City of Mequon

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Department of Community Development
Taped and Recorded

PLANNING COMMISSION
Monday, September 21, 2020
6:00 PM
GoToMeeting Virtual Call

Minutes

1) Call to Order, Roll Call

Mayor Wirth called the meeting to order at 6:00 p.m.

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

a) Approval of Meeting Minutes from July 27, 2020

Action
Commissioner Choren made a motion to approve the July 27, 2020 meeting minutes.
Commissioner Lemke seconded the motion.
A voice vote was taken; vote passed (8-0)

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

2) Public Hearing

a) St John's Properties, Inc. for Superb Health, L.L.C. The applicant is seeking conditional use grant approval for a personal fitness studio for the property located at 10650 N. Baehr Road.

Action
Ald. Parrish made a motion to open a public hearing.
Commissioner Choren seconded the motion.
A voice vote was taken; vote passed (8-0)

No one registered to speak.

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

Planner Vang stated this item would have been on the consent agenda except that it required a public hearing due to the conditional use grant approval requirement. She stated that the request is for a 1,500 sq. ft. fitness studio in a multi-tenant building location in the Business Park. This type of use has been approved by the Commission previously and staff finds that the use is compatible and harmonious with the surrounding properties. The hours of operation proposed are 7:00 am – 6:00 pm. Staff did review the parking calculation for all users and tenants of the building and the parking requirement is met with the 45 parking spaces on site. Staff does recommend approval of the conditional use grant.

The applicant, Nick Lynch, stated that the majority of his clientele is from the north shore area and that this location is a great fit for his business. He stated that he will be a positive addition to the community.

Action
Commissioner Choren made a motion to approve the request.
Commissioner Jim Schaefer seconded the motion.
A voice vote was taken; vote passed (8-0)

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

b) Milanco Properties, L.L.C. for MShiraz Wines of Wisconsin. The applicant is seeking conditional use grant approval to allow for warehousing and office operations located at 1115 W. Liebau.

Ald. Parrish recused himself from this item.

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

No one registered to speak.

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

Planner Vang stated that this request is for warehousing on Liebau Road for a wholesale liquor and wine distributor. They sell directly to businesses with no walk-in traffic. They will occupy 5,500 sq. ft. of the 28,000 sq. ft. building. This area is zoned B-4 and allows for warehousing as a permitted use. Staff finds this use compatible and harmonious with the surrounding properties. All of the activities will take place inside the building and will monitored by staff. Staff did notify the applicant that delivery traffic to this site is limited to 2-3 weekly deliveries. The outgoing traffic is 2-3 cargo vans loading at 5:00 am – 7:00 am. A warehousing use can be considered compatible with the land use plan designation and expected uses in the area.
Staff recommends approval.

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

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

c) R.A. Smith, Inc. for Ryan Companies US, Inc. The applicant is seeking conditional use grant and building site plan approval to allow for a single-story hospital of + 17,000 sq. ft. located at 11421 N. Port Washington Road (Froedtert & the Medical College of Wisconsin Neighborhood Hospital).

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

No one registered to speak.

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

Asst. Dir. Zader stated that this applicant was granted CUG and building and site plan approvals in the past and many of the conditions have already been satisfied, but the project stalled, and it went past the approval period so it needs to be approved again. He explained that it is the same submittal as two-years ago.

There were questions from the Commission regarding the lighting due to residence housing directly to the west. Asst. Dir. Zader answered that there is not any lighting on the west side of the building and there is no overflow of lighting to the neighboring property. There is a 6-ft fence behind the building on the west side as well.

Action
Commissioner Lemke made a motion to approve the CUG and building and site plan requests.
Ald. Parrish seconded the motion.
A voice vote was taken; vote passed (8-0)

RESULT:	**APPROVED [8 TO 0]**
MOVER:	Rick Lemke, Commissioner
SECONDER:	Brian Parrish, Alternate Alderman
AYES:	Wirth, Parrish, Bach, Choren, Gentges, Lemke, J. Schaefer, R. Schaefer
ABSENT:	Stoker

3) Regular Business

a) Brian and Nicole Lammi. The applicant is seeking specimen tree removal approval to allow for 2 Oak trees to be removed for the property located at 11410 N. Creekside Court.

Parks and Forestry Superintendent, Mike Gies, stated that there are 4 trees in question and 2 of the trees are undersized by Mequon standards of the Preservation Policy (6” and 7”). The 2 trees that are being considered for removal are a 14” Bur Oak and a 12” Bur Oak. He explained that the trees were previously in a wooded area that is just east of a Tree Preservation area. Mr. Gies stated that both trees are in very good condition without any visual defects other than a little bit of shaded canopy.

The applicant was represented by Mr. Kulata, and he stated that the trees are requested to be removed so that a swimming pool can be installed. He explained that 1 of the trees is located in the footprint of the pool and the other tree is left by itself and stands out like a flagpole.

Mr. Gies stated that neither tree is a flagpole although that they are branched higher due to being in a crowded wooded area than if they had been standing alone. He believes that are in good enough condition to consider preservation as there is no visual defect, decay or fungus bodies on the sides of the trees and if there were left unimpeded, they would have a strong survivability. When questioned about different positioning of the pool in order to preserve the trees, he answered that the trees are equal distance and that they would both be affected.

Action

Commissioner Choren made a motion to approve the removal of both trees subject to the requirements and conditions of replacement of inches or funding in accordance with the Mequon Tree Fund.
Mayor Wirth seconded the motion.

There was feedback from the Commission that the specimen tree removal requests feel disingenuous and that approvals should not be made.

Mayor Wirth stated that the city does create an alternate option that requires replacement of trees when removed and that property owners should have the right to use their property for normal residential purposes; which include installing a swimming pool on their property.

A roll call was taken; vote passed (6-2) (No votes: Becky Schaefer, Jim Schaefer)

RESULT:	**APPROVED WITH CONDITIONS [6 TO 2]**
MOVER:	Martin Choren, Commissioner
SECONDER:	John Wirth, Chair
AYES:	Wirth, Parrish, Bach, Choren, Gentges, Lemke
NAYS:	J. Schaefer, R. Schaefer
ABSENT:	Stoker

b) Patrick and Caroline O'Leary. The applicant is seeking specimen tree removal approval to allow for 4 White Pine trees to be removed for placement of a new home for the parcel located at 13930 N. Hawks Landing.

Parks and Forestry Superintendent, Mike Gies, stated that he supports the request for the removal of 2 trees in order to build a new home on this property; as he does not feel that the trees would survive the construction impacts. He explained that there are 2 additional trees on the site towards the front of the property; two 12” White Pines, which are in good condition and he does not feel they should be removed.

Action

Commissioner Choren made a motion to approve the removal of the 2 trees in the footprint of the proposed home and retain the 2 other 12” white pines in the front of the property subject to staff conditions.
Commissioner Jim Schaefer seconded the motion.

Asst. Dir. Zader explained that this subdivision was approved prior to the Tree Preservation ordinance being adopted and possibly did not recognize specimen trees on these plots.

Mr. Gies added that 3 of the trees may not have been considered specimen trees at the time of platting.

Mayor Wirth recommended differentiating between trees that did not begin as specimen trees as to not adversely affect property values or the unnecessary removal of trees prior to building on the property.

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

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

c) Farmdale Estates. The applicant is seeking street tree and landscape plan approval for a six-lot single-family subdivision for the property located at the northwest corner of Mequon and Farmdale Roads.

Planner Vang stated that the street tree plan was approved by the Tree Board on August 19, 2020 in which they recommended approval of 58 trees along the private road. The applicant is requesting approval from the Commission for the street tree plan. The applicant is also requesting landscape plan approval which includes landscaping in the cul du sac island and at the entrance island; both are located in out lots and will be maintained by the HOA. Staff does recommend approval of both plans subject to the conditions in the report.

Action

Commissioner Choren made a motion to approve the street tree plan and landscaping plan. Commissioner Lemke seconded the motion.
A voice vote was taken; vote passed (8-0)

RESULT:	**APPROVED [7 TO 0]**
MOVER:	Martin Choren, Commissioner
SECONDER:	Rick Lemke, Commissioner
AYES:	Wirth, Parrish, Bach, Choren, Gentges, Lemke, J. Schaefer, R. Schaefer
ABSENT:	Stoker

d) Dan Mehail. The applicant is seeking minor request approval for fill in excess of 1,000 c.y. and for berms in excess of 4.5 feet in height for the property located at 12701 N. Farmdale Road.

Dir. of Public Works/City Eng. Kristen Lundeen stated that this is for two sets of applications:

1. Berm that was constructed along the house and is an after the fact permit due to

exceeding 1,000 c.y. of fill and the height.
2. Proposed berms to be constructed along Farmdale Road.

She stated that the applicant does intend to install berms which will be similar in size in height along Highland Road. Unless the Commission changes the conditions of approval, the applicant will need to come back for the approval of those berms.

Mayor Wirth questioned the reasoning for these berms; whether they are for soundproofing and/or privacy. Eng. Lundeen answered that she does not know the intent.

The applicant was not present on the meeting call.

Eng. Lundeen explained that they did have an initial fill permit but as construction occurred the amount of fill and size exceeded the permit authorities. There was a stop work order issued for the initial berm around the home in order to bring them in to compliance and bring the approval requests before the Commission.

Action
Ald. Parrish made a motion to approve subject to the conditions in the report.
Commissioner Choren seconded the motion.
A voice vote was taken; vote passed (7-1) (No vote; Jim Schaefer)

RESULT:	**APPROVED [7 TO 1]**
MOVER:	Brian Parrish, Alternate Alderman
SECONDER:	Martin Choren, Commissioner
AYES:	Wirth, Parrish, Bach, Choren, Gentges, Lemke, R. Schaefer
NAYS:	J. Schaefer
ABSENT:	Stoker

e) Residence at Foxtown. The applicant is seeking street lighting and development agreement amendment approval for a proposed 23 single-family home development for the property located immediately east of 11050 N. Weston Drive.

Asst. Dir. Zader stated that the street tree approval was removed from the agenda due to issues with the latest plan and will come back for approval at a later meeting. Street lighting and development agreement amendment approvals are requested. The code requires Planning Commission approval for street lighting, but it does not dictate any design specifications or quantities. The applicant is requesting two streetlights at the entrance of the subdivision. Staff recommends 2 additional streetlights be added to the development. The applicant is working with We Energies and wants to install lights from them. The fixture design is similar to the Foxtown light fixture, but the We Energies design has a glass shield over the top. Staff requests that a light similar to the lights on Cedarburg Road; which are very similar to the other lights throughout Foxtown, be used. Asst. Dir. Zader showed some examples of the current lights. Due to the proximity of all the lights, it would be beneficial to match the light fixtures.

Dir. of Public Works/City Eng. Kristen Lundeen stated that development agreement amendment request is for the amendment to the requirement for final asphalt paving prior to final plat. The previous amendment had provided that some of the streets within the development were not required to have the final asphalt surface prior to final plat; and instead to place a Letter of Credit ("LOC") on file until 50% or the homes, or two years after the time of final plat approval. The current request is to have none of the final asphalt installed at the time of final plat and instead a change to that requirement from 50% to 75% of the homes or two years. Staff is requesting that if the request is considered, that the previous 50% of homes remain as well as an additional LOC be required for the binder course in case there is any damage as construction is completed without the full strength of the final course with the asphalt.

Asst. Dir. Zader showed a picture supplied by the applicant of where the streetlights would be located.

The applicant, Tom Zabjek, President of Lakeside Development, stated that they are proposing eliminating the light they originally proposed. He feels that it does not make sense to have the lights so close to each other at the entrance from Weston Drive. This is a private road and he feels that they should choose the light fixtures that they want.

Mayor Wirth suggested that the two requests be handled separately and voted on separately as well.

Asst. Dir. Zader explained that there should be a light in this location; as was originally proposed by the applicant, as it is a main intersection between the E1 building and the homes as well as leading back to the future D building. He confirmed that the lighting code does not require the applicant to install any lights, but staff recommends a similar lighting pattern as the other end of the road. The applicant did submit examples of the We Energies fixtures, but staff never received a reason for using these fixtures as opposed to the lights that have been used throughout the Town Center; including Foxtown Brewery, Weston Drive, Cedarburg Road, Mequon Road in front of Spur16 and St. Paul's Fish Company. Staff feels that the consistency of using the same fixtures offers better aesthetics.

There was discussion regarding how many lights are necessary at the intersection in question; two lights as opposed to three lights.

Mayor Wirth stated that although there are separate parts to this development, the overall development was applied for as one development and he feels that there should be harmony for all the aspects of the development. He further stated that although lighting is not required, approval of the design of any proposed lighting is required.

Dir. Tollefson stated that due to the PUD, the intent is that there is synergy among the various parts of the development and cohesiveness. This is especially prevalent in Town Center where a uniform look is trying to be achieved between private development and public infrastructure.

Mr. Zabjek clarified that they are requesting to move their originally proposed locations due to Nieman installing lights at the same intersection. The lights would be moved further down the two roads to the east and an additional one would be on Fox Crossing; for a total of 3 light fixtures.

Staff is recommending a light at the entrance to the subdivision as well; which would be a total of 4 light fixtures.

The applicant's proposed light fixture; included in the packet; was reviewed. Asst. Dir. Zader stated that the biggest difference is the glass shield at the top of the fixture. The Foxtown fixtures are open at the top with an LED light.

Mr. Zabjek stated that he does not want to use the Foxtown light fixtures because he already ordered the fixtures and that WE Energies has a program he wants to participate in.

Action
Commissioner Choren made a motion to approve the 3 lights proposed by the applicant.
Commissioner Lemke seconded the motion.
A voice vote was taken; vote passed (8-0)

Action
Commissioner Choren made a motion to require the 3 light fixtures must be the Foxtown light fixture.
Commissioner Becky Schaefer seconded the motion.

Mayor Wirth stated that he feels that this is an integrated development and that the lights should match. A lighting plan should have been submitted and this issue should have been solved prior to the applicant ordering the lights.

There was feedback from some of the Commission that this is a private residence on a private road and that the fixture is not different enough to make a difference and a few Commissioners do not support the motion to require the Foxtown fixture to be used.

Commissioner Choren withdrew his motion.

Action
Commissioner Lemke made a motion to allow the proposed WE Energies light fixtures for these 3 lights.
Commissioner Gentges seconded the motion.

Mayor Wirth stated he wished there was a better picture of the WE Energies light fixture and questioned the exact coloring.

Mr. Zabjek answered that they are black.

There was feedback that there are too few details to make a sound decision regarding the light fixture and that there is some frustration that there have been repeated changes and concessions made to this project.

Action
Commissioner Choren made a motion to table this item until further detail about the fixtures can be provided.
Mayor Wirth seconded the motion.
A roll vote was taken; vote passed (5-3) (No votes: Ald. Parrish, Lemke, Gentges)

Action
Ald. Parrish made a motion to table the development agreement amemdment item.
Commissioner Lemke seconded the motion.

Dir. Lundeen stated that due to the timeframe required for paving if the applicant wants to get final plat, that if this is tabled, it is essentially requiring that they pave the surface course.

Ald. Parrish withdrew his motion.

Action
Mayor Wirth made a motion to approve the development agreement amendment per staff conditions.
Ald. Parrish seconded the motion.
A voice vote was taken; vote passed (8-0)

RESULT:	**TABLED [5 TO 3]**	**Next: 10/26/2020 6:00 PM**
MOVER:	Martin Choren, Commissioner	
SECONDER:	John Wirth, Chair	
AYES:	Wirth, Bach, Choren, J. Schaefer, R. Schaefer	
NAYS:	Parrish, Gentges, Lemke	
ABSENT:	Stoker	

f) North Shore Bank. The applicant is seeking a consultation for a 3,250 sq. ft. bank building with rear drive-through for the property located at 11319-11333 N. Port Washington Road.

Asst. Dir. Zader stated that this is a request for a proposed bank to be located on the site where the current Citgo and Mequon Lawn & Garden businesses are located. The request is for a stand-alone bank. Staff has met with the applicant several times and most of the issues have been addressed but there are still a few minor details to work out. The applicant is before the Commission for a consultation as they feel that it is important to get Commission feedback; mainly regarding the design of the building, before going further in the process.

Asst. Dir. Zader showed a site plan and stated that it is a small parcel of only .78 acres; much smaller than the 2-acre B-2 zoning district requirement. This project will require several waivers due to the small parcel. The location of the building was discussed, and the applicant wants to match the Starbucks building to the south; with a 40-foot front set back. Staff supports this as it cannot be placed any further back as it would bump up against the rear parking and building set back.

The biggest issue is the frontage road between the two connections. Staff is supportive of eliminating this connection and having a 1-way out only onto Port Washington Road; and a 2 lane in and out entrance on the north side of the property. The applicant would like to keep the connection to better serve northbound traffic for entry as there is a median opening which would allow for that. Without that, traffic would need to go up to the stoplight at Venture Court and do a U-turn and come back south to enter the property. Staff is not supportive of the frontage road due to the aesthetic; usually asphalt in front of a building is associated with a parking area, as well as from a traffic standpoint. The south entrance is already a congested area due to the Starbucks drive-thru lane entrance there and having a 1-way exit only would provide better traffic flow. This is the biggest difference between the applicant's proposal and staff recommendations and the applicant would like feedback from the Commission on this issue.

Asst. Dir. Zader showed the proposed renderings as well as pictures of some other branch buildings. The applicant would also like feedback on the architecture as they would like to draw some consensus and to be back in front of the Commission in the next few months for building and site plan and conditional use grant approvals. Staff is overall supportive of the proposal and understands that some waivers will be necessary due to the tight site and that the frontage road is the only area of disagreement.

There was discussion about the traffic issue due to the congestion at the Starbucks driveway. It was stated that most of the traffic will come from the south and that a U-turn is not desirable but may be the better option given the circumstances. Some Commissioners feel that north bound traffic should be allowed to enter from the median opening to the south entrance.

There was mixed feedback regarding the building design; but most of the Commissioners support the architecture and materials. The Commissioners do not like the roof style; as it is deemed to appear too heavy and not well integrated for a first-floor building.

Although this is a permitted use, there was feedback that the community is saturated with banks.

The applicant, David Kane from North Shore Bank, stated that they feel that they have provided some good solutions to the challenging parcel. They feel the safest plan is the dual entrances with the drive-thru in the back. They are planning to move forward and they are excited about the plan.

4) Announcements

The next meeting is Monday, October 26, 2020 at 6:00 p.m.

5) Adjourn

Action
Commissioner Becky Schaefer made a motion to adjourn.
Commissioner Choren seconded the motion.

A voice vote was taken; vote passed (8-0)

Meeting concluded at 7:53 p.m.

Respectfully Submitted,

Jac Zader