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Department of Community Development  
Taped and Televised

**PLANNING COMMISSION**  
**Regular Meeting**  
**Monday, July 24, 2017**  
**7:00 PM**  
**Christine Nuernberg Hall**

**Minutes**

**I) Call to Order/Minutes Approval**

**Present:**

Chairman Dan Abendroth  
Commissioner Martin Choren  
Commissioner John Mason  
Commissioner Brian Parrish  
Commissioner James Schaefer  
Commissioner Rebecca Schaefer  
Alderman John Wirth  
Commissioner Rick Lemke  
Alternate Stephanie Hawley

**Action**

Ald. Wirth made a motion to approve the June 24, 2017 meeting minutes  
Commissioner Becky Schaefer seconded the motion.  
*All voted aye; vote passed (8-0)*

**II) Consent/Public Hearing**

- a) Concord 2, LLC. The applicant is seeking conditional use grant approval to operate a 1,650 square foot fitness center for the property located at 11521 N. Port Washington Road.

**Action**

Ald. Wirth made a motion to go into public hearing  
Commissioner Lemke seconded the motion.  
*All voted aye; vote passed (8-0)*

**Action**

Ald. Wirth made a motion to close into public hearing  
Commissioner Lemke seconded the motion.  
*All voted aye; vote passed (8-0)*

<b>RESULT:</b>	<b>APPROVED [8 TO 0]</b>
<b>MOVER:</b>	Rebecca Schaefer, Commissioner
<b>SECONDER:</b>	John Wirth, Alderman
<b>AYES:</b>	Abendroth, Choren, Mason, Parrish, B. Schaefer, J. Schaefer, , Wirth, Lemke
<b>ABSTAIN:</b>	Hawley
<b>EXCUSED:</b>	Stoker

### III) Consent/Regular Business

- a) Metropolitan Builders Association. The applicant is seeking minor request for a temporary use approval (August 6th - September 6th) for directional signs for the 2017 Parade of Homes located at the Highlander Estates subdivision.

Ald. Wirth asked about an item that staff recommended that is different than what the Metropolitan Builders Association requested.

Asst. Dir. Zader stated that they are comfortable with the change and they did not show up for the meeting.

#### Action

Commissioner Becky Schaefer made a motion to approve the consent items according to staff recommendations.

Ald. Wirth seconded the motion.

*All voted aye; vote passed (8-0)*

<b>RESULT:</b>	<b>APPROVED [8 TO 0]</b>
<b>MOVER:</b>	Rebecca Schaefer, Commissioner
<b>SECONDER:</b>	John Wirth, Alderman
<b>AYES:</b>	Abendroth, Choren, Mason, Parrish B. Schaefer, J. Schaefer, Wirth, Lemke
<b>ABSTAIN:</b>	Hawley
<b>EXCUSED:</b>	Stoker

### IV) Regular Business

- a) Signs Now Milwaukee for Yamato. The applicant is seeking sign approval to use Polystyrene foam for a monument sign for the property located at 6300 W. Eastwood Court.

Planner Vang stated that the applicant is proposing a free standing sign made out of Polystryene foam. This is a material that staff has not approved in the past. The sign does meet all technical requirements but due to the material requested it is in front of the Planning Commission for review. She stated that the base of the sign will also be made out of the same material. It will closely match the block material of the building. The applicant wants to use this material due to the lower cost and the fact that they feel it will stand the conditions of winter.

The applicant brought an example of the material to show the Commissioners. He stated that the material has been in use for many years, it seems to be far more durable, to last longer and look better for a longer period of time. He stated that the sign would be manufactured with a design style on the base to look like the stones used in the existing product on the building.

Commissioner Choren stated that he does not have concerns about the durability but he is concerned about the look of the sign and the ability to match the stones on the building. He also questioned that if it is approved, would it set a precedent.

Asst. Dir. Zader answered that the only other sign of a similar type of material approved was an after-the-fact approval of the Huntington Park subdivision.

Ald. Wirth stated that he searched for a sign made of the same material to view and he felt that it looked old. He talked to a sign representative that stated it does look good when it is first put up, but birds can peck on it and it does tend to break and not last.

The applicant stated that there are many different types of Polystyrene. He stated that the product is an encapsulated product. He provided photos of examples of the product.

Mayor Abendroth stated that per the Sign Code, the base of the sign should match the materials of the building to the greatest extent possible.

Asst. Dir. Zader stated that the applicant is seeking approval for the material of the sign only. Sign permits state that a landscaping bed is required around the signage and any illumination would need to be approved by staff as there are lighting code requirements for signage.

Commissioner Jim Schaefer stated that he does not like the look of imitation stone. He stated he would possibly be comfortable with the Polystyrene used for the sign but not for the base. He feels that the base should be real stone.

Commissioner Parrish stated that the applicant is a reputable company and the product is reputable as well. He is comfortable approving the proposal as long as it stays at the quality level proposed.

Asst. Dir. Zader stated that if it is approved, he has concerns about the shift in policy because there is no real justification for not using real stone except for an economical one. He suggested that this should be looked at to allow it city-wide if approved.

Ald. Wirth stated that according to the ordinance it is very clear that the base is supposed to be the same material if possible. He feels this would be a significant policy change. He feels that good policies should be supported and followed. He offered an option to table this item if necessary to enable to Commission to physically see an actual example and then address a sign code amendment if plausible. He feels that all applicants should be treated equally.

Commissioner Choren asked staff about the possibility of the sign above the base being made of this material but not the base. He would like to see an example of the product as well.

Asst. Dir. Zader stated that the sign code does not really address this issue. Materials have come a long way with technology and this is something that will need to be vetted out to see if the product is durable over time. He feels there is a distinction between the base and the sign.

Commissioner Mason asked the applicant if he has statistics about the longevity of the product. He agrees that the sign ordinance should not be changed at this meeting as many others have requested similar permissions and have been denied.

The applicant answered that he does not have actual facts but he stated that the product has been used in Florida and Arizona for over 20 years and there have not been any problems.

**Action**

Ald. Wirth made a motion to approve a natural base and the Polystyrene sign on top with a contingency that if the product does not hold up that it must be replaced by the owner.

Commissioner Parrish seconded the motion.

*All voted aye; vote passed (8-0)*

<b>RESULT:</b>	<b>APPROVED [8 TO 0]</b>
<b>MOVER:</b>	John Wirth, Alderman
<b>SECONDER:</b>	Brian Parrish, Commissioner
<b>AYES:</b>	Abendroth, Choren, Mason, Parrish, B. Schaefer, J. Schaefer, Wirth, Lemke
<b>ABSTAIN:</b>	Hawley
<b>EXCUSED:</b>	Stoker

- b) Mike Mehta. The applicant is seeking master sign plan approval for the property located at 10400-10412 N. Baehr Road (Moro Performance).

Planner Vang stated that this business is located in the business park and is zoned B-5. For multi-tenant buildings requesting more than one wall sign, a master sign plan is required. The applicant is requesting a master sign plan that would allow each tenant to have one wall sign unless the tenant occupies more than one tenant space and then they would be allowed the number of signs per space. The proposed floorplan shows seven tenant spaces but nine wall signs. The nine wall signs are to allow for an ultimate build-out of the property, the two most southern buildings could be divided into two tenant spaces. Staff only supports seven signs as that is what is currently shown as actual spaces. Staff only supports one sign per tenant regardless of the amount of tenant spaces occupied. Ms. Vang stated that the materials proposed are aluminum sheet with a polyethylene core (example in the packet). The sign meets all the requirements of 30 sq. ft. with a black dark background with white lettering placed about the tenant space. Staff does not support the dark black background as it does not relate to the architectural features of the exterior as listed under Criteria C. Staff is willing to work with the applicant to come to a consensus to what would be more fitting for the

building.

The applicant was not present.

Mayor Abendroth stated that owner could ask for more signs if more tenant spaces are added.

Asst. Dir. Zader stated that the staff has talked to the applicant several times. The proposed sign is rather economical and is only about 3 inches thick. The lettering is flat and it will not project on that building. The concern is that this is the only tenant at this point that is requesting a sign and staff does not want all the potential signs on that building to look like this one going forward.

**Action**

Mayor Abendroth made a motion to approve the master sign plan based on staff comments. Commissioner Choren seconded the motion.

*All voted aye; vote passed (8-0)*

<b>RESULT:</b>	<b>APPROVED [8 TO 0]</b>
<b>AYES:</b>	Abendroth, Choren, Mason, Parrish, B. Schaefer, J. Schaefer, Wirth, Lemke
<b>ABSTAIN:</b>	Hawley
<b>EXCUSED:</b>	Stoker

- c) Joe & Marie Kelly. The applicant is seeking specimen tree removal approval to remove one Red Oak tree for the property located at 13817 N. Hillside Drive.

Asst. Dir. Zader stated the request is to remove one Red Oak tree that will be close to the foundation wall of a proposed addition to the residence. The City Forester does not recommend the removal of the tree per the Tree Preservation Ordinance. If the Commission does grant approval to remove the tree, there are conditions in the staff report regarding the replacement value. It would be a \$1,350.00 donation to the Mequon Tree Fund or the equivalent plantings on site. Per the City Foresters recommendation, staff recommends denial of the request. He stated that the City Forester is present to answer any questions.

The applicant, Joe Kelly, stated that in 2001 he planted the tree there and he is now requesting to remove it. He stated that he has planted several other trees on the property and brought an aerial plot to show all the trees on his property.

Asst. Dir. Zader stated that the applicant sought a variance for a reduced side yard setback for the proposed garage and it was approved by the Board of Appeals.

Mayor Abendroth asked the City Forester asked if the tree is not removed how would the garage be enlarged.

The City Forester, Mike Gies, answered that he believes the tree could be saved if the garage could be shifted back. He stated that he considered the health of the tree, per the ordinance,

to make his decision.

Mr. Kelly stated that the garage addition started back in 2006 and the plans were verbally approved. They completed one section of the addition; but did not yet do the garage. They have been trying to get the necessary permissions for the last 18 months. He stated the garage is rotted out and will not stand for much longer. He stated that he has planted many trees on his property but he does not feel that he should have to pay the fee.

Ald. Wirth stated he feels this is one of the injustices of the tree ordinance. He does not feel that if someone plants a tree on their property, they should then be told that they cannot remove it. He commented that the Tree Board is looking at some modifications to the code and he hopes that this is one that will be made. He feels that a tree is private property and he will vote for the tree to be removed. He stated he hopes that the applicant plants other trees instead of paying the fee.

Mr. Gies stated that there is some discrepancy on whether the applicant actually planted the tree. He explained this has a 18" dbh Red Oak and many sources quote a growth rate which would place the tree at about 60-70 years old.

The applicant affirms that he planted the tree.

Ald. Wirth stated it is irrelevant as it is on his personal property.

Commissioner Lemke stated that he feels strongly that this is landscaping and that the applicant should not be accountable to pay the tree replacement fee. He will vote to allow the tree to be removed.

Commissioner Parrish stated that he is in favor of granting the requested waiver because he feels that the applicant has demonstrated a hardship; he planted the tree and he has spent \$20,000 on fees to get through the city processes.

Mayor Abendroth asked if this is a motion.

Commissioner Parrish confirmed it as such.

Ald. Wirth seconded the motion.

Commissioner Becky Schaefer cautioned the applicant about being negative about the city codes because many municipalities have similar regulations and processes. She is in favor of the waiver based on the plantings that have already been planted on the applicant's property. She stated that the City Forester is doing his job by following the code and he is not trying to create more hardship for the applicant.

Mayor Abendroth stated that he supports a waiver.

*All voted aye; vote passed (8-0)*

<b>RESULT:</b>	<b>APPROVED [8 TO 0]</b>
<b>MOVER:</b>	Brian Parrish, Commissioner
<b>SECONDER:</b>	John Wirth, Alderman
<b>AYES:</b>	Abendroth, Choren, Mason, Parrish, B. Schaefer, J. Schaefer, Wirth, Lemke
<b>ABSTAIN:</b>	Hawley
<b>EXCUSED:</b>	Stoker

d) Chapter 58 of the Zoning Code as it relates to uses in the LTD Zoning District.

Asst. Dir. Zader stated the next two items are somewhat related to each other. The first item is for a text amendment to change the LTD zoning district sponsored by the owner of Lexington Square who recently purchased the property. He has a potential tenant that wants to operate a smoothie bar and it is not currently a permitted use under the LTD Overlay. He is requesting that type of use be allowed as a conditional use in the LTD zoning district. There are only two properties in the city that have the LTD zoning and this is one of them. Staff reviewed the conditional uses permitted in this zoning district. Staff feels that the smoothie bar is too narrowly defined and staff researched different resources for use categories established in the NAICS (National American Industry Classification System). Staff found that the category of Snack and Nonalcoholic Beverage Bars would be the most appropriate for the situation. This incorporates the smoothie bar, bakery, bagel shops and ice cream stores. Staff is supportive of the text amendment. This would be a conditional use grant so the applicant will need to appear back before the Commission for the approval for a conditional use grant.

**Action**

Ald. Wirth made a motion to recommend the text amendment to the Common Council. Commissioner Lemke seconded the motion.

Ald. Wirth asked staff if the city code incorporates the NAICS (National American Industry Classification System) definitions.

Asst. Dir. Zader stated that it does not currently incorporate them but that it is a very good idea to do so going forward.

Ald. Wirth made a friendly amendment to recommend that the NAICS (National American Industry Classification System) definitions be included in the city code. Commissioner Lemke accepted the amendment to the motion.

*All voted aye; vote passed (8-0)*

<b>RESULT:</b>	<b>APPROVED [8 TO 0]</b>
<b>MOVER:</b>	John Wirth, Alderman
<b>SECONDER:</b>	Rick Lemke, Commissioner
<b>AYES:</b>	Abendroth, Choren, Mason, Parrish, B. Schaefer, J. Schaefer, Wirth, Lemke
<b>ABSTAIN:</b>	Hawley
<b>EXCUSED:</b>	Stoker

- e) Jim Forester. The applicant is seeking rezoning ordinance amendment approval to allow changes to the conditions of the PUD Ordinance related to the hours of operation and location of conditional uses for the property located at 11649 N. Port Washington Road.

Asst. Dir. Zader stated that this item was also related to the potential tenant looking to operate the smoothie shop in Lexington Square. The tenant is looking to go into a space on the south elevation of the building. There were conditions of the original PUD for this property that stated; “no customer access and or signage shall be allowed along the south building elevation of Phase I for LTD uses”. He explained that on the original site plan there was a road connection on the south to Eastbrook Drive. The condominium development to the west objected due to concern about the impact from the amount of traffic. A subsequent ordinance in 1997 eliminated that road and a connection was made to Port Washington Road. Due to this, staff feels that the restriction on customer access or signage on that elevation does not have very much of an impact on the neighboring development. Over the past 20 years a significant tree line has grown and helps provide a buffer that makes it difficult to see the building. By changing the requirement it would allow LTD uses to go into the building along the south elevation.

The second portion is a requirement that the hours of operation in the LTD zone were allowed to be between 9:00 am to 5:00 pm., but only for a maximum of five hours on Sundays. This applied to LTD users only. Staff could not find documents to how and why the five hour maximum was chosen. Staff is supportive of the amendment to this ordinance. It will go to Common Council for a public hearing in September.

He added that a few residents from the Eastbrook subdivision did contact him with concerns about a potential Phase III behind this building. He has not heard anything about another phase being added. That issue is not on this agenda nor is it on the agenda before the Common Council at this time.

Staff does recommend approval based on the conditions in the staff report.

Jim Hlavacek – 1512 W. Eastbrook Drive – stated that he is concerned about what food shops could additionally be added at the property.

Mayor Abendroth answered that the uses allowed are all low impact. He offered the list of allowable uses to Mr. Hlavacek.

Bernie Berson – President of the Eastbrook Condo HOA – stated that the residents of the

association are concerned about what could happen in the future in the back of Lexington Square. They would like more information regarding this issue.

Ald. Wirth stated that all the issues on the agenda tonight are conditional uses which need individual approval. The businesses are not able to just go into the building without a public hearing and opportunity for public feedback. He also stated that a retail use behind a business office is not typical.

Asst. Dir. Zader stated that ordinance condition #3 in the packet states “*there shall be no retail uses, including B-3 District retail uses, allowed in Phase III of this development*”. The back of the building is restricted to office only and it is more restrictive than the front of the building.

He explained that the PUD approval stated that if Phase III is not completed within 70 months, they would need to comply with current zoning standards. They would need to go through the building and site plan approval process.

Steve Richman – Eastbrook HOA – stated they are hyper-aware of the changes due to the issues associated when the Taco Bell was approved. They will keep informed about what is happening next to their neighborhood.

**Action**

Ald. Wirth made a motion to approve the proposed amendments to the PUD Ordinance. Commissioner Choren seconded the motion.  
*All voted aye; vote passed (8-0)*

The next meeting is August 7, 2017.

**Action**

Ald. Wirth made a motion to adjourn  
Commissioner Parrish seconded the motion.  
*All voted aye; vote passed (8-0)*

<b>RESULT:</b>	<b>APPROVED [8 TO 0]</b>
<b>MOVER:</b>	John Wirth, Alderman
<b>SECONDER:</b>	Martin Choren, Commissioner
<b>AYES:</b>	Abendroth, Choren, Mason, Parrish, B. Schaefer, J. Schaefer, Wirth, Lemke
<b>ABSTAIN:</b>	Hawley
<b>EXCUSED:</b>	Stoker

Respectfully Submitted,

*Jac Zader*