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Department of Community Development
Taped and Televised

PLANNING COMMISSION
Regular Meeting
Monday, July 25, 2022
6:00 PM
Christine Nuernberg Hall

Minutes

Mayor Nerbun called the meeting to order.

1) Call to Order, Roll Call

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

2) Approval of Minutes from June 27, 2022

Action
Commissioner Hawley made a motion to approve the July 26, 2022, meeting minutes.
Commissioner R. Schaefer made a motion to second the motion.
A voice vote was taken; vote passed (7-0)

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	John Stoker, Commissioner
SECONDER:	Rebecca Schaefer, Commissioner
AYES:	Nerbun, Bach, Choren, Gentges, Hawley, R. Schaefer, Stoker
ABSENT:	Strzelczyk, Lemke, J. Schaefer

3) Consent/Public Hearing

a) Lakeside Development for Partnership LSD. The applicant is seeking conditional use grant approval to allow for a medical office for the property located at 1535 W. Market Street (The Milwaukee Hand Center).

Action
Commissioner R. Schaefer made a motion to open a public hearing.
Commissioner Stoker seconded the motion.
A voice vote was taken; vote passed (7-0)

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 (7-0)

Per applicant request, Mayor Nerbun removed item (d) from the consent agenda.

Items a, b, c and e were voted on and approved

Action
Commissioner Stoker made a motion to approve 3 consent items
Commissioner R. Schaefer seconded the motion.
A voice vote was taken; vote passed (7-0)

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	John Stoker, Commissioner
SECONDER:	Rebecca Schaefer, Commissioner
AYES:	Nerbun, Bach, Choren, Gentges, Hawley, R. Schaefer, Stoker
ABSENT:	Strzelczyk, Lemke, J. Schaefer

b) Lakeside Development for Partnership LSD. The applicant is seeking conditional use grant approval to allow for a medical office for the property located at 1511 W. Market Street (Well Family Chiropractic).

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	John Stoker, Commissioner
SECONDER:	Rebecca Schaefer, Commissioner
AYES:	Nerbun, Bach, Choren, Gentges, Hawley, R. Schaefer, Stoker
ABSENT:	Strzelczyk, Lemke, J. Schaefer

c) Daystar Properties. The applicant is seeking conditional use grant approval to allow for a medical clinic for the property located at 1500 W. Market Street (North Shore Center, LLC).

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	John Stoker, Commissioner
SECONDER:	Rebecca Schaefer, Commissioner
AYES:	Nerbun, Bach, Choren, Gentges, Hawley, R. Schaefer, Stoker
ABSENT:	Strzelczyk, Lemke, J. Schaefer

d) Concord Development Company. The applicant is seeking conditional use grant approval to allow for a fitness center for the property located at 1350-1370 W. Mequon Road (Anytime Fitness).

The agent for Anytime Fitness explained that the owner is conducting a market elevation and may want a larger floorplan than originally communicated on the submitted request. The current proposal includes 3 bays, and they may wish to expand into a 4^{th} bay with a total of 7,500 sq. ft.

Asst. Dir. Zader stated that the large square footage change would require an amendment to the CUG so that a review of the new proposed floorplan and parking needs can be evaluated and reviewed as necessary.

Mayor Nerbun recommended that if the item comes back to Planning Commission for an amendment within the next three months, that the $717 conditional use amendment fee be reduced to a $199 minor request fee to cover the notification and mailing costs so that the item can come back for reconsideration with the additional square footage included.

There was discussion among the Commission regarding lighting in the parking lot and near the business entry for safety due to the 24-hour business operating hours.

Action
Commissioner Stoker made a motion to approve this item subject to staff conditions as well as with the condition that if the item comes back in October that the fee would be reduced to $199 and that the lighting will remain on 24-hours in the parking lot.
Commissioner Choren seconded the motion.
A voice vote was taken; vote passed (7-0)

RESULT:	**APPROVED WITH CONDITIONS [7 TO 0]**
MOVER:	John Stoker, Commissioner
SECONDER:	Martin Choren, Commissioner
AYES:	Nerbun, Bach, Choren, Gentges, Hawley, R. Schaefer, Stoker
ABSENT:	Strzelczyk, Lemke, J. Schaefer

e) Concord Development for GF-Smoothies. The applicant is seeking conditional use grant approval to allow for a restaurant for the property located at 1400 W. Mequon Road.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	John Stoker, Commissioner
SECONDER:	Rebecca Schaefer, Commissioner
AYES:	Nerbun, Bach, Choren, Gentges, Hawley, R. Schaefer, Stoker
ABSENT:	Strzelczyk, Lemke, J. Schaefer
DEEMED NO:	Barnes, Goldberger, Parrish

4) Regular Business

a) Mark Hilgendorf. The applicant is seeking minor request approval for a 2,100 sq. ft. (42' x 50') accessory structure for the property located at 11521 W. Mequon Road.

Asst. Dir. Zader stated that the request is for a 2,100 sq. ft agricultural building. It is a canvas hoop house structure with white and green stripes. The owner stated that it will house agricultural equipment and will be in place for about 10-15 years, which is considered a permanent structure under the code. Staff recommends denial of the request as there are no other buildings on site that match this type of structure or color. Typically, buildings over 1,000 sq. ft. are constructed of metal or steel. There have not been other requests for this type of building in the city.

The applicant, Mark Hilgendorf, stated that this type of building is very common. He offered to make it any color. He explained it is in the back and not seen from the public road and it is much more affordable than other materials.

The Commission discussed the materials, shape and the colors of the proposed hoop house structure. There was support for the cost difference of this type of structure as well as that this type of use should be allowed but concern that this approval could set precedent for this type of structure elsewhere in the city. Staff mentioned that a neighbor is opposed to the proposed location of the structure.

Action
Commissioner Choren made a motion to deny this item per staff recommendation.
Commissioner Hawley seconded the motion.
A roll call vote was taken; vote failed (No: Nerbun, R. Schaefer, Gentges, Stoker)

Mayor Nerbun suggested the proposal be modified to better match the other structures on site, to place it further from the neighbor and to include screening.

Action
Commissioner R, Schaefer made a motion to table the item.
Commissioner Gentges seconded the motion.
A voice vote was taken; vote passed (7-0)

RESULT:	**TABLED [7 TO 0]**
MOVER:	Rebecca Schaefer, Commissioner
SECONDER:	Dan Gentges, Commissioner
AYES:	Nerbun, Bach, Choren, Gentges, Hawley, R. Schaefer, Stoker
ABSENT:	Strzelczyk, Lemke, J. Schaefer

b) Lokre Companies. The applicant is seeking building and site plan amendment approval to allow for a conversion from office/commercial use to residential use for the property located at 11205 - 11315 N. Cedarburg Road and 5900-6048 W. Mequon Road (2nd floor of the South Bldg).

Asst. Dir. Zader stated that this request is to convert the south building second floor into single family apartments. The PUD for the development allows up to 50 units and only 28 units have been used due to bigger unit sizes, so units can be added without a PUD amendment. The apartments will be roughly 800 sq. ft. A parking analysis was conducted by TADi and a report that was accidently omitted from the packet was on the dais for the Commissioners review. The findings show that during the week the apartments are beneficial but on Saturdays around 7:00 pm the apartments cause the parking count to be -7 spaces. A calculation for the entire development at 7:00 p.m. was run and there is excessive parking due to other commercial uses not open at that time. Staff has required that for each apartment there is 1 spot available in the north building covered garage area. He stated that there is excessive underground parking as well and surface parking if needed. Staff does recommend the item per the conditions in the staff report.

The applicant, Victor Anderson, stated they will all be luxury 1-bedroom apartments and agrees to one assigned parking spot in the covered garage per apartment.

Action
Commissioner Stoker made a motion to approve per staff recommendations
Commissioner Hawley seconded the motion.
A voice vote was taken; voted passed (7-0)

RESULT:	**APPROVED [7 TO 0]**
MOVER:	John Stoker, Commissioner
SECONDER:	Stephanie Hawley, Alternate
AYES:	Nerbun, Bach, Choren, Gentges, Hawley, R. Schaefer, Stoker
ABSENT:	Strzelczyk, Lemke, J. Schaefer

c) Hickory Hollow Subdivision. The applicant is seeking open space plan and easement amendment approval for the property located at 9801 N. Old Barn Road.

Public Feedback

John Rothstein – 217 E. Chowning Square – supports this amendment.

Julie Rothstein – 217 E. Chowning Square – supports this amendment. She explained there are 39 families in the neighborhood, and they would like to self-regulate as much as possible.

Residents that support the amendment but do not wish to speak:

Amy Erpenbeck – 124 W. Boundary Square
Liz Weir - 140 W. Boundary Road
Celeste & Glen Arnold – 236 E. Chowning Square
Julie & Greg Lutz – 117 W. Boundary Road
Todd Burner – 102 E. White Oak Way

Asst. Dir. Zader stated that this is a somewhat unusual situation in that this was approved for the Hickory Hollow subdivision back in the 1970's. Staff received a number of complaints last winter regarding some of the uses on site, activities in the barn and the ice rink on the vacant lot, south of the barn. Staff looked through files and did not find much information regarding restrictions. There is an open space easement that is part of the HOA documents that were approved by the City which does mention several items in the open space but not many details about the regulations. Staff believes this is a good time to bring this in front of the Commission for an amendment and to codify these things to eliminate issues going forward.

Asst. Dir. Zader explained there is a neighborhood adjacent to Hickory Hollow, and it is a balancing act of protecting those neighbors from any negative impact as well as the city not to be involved with overly regulating the subdivision. He stated the issue of the ice rink will not be discussed at this meeting as there would need to be a PUD Amendment to use the vacant lot for this purpose. Staff did attempt to codify the existing regulations on Outlot 4, which consists of the pool, the tennis courts and the barn. The barn has a caretaker unit on the lower level and a clubhouse on the 2nd floor. The fire department and inspections departments have been working with the HOA to clean up a few existing code violations. Staff worked with the HOA president to compile a list of criteria for restrictions to be included in the amendment:

- Pool hours need to be determined.
- The barn, pool and tennis courts shall be only used by residents of the association and guests. No leasing or renting the clubhouse space to outside entities
- No amplified music outside past 9:00 p.m.
- Activities on Lot 28 would need a PUD Amendment.

- Police must be contacted prior to any large event that includes parking on the street.

Staff supports the conditions listed in the report. Due to the open space easement being a part of the HOA documents, one of the conditions is that it gets formally approved by the HOA and incorporates those conditions in there as well.

Phil Weir, Hickory Hollow HOA President, stated they are concerned about the safety issues, and they are taking the code mediations very seriously. He explained that the members of the HOA have expressed their interest in maintaining control of the regulations regarding their subdivision. They will ensure they criteria for regulations are included in their HOA documents.

The Commission supported the HOA getting the barn into compliance as the safety issues are a concern. They asked questions regarding the use of the barn and the typical hours when neighbors are using the pool. There was discussion about country club pools and their operating hours as guidelines in recommending pool hours. Mr. Weir expressed the desire to be able to self-regulate their own subdivision. There was a suggestion to make a modification for condition #5 in the staff report to allow for a certain number of events per year that can exceed the standard time restrictions.

Action

Commissioner R. Schaefer made a motion to approve per staff conditions with the amendment that the pool and barn hours are not to exceed 11:00 p.m. on weekdays and midnight on weekends, outdoor amplified music not to exceed past 9:00 p.m. on weekdays and 10:00 p.m. on weekends with the exception of 4 events per year that must be notified to all neighbors.
Commissioner Stoker seconded the motion.
A voice vote was taken; vote passed (7-0)

RESULT:	**APPROVED WITH CONDITIONS [7 TO 0]**
MOVER:	Rebecca Schaefer, Commissioner
SECONDER:	John Stoker, Commissioner
AYES:	Nerbun, Bach, Choren, Gentges, Hawley, R. Schaefer, Stoker
ABSENT:	Strzelczyk, Lemke, J. Schaefer

d) Torrey Drive, LLC for Carol Wiensch. The applicant is seeking rezoning recommendation from R-3 to R-3/PUD and concept plan approval to allow a 11-lot subdivision for the property located at 10766 Torrey Drive.

Commissioner Stoker recused himself.

Public Feedback

Scott Rolfs – 7831 W. Rolling Field Drive – he is opposed and while he does not live in the surrounding area, but he has relatives near this area, and he has been a long time Mequon resident. He does not support the constant growth in the city, and he believes this area will be too congested. He requests that at the minimum, that the connection between the subdivisions not be approved.

Rob Fetherson – 102020 N. Fairway Circle – he is opposed due to the wildlife being eliminated from this parcel as well as the noise brought to a currently quiet area. He strongly opposes the connection between the subdivisions due to safety issues, increased opportunity for criminal activity and the change from a private residential environment to a public one.

Jeff Tunney - 3110 W. Valleyview Court – he is not opposed to the development, but he vehemently opposed to the proposed access road. He has received a lot of feedback from residents in North Shore Estate subdivision that also opposed to the access due to increased traffic and safety concerns.

Residents that support the development but oppose the access thoroughfare:

Ryan & Kate Buyueske – 3427 W. Clubview Court
Rachel & Andrew Moracuk- 3424 W. Clubview Court

Laverne Knoll – 10714 N. Fairway Circle – he is a lifetime civil engineer, and he is concerned the proposed access road and impervious surface will negatively impact the existing erosion on Fairway Lane.

Rick Paler – 3407 W. Meadowview Court – he is opposed to the connection as a safety concern for the many young kids in the neighborhood and he believes no outlet in the subdivision deters criminal activity.

Justin Strom – 10708 N. Fairway Circle – he is supportive of the proposed development, but he does not support he road connection and encourages the Commission to eliminate condition #14 in the staff report from the approval.

A few residents from Gazebo Hills spoke and reiterated sentiments that the road connection and traffic is not desired as it would change the characteristics of the neighborhood.

Asst. Dir. Zader stated that the parcel is currently zoned 1-acre. He explained that this is one of the last undeveloped parcels in the area. The proposed plan shows 11 lots, approximately .7 acres each and is compatible to the surrounding neighborhood. There is a pocket of specimen trees and staff is recommending that the trees be put in an outlot and not on private property, which will leave one isolated specimen tree that will need to be protected. Staff is also recommending larger open space along two sides so that there is 30 feet all around. The applicant is requesting 25 feet on the north and the east sides and staff would accept this as both sides abut other open space areas to provide more buffer. A natural trail around the perimeter of the development is recommended.

Asst. Dir. Zader explained that if the Commission does not recommend the road connection for approval that a hardscape path that would connect the cul du sac with the public road cul du sac be recommended. Staff recommends approval according to the conditions in the report.

The Commission discussed the connection and noted that a bike path is recommended as it would not majorly impact the lots.

Mayor Nerbun stated that he does not support the road connection, but he does support the pedestrian bike path connection.

The applicants, Paul Apfelbach and Fred Bersh, stated this development was designed after Gazebo Hills subdivision. They met with the neighbors and the Alderwoman and are pleased with the feedback and support for this project. Mr. Apfelbach stated they are requesting a 30-ft front yard setback instead of the 50-ft set back listed in the staff report. They do not want the road connection and are requesting it be eliminated for the staff report conditions. He stated they are also requesting 25 feet outlot to be consistent with Gazebo Hills and to include the specimen trees. Mr. Bersch said they are supportive of the bike path connection but are uncertain where it would be located.

Asst. Dir. Zader stated that the 30-foot front yard setback requested by the applicant is acceptable to staff as it keeps the proposed homes further away from existing houses.

Action
Commissioner Bach made a motion to approval the item with the amendment to condition #4 to allow for a 30-foot front yard setback and amend condition #14 to be a pedestrian bike path with a minimum 10-foot width in an outlot with an 8-foot pavement, subject to staff approval of final design.
Commissioner Choren seconded the motion.
A roll call vote was taken; vote passed (6-0)

RESULT:	**APPROVED WITH CONDITIONS [6 TO 0]**
MOVER:	Greg Bach, Alternate
SECONDER:	Martin Choren, Commissioner
AYES:	Nerbun, Bach, Choren, Gentges, Hawley, R. Schaefer
ABSENT:	Strzelczyk, Lemke, J. Schaefer
RECUSED:	Stoker

5) Announcements

The next meeting is Monday, September 19, 2022, at 6:00 p.m**.**

6) Adjourn

Action
Commissioner Choren made a motion to adjourn.
Commissioner Bach seconded the motion.
A voice vote was taken; vote passed (7-0)

Respectfully Submitted,

Jac Zader