City of Mequon

11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2904
Fax: 262-242-9655

www.ci.mequon.wi.us
Department of Community Development
Taped and Televised

PLANNING COMMISSION
Regular Meeting
Monday, November 13, 2017
7:00 PM
Christine Nuernberg Hall

Minutes

1) Call to Order, Roll Call

Present:
Chairman Dan Abendroth
Commissioner Martin Choren
Alternate John Stoker
Commissioner James Schaefer
Commissioner Rebecca Schaefer
Alderman John Wirth
Commissioner Rick Lemke
Alternate Stephanie Hawley

a) Approval of Minutes

RESULT:	**APPROVED BY VOICE ACCLAMATION [UNANIMOUS]**
MOVER:	John Wirth, Alderman
SECONDER:	John Stoker, Alternate
AYES:	Abendroth, Choren, Stoker, J. Schaefer, B. Schaefer, Wirth, Lemke, Hawley

b) PLANNING COMMISSION MEETING MINUTES

2) Public Hearing

a) Allume Architects for Splash! Swim & Wellness. The applicant is seeking conditional use grant amendment and building and site plan amendment approval to allow for a 3,228 sq. ft. addition for the property located at 10636 N. Commerce Street (Mequon Business Park).

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

Action
Ald. Wirth made a motion to close the public hearing.
Commissioner Stoker seconded the motion.
A voice vote was called, vote passed (8-0)

City Planner Vang stated that the addition is for a second pool and additional restroom facilities. The existing pool has a capacity of 16 and the new pool will have a capacity of 10. They will add four parking stalls on site. Staff feels that there will be sufficient parking on site. The addition will match materials and colors of the existing building. The north elevation will include a storefront window that matches the pattern and size of the existing window. Staff recommends additional evergreens be added to the landscaping along the south elevation to help screen the dumpster from Executive Drive. The applicant is requesting a temporary access from Executive Drive for construction and this will result in the removal of one street tree. This has been approved by the City Forester subject to the tree being replaced in diameter and species after construction is complete. Engineering has provided comments in the staff report. The Conditional Use Grant amendment will remain harmonious with the uses in the Business Park and staff recommends approval.

The applicant, represented by Andrea Nemecek with Allume Architects, stated that she does have two questions about some of the conditions in the staff report.

1. She asked if there is there a specific location for the evergreen buffer? She offered to replace some of the existing shrubs with evergreens to help screen the dumpster.

Ms. Vang answered that replacing some of the existing scrubs with evergreens would help with the screening during the winter months. She explained that a revised landscape plan approved at staff level is a condition of the approval.

2. Ms. Nemecek asked for clarification about condition #3 regarding the screening.

Ms. Vang explained that actual plans of the dumpster are required.

Ald. Wirth stated that he received a few comments from residents that the existing mechanics on the existing building are noisy and he asked if staff has received any complaints.

Asst. Dir. Zader responded that staff has not received any complaints and that a 65 decimal reading from the property line is typically required.

Action
Ald. Wirth made a motion to approve the item.
Commissioner Choren seconded the motion.
A voice vote was called, vote passed (8-0)

RESULT:	**APPROVED [7 TO 0]**
MOVER:	John Wirth, Alderman
SECONDER:	Martin Choren, Commissioner
AYES:	Abendroth, Choren, Stoker, J. Schaefer, B. Schaefer, Wirth, Hawley, Lemke
EXCUSED:	Mason, Parrish

3) Regular Business

a) Zhenghau Wu. Th applicant is seeking a fill permit to allow for 7,000 C.Y. to modify the lot grading for landscaping for the property located at 12813 Highgate Court in the Highgate subdivision.

Asst. City Engineer, Bridget Henk, stated that the applicant did receive a fill permit last year for 2,500 C.Y. This request is in addition to that request and would be a total of 9,500 C.Y. A grading plan was not submitted for this fill permit, so staff is recommending the item be tabled until a plan is submitted and can be reviewed.

Action
Ald. Wirth made a motion to table the item.
Commissioner Jim Schaefer seconded the motion.
A voice vote was called, vote passed (8-0)

RESULT:	**TABLED [UNANIMOUS]**
MOVER:	John Wirth, Alderman
SECONDER:	James Schaefer, Commissioner
AYES:	Abendroth, Choren, Stoker, J. Schaefer, B. Schaefer, Wirth, Lemke, Hawley
EXCUSED:	Mason, Parrish

b) Badger Lighting and Signs. The applicant is seeking reconsideration of the master sign plan amendment approval for the property located at 11120 N. Cedarburg Road (Mr. B's restaurant).

Asst. Dir. Zader stated that this item was denied by the Commission in August. There was a September 27th hearing before the Board of Appeals (BOA). At the BOA the applicant stated that the Commission did not error in its decision but that they wanted another chance for approval. Staff feels that a few issues from the transcript from the BOA should be discussed. One is the issue of the investment made by the applicant into the property. At the August 11, 2017 Planning Commission meeting, Commissioner Parrish did state that he felt it was important to work with the applicant to provide for sufficient signage for the investment they had made. Staff feels that this issue was somewhat discussed. Secondly, the issue of the westbound visibility of the signage was discussed. Asst. Dir. Zader showed pictures taken from different spots heading west on Mequon Road. He summarized that the monument sign can be seen from all the locations but staff does not feel that an additional wall sign on the north elevation would be a substantial help to westbound traffic. The other issue was regarding the commonality of master sign plans in the city. It is not the intent of master sign plans to all be treated similarly. The master sign plan relates to a coordinated and comprehensive approach to development. Most developments are unique in their set up; the master sign plan is intended to be flexible to accommodate those needs and staff does not feel they need to be equitable as it would be difficult to measure equality.

In comparison, Café Hollander is a stand-along restaurant with multi facades facing Cedarburg and Mequon Road. Mr. B's is a tenant in a multi-tenant building. Mr. B's was already granted two wall signs which is one more than the code allows for a multi-tenant building. Because Café Hollander has three facades that face the street, they are allowed 3 signs. They have 3 signs and a logo that face the public view. They have 25% more signage than what is allowed per the code. In terms of square footage, Mr. B's is allowed a 60 sq. ft. sign on the tower which is twice what the code allows. In comparison, Café Hollander has a few exceptions in size but it is nowhere near double what the code allows for a single tenant building. It is very difficult to try to look for equality among master sign plans as developments are vastly different in design and layout.

Asst. Dir. Zader stated that he feels it was difficult for the BOA to make a decision andBoard members were using their personal opinions about the Café Hollander sign to make a decision about signage for Mr. B's. There are some quotes included in the packet that support this. They were also diverging into policy that is the role of the Commission. Staff does not feel that an additional wall sign fits in with the building, the architecture or will provide any benefit to westbound traffic. Staff recommends denial of this request as recommended in the past.

The applicant, Joe Bartolotta, stated that he is thrilled to be part of the Mequon community. He admits that it is not the best space for his restaurant but it was available and they took it. They have gotten feedback that their restaurant is difficult to find. He is asking for a little more visibility to help ensure that their restaurant is able to be located and to be successful. He disagrees with staff and feels that the westbound traffic has very limited visibility of the signage. He will respect whatever decision is made but he really wants his business to be successful.

Ald. Wirth stated that he is emphatic as that building is difficult to see. He does not feel that they monument sign is very visible. He disagrees with staff and he feels that master sign plans should be consistent. Waivers are available for hardships but he feels there should be more consistency. He feels that the sign code should be looked at from a policy standpoint and changes made. He will vote against this approval again because he is concerned with the repercussions regarding enforcement of what he feels is a flawed code. He also stated that the Mr. B's signage is not attractive. He suggested changing the name of the building to incorporate Mr. B's and that would allow them more signage.

Mayor Abendroth stated that the Mr. B's signage (all white background) looks totally incompatible with the building signage (RiverSite Commons). He too suggested incorporating their names so that it identifies Mr. B's being located in the building.

Mayor Abendroth stated that the applicant should try to work their logo into the development name.

Commissioner Choren asked if the monument sign is as large as it can be. He feels that if the code allows for a bigger sign, he recommends increasing the size.

Asst. Dir. Zader stated that he is not sure about the size but Mr. B's has a larger tenant panel than the other tenants. He stated that other tenants may also want increased signage. He also stated that staff had recommended the monument sign be moved closer to the road but WisDot was not supportive as they own Mequon Road.

Commissioner Lemke stated that he would be supportive if the applicant came back with a sign that better fits that elevation.

Commissioner Stoker stated that he agrees with Ald. Wirth that exceptions open Pandora 's Box. He strongly supports the Mayor's suggestion to incorporate both names into the development name which would allow for more signage. He would definitely support that effort. He feels that anytime the Commission can help a business get another impression he supports that.

Ald. Wirth stated that no one in the city knows the name River Site and often refer to the building by the restaurant name or by Impressions. He also supports changing the name of the shopping center.

Action
Ald. Wirth made a motion to table the item.
Commissioner Becky Schaefer seconded the motion.
A voice vote was called, vote passed (8-0)

RESULT:	**TABLED [UNANIMOUS]**
MOVER:	John Wirth, Alderman
SECONDER:	Rebecca Schaefer, Commissioner
AYES:	Abendroth, Choren, Stoker, J. Schaefer, B. Schaefer, Wirth, Lemke, Hawley
EXCUSED:	Mason, Parrish

c) SBA Towers, LLC. The applicant is seeking building and site plan amendment approval for a 120' monopole and 5' lightning rod for a cell tower for the property located at 9809 N. Cedarburg Road (River Barn Park).

Asst. Dir. Zader stated that this was approved back in July of 2015. The Commission had placed a condition that the Park Board would ultimately decide the location of the cell tower and the enclosure. Originally it was proposed to the south of the parking lot and pavilion. At their August 2015 meeting, the Park Board proposed that the best location would be at the north end of the park. The Common Council did approve a lease agreement with the company back in March 2016. The application has lapsed and Planning Commission approval is required again.

He explained that the tower and enclosure will be located on the far north end of the property, adjacent to the cemetery. The plan is similar to the last time. The enclosure is cultured stone with arborvitae around it. The only issue in terms of the code is that it was shown with an encroachment into the 80 ft. front setback off of Cedarburg Road. It is considered a structure and does need to comply with setbacks. Staff feels there is enough room to move it back and keep it out of the floodway and be compliant with the 80 ft. front setback. Staff also recommends that the arborvitae be planted at 6 feet in height. Staff does recommend approval according to the conditions in the report.

James Anderson – 9734 N. Cedarburg Road - suggested that trees be planted around the enclosure. He talked to experts that state the trees do not affect the cell signals. He would like this to be required.

Asst. Dir. Zader stated that when the state law was changed, one of the conditions was that the Commission could change the esthetics of the cell tower. The Council could have made that request as part of the lease agreement, but the Commission is not allowed to make that a requirement of the approval.

Commissioner Becky Schaefer asked if the applicant has been paying for that space since the lease was signed in March 2016. She asked for confirmation that the neighbors were notified.

The applicant, Alex Novak who represents US Cellular and Verizon Wireless, stated that the lease is structured with an option period, which they are still under right now. The site was taken out of Verizon's budget and now it is back in the budget. He stated that trees in the 120 ft. range look ridiculous and a 70 ft. range is more appropriate.

Ald. Wirth stated that he wishes there was not a lease in place as it would give some more flexibility. He knows this must be approved.

Action
Ald. Wirth made a motion to approve subject to the conditions in the staff report.
Commissioner Stoker seconded the motion.
A voice vote was called, vote passed (8-0)

RESULT:	**APPROVED [7 TO 0]**
MOVER:	John Wirth, Alderman
SECONDER:	John Stoker, Alternate
AYES:	Abendroth, Choren, Stoker, J. Schaefer, B. Schaefer Wirth, Lemke, Hawley
EXCUSED:	Mason, Parrish

d) Chapter 58 of the Zoning Code as it relates to Stormwater Management

Asst. City Engineer, Bridget Henk, stated that the applicant is requesting a text amendment to change the existing stormwater management ordinance. The ordinance was adopted in 1999. It applies to sites that disturb 1 acre of land or more or add ½ acre of impervious surface. In 1999 a Master Stormwater Plan as developed by Camp, Dresser and McKee. In it were recommendations for what the stormwater management should be. A recommendation was that all new development, which is subject to the stormwater management regulation, would be required to do a stormwater management plan. That plan would have to look at three different scenarios:

- Pre-settlement Conditions – nothing on the land; only a field, no improvements
- Existing Site – a building and parking lot developed before 1999
- Redevelopment Site – several buildings and parking lot

She explained that on a grass surface, water runs slowly off of it and filters in. On a hard surface, the rain runs quicker off of it and flows to the offsite properties. The current ordinance states that developments need to develop to the pre-settlement condition to allow for infiltration to slow the run-off. The change requested by the applicant would require that the condition be no worse than it is today; how it is operating today is the standard. This is consistent with MMSD and The DNR. They are still required to do stormwater management; they just do not need to take it as far as if it were a field.

Mayor Abendroth stated that in part it is asking the new developer to make up for the omission of the previous developer to do the stormwater management that would have addressed the original problem.

Asst. Eng. Henk stated that this only applies to sites developed before 1999.

Ald. Wirth stated that it can be an expensive burden to developers and also has prohibited certain sites that are mostly concrete from being redeveloped due to the cost to redevelop. He is concerned that in certain parts of the city, the proposed language would not address water problems where they exist. He questioned whether it is possible for the proposed text amendment to apply to specific areas only.

Asst. Eng. Henk stated that the 1 acre of disturbance or ½ acre of impervious surface comes into account. If ½ acre of impervious surface is not being added, the stormwater management requirements do not have to be met.

Asst. Dir. Zader explained that there is language that the City Engineering has the ability to trump what is in the code and can require the pre-settlement conditions for areas that have known drainage issues.

Asst. Eng. Henk explained that both the MMSD and DNR state that you can't have worse conditions than what the conditions are today.

The applicant, Cindy Shaffer, stated that they submitted their stormwater management plan last November and they thought it was acceptable. In April they were informed that the submitted plan was not going to work and they have been going back and forth since then. They have added 3 underground tanks and impervious pavers to fulfill the requirements of

MMSD & DNR. This has cost them several hundred thousand dollars. She stated that the city ordinance is 20 years old and the MMSD and DNR will give credit for existing conditions. They feel that this is a burden not only to their site but other sites (Foxtown) as well.

Commissioner Becky Schaefer stated that there are drainage issues throughout the city. She agrees with Ald. Wirth in theory but feels that it will be difficult to put into practice.

Asst. Eng. Henk stated the code created in 1999 was intended to be more restrictive.

Ald. Wirth stated that if there is an area with a water problem overtime it will be made better within the current conditions. In an area without water problems, the DNR standards are acceptable.

Mayor Abendroth stated that most drainage issues are in residential neighborhoods. And people choose to live in low lying areas and others should not be burdened with fixing their problems.

Asst. Eng. Henk clarified that this proposed amendment would apply only to redeveloped sites prior to 1999, would disturb 1 acre of land and increase the impervious surface by ½ acre or more. It only applies to a handful of sites in the city.

Action
Ald. Wirth made a motion to approve the item.
Commissioner Stoker seconded the motion.
A voice vote was called, vote passed (8-0)

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	John Wirth, Alderman
SECONDER:	John Stoker, Alternate
AYES:	Abendroth, Choren, Stoker, J. Schaefer, B. Schaefer, Wirth, Lemke, Hawley
EXCUSED:	Mason, Parrish

4) Announcements

a) 2018 Planning Commission Meeting Schedule

Mayor Abendroth stated that the 2018 meeting schedule was handed out.

The next meeting is Monday, December 4th, which is one week earlier than normal.

Ald. Wirth stated that he feels that the Planning Commission meetings should always be a week before the Common Council meetings to that people have time to learn about decisions made by the Commission and time to process and review those decisions.

5) Adjourn

Action
Ald. Wirth made a motion to adjourn.
Mayor Abendroth seconded the motion.
A voice vote was called, vote passed (8-0)

Respectfully Submitted,

Jac Zader