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Department of Community Development
Taped and Televised

**PLANNING COMMISSION
Regular Meeting
Monday, December 13, 2021
6:00 PM
Christine Nuernberg Hall
Minutes**

1) Call to Order, Roll Call

Present:

Chair John Wirth
Alderman Robert Strzelczyk
Commissioner Gregg Bach
Commissioner Martin Choren
Alternate Joe Goldberger
Alternate Stephanie Hawley
Commissioner Rick Lemke
Commissioner James Schaefer
Commissioner Rebecca Schaefer
Commissioner John Stoker
Commissioner Dan Gentges - **Absent**

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

a) Approval of Meeting Minutes from November 22, 2021.

Action

Ald. Strzelczyk made a motion to approve the meeting minutes from November 22, 2021.
Commissioner Stoker seconded the motion.
A voice vote was taken; vote passed (8-0)

RESULT:	APPROVED [8 TO 0]
MOVER:	Robert Strzelczyk, Alderman
SECONDER:	John Stoker, Commissioner
AYES:	Wirth, Strzelczyk, Bach, Choren, Lemke, J. Schaefer, R. Schaefer, Stoker
ABSENT:	Gentges

2) Consent

- a) Chaput Land Surveys for Kellner Highland Property, LLC. The applicant is seeking certified survey map approval for a 4-lot land division for the property located at 4550 W. Highland Road.
- b) Berengaria Development for BMSL Mequon Invest LLC. The applicant is seeking approval of a previously approved land division to create four lots south of 11104 N Oriole Lane since the deadline to record the certified survey map has passed. The land division was previously approved on March 22, 2021. No changes are proposed.

Action

Ald. Strzelczyk made a motion to approve the two consent agenda items.

Commissioner Stoker seconded the motion.

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

RESULT:	APPROVED [8 TO 0]
MOVER:	Robert Strzelczyk, Alderman
SECONDER:	John Stoker, Commissioner
AYES:	Wirth, Strzelczyk, Bach, Choren, Lemke, J. Schaefer, R. Schaefer, Stoker
ABSENT:	Gentges,

3) Regular Business

- a) Patricia and George Kashou. The Planning Commission may review a request to amend its approval of the certified survey map from September 27, 2021, for the property located at 10425 N. Granville Road to remove the requirement for a share driveway.

Action

Ald. Strzelczyk made a motion to reconsider the item regarding the shared driveway at 10425 N. Granville Road.

Commissioner Stoker seconded the motion.

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

Asst. City Eng. Cole McCraw stated that the applicant was in front of the Commission on September 27, 2021 for a CSM approval. Staff had recommended that lots 2 & 3 share a driveway access with an ingress/egress easement. After the approval the applicant requested that the condition be reconsidered. The original recommendation from staff was based on traffic safety. He stated that if the Commission reconsiders the approval of this condition, the applicant will still be required to meet the driveway spacing requirements.

Mayor Wirth stated that a shared driveway is not typically required and he does not support this requirement as there is potential for disagreements amongst neighbors. He does not believe there is heavy traffic in that area and it is not an area where there will be new development. He

supports this reconsideration.

The applicant, George Kashou, stated that the lots are 325 feet wide by 650 deep; 5-acre lots. He added that he does not believe this condition should be required and that it creates a hardship to selling the lots and creates potential conflict. He stated there is not a traffic safety issue.

Action

Commissioner Becky Schaefer made a motion to remove condition #6 from the original approval requiring a shared driveway and that the driveway spacing, per code is required.

Ald. Strzelczyk seconded the motion.

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

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

4) Policy

1) An Ordinance Creating Section 62-21 of the Mequon Municipal Code Relating to Signs Along Streets and on Public Property

City Attorney Brian Sajdak showed a presentation which explained some of the background and the new proposed sign code:

- Previous 1st Amendment Law: Content-Neutral (not taking sides).
- Changed by Supreme Court in Town of Gilbert: can't read sign to determine what type of sign it is.
- Wisconsin Institute of Law & Liberty ("WILL"): last summer issued a letter to the Common Council that our sign code is unconstitutional and threaten litigation (regarding the recall petitions and signs associated). In response, the Council suspended enforcement of the non-commercial components of the sign code while staff and Attn. Sajdak reviewed the sign code to determine if parts were unconstitutional and if so, to correct them.

Attn. Sajdak explained that during the recall election there were many calls made to staff regarding signs being placed everywhere and that some regulation is needed. There is now a proposed code specially addressing political signs on private property including the right-of-way ("ROW"). He stated that the rest of the sign code is continuing to be worked through and will be presented to the Commission once it is ready.

Mayor Wirth explained that another complaint is the city's prohibition on signs in public spaces,

except as approved by the city. According to the Supreme Court, this causes the city to not be content-neutral and therefore the ordinance is unconstitutional.

City Attn. Sajdak stated 3 types of locations are regulated:

1. **Street Reserved Area:** Physical street, path, sidewalk or if there is no sidewalk or path; 15 feet from the physical pavement. Signs are generally prohibited with the exceptions:
 - Traffic signs & street signs.
 - Warning signs and temporary emergency signs.
 - Entrance signs to the city.
 - Signs designating historical landmarks, naming neighborhoods and notifying the public of designations bestowed upon the city.
 - Adopt a street program signs.
 - Signs required by federal or state law.
 - Railroad & Utility signs for safety purposes.
2. **Other Public Property:** All city owned land, parks, ROW not part of Street Reserve Area. Also included:
 - American flags.
 - Names of buildings.
 - Park signs.
 - Voting signs.
 - City drop box.
 - Signs noting donors/contributors.
 - Signs required by other agencies.
 - Athletic field advertisers.
 - Tombstones.
 - Directional signs, maps or signs identifying features of interest on city property.
3. **Free Area:** 50-feet north of Gateway Monument and 25-feet East of the Street Reserved Area of Cedarburg Road. Free speech zone. Anyone can put a ground sign in this area, with the following exceptions:
 - No commercial messages/advertising.
 - Signs cannot be installed within 5-feet of the face of any other sign in the area.
 - Only one or any sign may be installed.
 - Cannot be greater than 63 square feet in size.
 - Cannot be a height greater than 7-feet.
 - All ground signs shall be removed during those hours that the electronic message board is turned off.

The Commission expressed some concerns regarding the free area; the amount of signs allowed, the allowable sign size, how the area will look and the enforcement of this area. There was discussion about the city message board and who should be allowed to post messages on it. Some Commissioners expressed their feelings of disapproval of the new sign code while understanding the necessity for it.

Mayor Wirth stated that the free area concept is being done around the country and is not an unique concept to Mequon. He stated that the proposed code is very clear and eliminates decisions to be made by governing bodies and staff.

City Attn. Sajdak stated he will continue to watch the courts and amendments will be made as needed.

Action

Commissioner Lemke made a motion recommend the proposed sign code to the Common Council.

Commissioner Hawley seconded the motion.

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

RESULT:	APPROVED [6 TO 2]
MOVER:	Rick Lemke, Commissioner
SECONDER:	Stephanie Hawley, Alternate
AYES:	Wirth, Strzelczyk, Choren, Hawley, Lemke, Stoker
NAYS:	R. Schaefer, J. Schaefer
ABSENT:	Gentges

5) Announcements

Mayor Wirth reminded the Commission that the 2022 meeting calendar was included in the packet.

6) Adjourn

Action

Commissioner Choren made a motion to adjourn the meeting.

Commissioner Becky Schaefer seconded the motion.

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

Respectfully Submitted,

Jac Zader