ald. Strzelczyk)

RESULT:	**APPROVED [6 TO 1]**
MOVER:	John Stoker, Commissioner
SECONDER:	Stephanie Hawley, Commissioner
AYES:	Bach, Gentges, Hawley, Lemke, Parrish, Stoker
NAYS:	R. Schaefer, Strzelczyk
ABSENT:	Choren, Schaefer

7) **Policy**

An Ordinance Amending Chapter 58 of the Mequon Municipal Code as it Relates to Stormwater Facilities (Maintenance Responsibility and Green Unfractured)

Eng. Dir. Lundeen stated that the proposed amendment addresses two different issues. One is the storm water facility maintenance which utilizes the MS4 Permit which is regulated by the EPA and administered by the DNR. It requires that the city has a certification program for its storm water facilities. It requires that every 5 years the storm water facilities are certified, and that the HOA is responsible for maintaining those facilities between certifications. Staff is diligent to ensure that all new developments are required to have storm water maintenance and easement agreements that define all those responsibilities. Unfortunately, those from several decades ago were inconsistently approved with storm water maintenance and easement agreements. She explained that staff believes that the proposed ordinance provides that the requirements are in place, but unfortunately in administrating some of these certification requirements, the legal responsibility has fallen on the lot owners on which the storm water facilities exist. The proposed ordinance corrects that and in the absence of a HOA that the responsibility is equally shared by all lot owners within the subdivision.

She stated that while reviewing the ordinance amendment it caused staff to review the storm water ordinance as it relates to green infrastructure requirements. Two years ago, MMSD implanted some green infrastructure requirements for the addition of impervious surface between 5,000 and less than ½ acre in developments where there is not an existing storm water maintenance and easement agreement. This proposed update includes the pass through of those requirements which as an MMSD community m the city is required to administer. She commented that it also addresses a reduction in the drainage financial guarantee. Right now, the financial guarantee is intended for subdivisions and larger developments, but the burden has been passed to single family homeowners that are required to post the drainage financial guarantee. Staff finds value in these guarantees as it is the only clause that ensures that the facilities are installed per the approval.

Staff is requesting that if the Commission recommends approval of the ordinance that at the Council level that it is accompanied by a fee schedule to set a standard fee for the drainage financial guarantee for green infrastructure rather than having it scaled based on the required improvements.

Eng. Dir. Lundeen answered that there are 7 subdivisions without agreements that staff has struggled to get certified, and the responsibility is falling onto individual single-family homeowners.

She added that the city will do an analysis of whether the fee should be based on the amount of impervious surface or the size of the lot to determine if there should be a scaled version of the fee.

There was discussion from the Commission about concerns regarding this subject including the legal issue and management of compliance. Ald. Parrish suggested that the City Attorney review the language as he believes it is missing some context. Eng. Dir. Lundeen clarified that the proposed language would assess not only the fees but a penalty to avoid the city involvement.

Action
Commissioner Stoker made a motion to recommend approval of this item to the Common Council as written.
Commissioner Lemke seconded the motion.
A voice vote was taken; vote passed (8-0)

8) Announcements

9) Adjourn

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

Meeting adjourned at 7:30 p.m.

Respectfully Submitted,

Jac Zader