

PLAN COMMISSION MEETING
MONDAY, MARCH 21, 2022 – 6:00 PM
COUNCIL CHAMBERS, CITY HALL – VIRTUAL MEETING VIA ZOOM/IN PERSON

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

Roll Call. Present: Mayor Klein, Alderman Tim Dunn, John Gibbs, Kyle Cary, Joel Hoiland, Cindy Forster Fueredi, Absent (Excused) James Marquardt. Also Present: City Planner Mich, City Planner Kruesel, City Attorney Draper, City Administrator Nord, Building & Zoning Administrator Walling, Building & Zoning Administrative Assistant Follensbee.

Approve Minutes of the January 17, 2022 Plan Commission Meeting as distributed.

Hoiland/Cary motion to approve. Motion carried unanimously.

6:02pm Commissioner Fueredi joined the meeting via Zoom.

Comments from the public as allowed by Wis. Stats. §19.84(2), limited to items on this agenda, except for public hearing items. Comments will be limited to 5 minutes.

Acknowledgement of Correspondence. None.

Downtown Design Review:

Application by Anthony Silvestri, 1017 Geneva St. #9, Lake Geneva, WI 53147, requesting review for the proposed build addition, pergola, commercial entertainment remodel, and Signage for the property located at 642 W. Main St. in the downtown overlay zoning district, Tax Key No. ZOP00305.

Anthony Silvestri, owner of Magpies Den & Pen, presented his request for the proposed changes. Commissioner Hoiland congratulated the applicant on the significant changes to the property. Commissioner Cary asked if the bar in the back would be U-shaped & asked about the old pergola. Silvestri said the bar in the back will be expanded into a U-shape and the old pergola will be replaced by a larger pergola. Hoiland asked if the capacity would change in the outside area. Silvestri said it shouldn't change but the Fire Department is coming out to check the area with the new changes for capacity. Zoning Administrator Walling shared a request from the Fire Department to verify the clearance from the new bar to the side gate which should be a 36" clear space opening. Silvestri said there is a 52" from the bar face to the actual opening and the opening of the fence is 4 feet wide.

Hoiland/Cary motion to approve the proposed building addition, pergola, Commercial entertainment remodel and signage and include all staff recommendations.

Roll Call: Klein, Dunn, Gibbs, Cary, Hoiland, and Fueredi "yes." Motion carried unanimously. 6-0

Application by Stephanie Horne, 1009 W Glen Oaks Lane #101, Mequon, WI 53149, requesting review for the proposed exterior façade, awning which will include signage, and lighting for the property located at 717 W. Main St. in the downtown overlay zoning district, Tax Key No. ZOP00278.

Stephanie Horne, 717 W Main Street, presented her request to update the exterior color from brown to light gray, add awning with signage & gooseneck lights above it. Hoiland asked if the lighting would illuminate the top of the awning and penetrate the awning. Horne said it would illuminate the awning but should not shine through the awning. Cary asked if the awning will be smaller than the previous. Horne said the original awning was too big so they are putting in a smaller awning. Mayor Klein asked Walling if the proposed colors comply with the Downtown Design standards. Fred said the colors meet the historic colors standard.

Hoiland/Cary motion to approve the proposed exterior façade, awning, signage and lighting and include all staff recommendations.

Roll Call: Klein, Dunn, Gibbs, Cary, Hoiland, and Fueredi "yes." Motion carried unanimously. 6-0

Application by Unique Surface, LLC, 500 Nathan Ln., Elkhorn, WI 53121, requesting review for the proposed Signage for the property located at 726 Geneva St. in the downtown overlay zoning district, Tax Key No. ZOP00262.

Claire Scheithe, representing the applicant, presented the request to replace an existing sign with a proposed sign. Cary asked if proposed sign is the same size as the existing sign. Scheithe said yes, it is the same size. Commissioner Gibbs asked about the colors of the sign. Scheithe said the colors are black and white.

Hoiland/ Cary motion to approve the proposed signage and include all staff recommendations.

Roll Call: Klein, Dunn, Gibbs, Cary, Hoiland, and Fueredi “yes.” Motion carried unanimously. 6-0

Public Hearing and Recommendation of a Conditional Use Permit for Leigh Gignilliat, 3 N. Walworth Ave., Williams Bay, WI 53191, for a proposed pier addition for the property located at 978 N Knoll Ln., in the Estate Residential - 1(ER-1) zoning district, Tax Key No. ZYUP00106J.

Leigh Gignilliat, owner, presented his request to extend the existing pier he shares with his neighbor and runs on the common property line. Walling said the application meets the City and DNR requirements for a pier.

Gibbs/Dunn motion to close the Public Hearing. Motion carried unanimously.

Hoiland/Gibbs motion to approve the Conditional Use Permit to allow for a proposed pier addition and include all staff recommendations and fact finding in the affirmative.

Roll Call: Klein, Dunn, Gibbs, Cary, Hoiland, and Fueredi “yes.” Motion carried unanimously. 6-0

Public Hearing and Recommendation of a Conditional Use Permit filed by Justin W. Lanasa, 723 Williams St., Lake Geneva, for a request that would allow for Commercial Indoor Lodging land use and Group Development in the Central Business (CB) zoning district for the property located at 723 Williams St., Tax Key No. ZF00028.

Attorney, Tim Brovold, representing the applicant, presented the request to allow Commercial Indoor Lodging on the 2nd floor of house with 2 bedrooms, 2 parking spaces, and a kitchen. Cary asked if it would be an Airbnb. Brovold said yes. Planner Mich explained the application is for a change in land use, from a commercial apartment to a Commercial Indoor Lodging on the 2nd floor. Mich stated the 2 parking spaces are sufficient for this land use in Central Business zoning district. Mich said because there are 2 non-residential principle uses in a single building, it requires a Group Development Conditional Use Permit as recommended in the staff report.

Klein/Hoiland motion to close the Public Hearing. Motion carried unanimously.

Hoiland/Cary motion to approve the Limited Conditional Use Permit to allow for Commercial Indoor Lodging and a Conditional Use Permit for a Group Development and include all staff recommendations and fact finding in the affirmative.

Roll Call: Klein, Dunn, Gibbs, Cary, Hoiland, and Fueredi “yes.” Motion carried unanimously. 6-0

Public Hearing and Recommendation of a Precise Implementation Plan for Fairwyn SB, Inc., 875 Townline Rd. Suite 103, Lake Geneva, to allow for the construction of the proposed Clubhouse at 301 Harmony Dr. for the property located in the Planned Development (PD) zoning district, Tax Key No. ZSB00334.

Rick Zirk, representing Symphony Bay, 875 Townline Road, Unit 103, presented the request for a Clubhouse in the Symphony Bay Subdivision. Brian Pollard, owner of Fairwyn Development & developer of Symphony Bay, was also present for any questions. Zirk said Sonata Way is the main entrance to the subdivision and is designed to go right to the Clubhouse which is a gated facility for the subdivision residents. Zirk explained all the rooms & areas in the Clubhouse, the pool area, bocce ball & pickle ball courts and parking. Zirk said there is plenty of green space for additional parking or extra courts if expansion is needed. Zirk said the plan includes interconnecting walkways throughout the Symphony Bay community but also connects to Veterans Park, the High School, the Big Foot Beach State Park and eventually the Buttons Bay facility. Cary asked when the facility would be open. Zirk said the goal is to have a grand opening in the Spring of 2023. Hoiland asked about construction in the subdivision separate from the Clubhouse. Zirk gave an overview of the various phases in Symphony Bay. Klein asked for any staff input. Mich emphasized many people would be walking to the Clubhouse so the City asked the developer to put in a crosswalk on Harmony Drive to ensure safety for those individuals walking to the facility. Mich said staff has worked with the developer to make the facility site more pedestrian friendly and to install the pedestrian path of the east side of the site which runs north & south for bike and pedestrian

connectivity throughout the city. Mich stated the site has generous landscaping, more green space and less impervious surface than proposed in the GDP which is aesthetically pleasing when driving through the Symphony Bay to the Clubhouse. Mich also said the parking provided is sufficient for the Clubhouse. Hoiland asked if special events at the Clubhouse with outside guests attending would prompt the need for overflow parking. Zirk said the developer has the ability to expand parking on the southeast side of the Clubhouse, if needed.

Klein/Hoiland motion to close the Public Hearing. Motion carried unanimously.

7:00pm Commissioner Fueredi left meeting via Zoom.

Gibbs/Hoiland motion to approve the Precise Implementation Plan for a proposed Clubhouse and include all staff recommendations and fact finding in the affirmative.

Roll Call: Klein, Dunn, Gibbs, Cary, and Hoiland “yes.” Motion carried unanimously. 5-0

7:05pm Commissioner Fueredi joined meeting via Zoom.

Public Hearing and Recommendation to repeal and recreate Floodplain Zoning Ordinance Section 98-503 in accordance with WI DNR standards and guidelines.

Sonja Kruesel, Planner from Vandewalle & Associates, stated the public hearing is a proposed action to repeal and recreate the City of Lake Geneva’s Floodplain Zoning Ordinance Section 98-503 which is required by the DNR and FEMA. Kruesel said all updates must be completed and adopted in a format acceptable to the DNR by April 6th, which allows time for the Ordinance to be recommended by the Plan Commission and for the action to be approved by the Common Council to meet that schedule. If the Ordinance is not approved the City of Lake Geneva would be suspended from the National Flood Insurance Program which allows residents to obtain flood insurance. Kruesel said the big changes include the updated official maps of the local Floodplain Ordinance; updates from the DNR for the City of Lake Geneva; and incorporation of language to be included from new legislation - 2019 WI Act 175.

Klein/Hoiland motion to close the Public Hearing. Motion carried unanimously.

Attorney Draper noted some language in the Ordinance needs minor modifications: **Planning Commission** should be changed to the **Plan Commission** and **Board of Appeals** should be the **Zoning Board of Appeals**. Draper also suggested the Plan Commission should ask the Council to wave the second reading of this Ordinance at the next Council meeting so the City can meet the DNR deadline.

Hoiland/Cary motion to repeal and recreate the Floodplain Zoning Ordinance Section 98-503 in accordance with WI DNR standards and guidelines; modify the Ordinance replacing Planning Commission with **Plan Commission** and replacing Board of Appeals with **Zoning Board of Appeals**; ask the City Council to wave the second reading of the Ordinance to meet the DNR deadline and include all staff recommendations and fact finding in the affirmative.

Roll Call: Klein, Dunn, Gibbs, Cary, Hoiland, and Fueredi “yes.” Motion carried unanimously. 6-0

Update and discussion of potential zoning ordinance amendments in response to 2017 Wisconsin Act 67 regarding Conditional Use Permit requirements.

Planner Kruesel said this item is for discussion only, no action will be taken tonight. Kruesel said Act 67 legislation was passed in 2017 regarding how Conditional Use Permits are reviewed and approved. Prior to Act 67, communities were able to apply considerable discretion when reviewing Conditional Use Permits, but Act 67 changed the process so it is more difficult to deny the CUP Applications. Kruesel explained under the new law, the City must site substantial evidence in order to apply any condition or to deny a CUP. Cities are now asked to review and make amendments to the zoning code to better respond to the changes in the state law. Additional conditions can be built into the zoning code and the Plan Commission can attach other conditions when reviewing the use. Conditional Uses cannot grant flexibility from other zoning code standards but instead would be handled through a Planned Development Zoning or Variance procedures. The new legislation transfers the onus or burden of proof to the City on whether any condition could be imposed or denied. Any actions must be based on substantial evidence which means it is based on facts and information, not personal preference or speculation; it must directly pertain to the requirements and conditions which the applicant must meet to obtain the CUP; it must be what reasonable persons would accept and support as a conclusion.

In response to Act 67 and the need for zoning code updates, Vandewalle suggests the City of Lake Geneva should: 1.) Shorten the list of Conditional Uses that could be considered and 2.) Create new high impact zoning districts for certain uses which have the potential for high impact. The benefit of creating a new zoning district is that it would have to be mapped. When the City is considering a re-zoning decision or zoning map amendment, the City has a lot of discretion in approving or denying the Conditional Use Permit applications.

Proposed zoning code amendments: Procedures – clarifying & implementing substantial evidence language and how it is incorporated into the decisions. **Appeals** – clarifying appeals processes – If a CUP is denied, the Ordinance will explain what an applicant can do to appeal a decision. Vandewalle suggests the City follow the state statutes for this type of process which would go to the circuit court. Hoiland asked if adopting these amendments would change the process used by the Plan Commission. Kruesel referred to Section 5 – Review, Public Hearing and Recommendation by the Plan Commission – stating the entire procedure still takes place in the Plan Commission Meeting but the Ordinance simply conveys the separate steps inside the meeting. Commissioner Gibbs asked if the staff report would come from the Zoning Administrator. Kruesel said it would be a report from staff which contains a recommendation, also known as a report of preliminary recommended findings. This report would provide substantial evidence and a recommendation. Hoiland asked if the public notification would change. Draper said it would stay the same, meaning the publication would be a Class 2 Notice. Draper said the whole process is a good path for the Conditional Use Permits to follow. Draper said the burden is placed on the Plan Commission because public comments are heard and discussion takes place at the meetings so the best information can be gathered for the City Council which has the final vote.

Next, Kruesel went through the proposed changes to shorten the list of Conditional Uses with modifications to the Land Use Table to 4 Land Use categories and divided into 2 different scales.

- 1.) Indoor Commercial Entertainment: Small Scale CUP would be permitted by right with the requirements that the establishment would not have an alcohol license and would be under 2000 square feet. Large Scale CUP would follow the Conditional Use process and be subject to substantial evidence.
- 2.) Personal or Professional Service involving tattoos & permanent cosmetics above the clavicle would be permitted by right.
- 3.) Indoor Storage or Wholesaling would be prohibited in the Planned Business (PB) and General Business (GB) Zoning Districts due to proximity to Residential land uses. This land use would be permitted in all Industrial Zoning Districts.
- 4.) Personal Storage Facility would be prohibited in the Planned Business (PB) and General Business (GB) Zoning Districts due to proximity to Residential land uses. This land use would remain a Conditional Use in the Industrial Zoning Districts.

Another suggestion is to modify the Land Use Table for Piers to be a permitted use since if it regulated by the DNR and would be difficult for the City to deny the Conditional Use Permit. Draper stated the applicants installing piers are still required to apply to the DNR and follow the zoning standards: pier location must have a 12.5 foot setback from the riparian line, the pier length can be no longer than 100 feet and the parcel must have a primary structure to construct a pier.

Kruesel also asked for consideration of a New High Impact Zoning District by creating a legislative process first so there is discretion on where it is mapped. Suggested name: Extraction and Disposal Zoning District – heavy uses like quarrying & gravel extraction. The next step for the Conditional Use Permit Regulations would be to go into a redline format, holding a public hearing, take action as a recommendation, go to City Council for approval and finally become codified as a new ordinance. Draper said feedback is helpful now so changes can be made before it goes into the Ordinance form. Draper said this is the route to go based on legislative changes for Conditional Use statute.

Adjournment. Dunn/Klein motion to adjourn at 7:38 p.m. Motion carried unanimously.

/s/ Brenda Follensbee, Building & Zoning Administrative Assistant

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