

**CITY OF CEDARBURG  
PLAN COMMISSION**

**PLN20240701-1  
UNAPPROVED MINUTES**

**July 1, 2024**

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, July 1, 2024, at Cedarburg City Hall, W63N645 Washington Avenue, upper level, Council Chambers and online via the Zoom app. The meeting was called to order at 7:00 p.m. by Mayor Patricia Thome.

Roll Call                      Present -                      Mayor Patricia Thome, Council Member Jim Fitzpatrick, Adam Voltz, Sig Strautmanis, Jack Arnett, Sherry Bublitz, Jon Scholz arrival at 7:12 PM

Also Present -                      City Planner Mary Censky, City Administrator Mikko Hilvo, Administrative Secretary Theresa Hanaman, Applicants, Residents

**STATEMENT OF PUBLIC NOTICE**

Administrative Secretary Hanaman confirmed that the agenda for the meeting had been posted and distributed in compliance with the Wisconsin Open Meetings Law.

**APPROVAL OF MINUTES**

Commissioner Strautmanis made a motion, seconded by Council member Fitzpatrick, to approve the Plan Commission minutes from the June 3, 2024 meeting. Commissioner Strautmanis requested to change the sentence on page 7, “A motion made by Commissioner Strautmanis for Plan Commission that this concept has reviewed,” to say, “has been reviewed”. Commissioner Strautmanis would also like to strike out the following sentence “and recommends the Common Council look at the plan to shore up this initial concept so the applicant can start to invest further in developing more detailed plans and replace with “The Plan Commission found it consistent with the smart growth plan and would suggest the Common Council provide input.” Motion carried without a negative vote.

**COMMENTS AND SUGGESTIONS FROM CITIZENS**

Terrance King – W63 N762 Sheboygan Road  
Requests Commission to speak into microphones

**PUBLIC HEARING** - none

**OLD BUSINESS**

**REVIEW, DISCUSSION AND POSSIBLE ACTION ON THE REQUEST FOR BUILDING, SITE AND OPERATING PLAN APPROVAL TO CONSTRUCT AN ADDITION AND CHANGE THE USE OF THE EXISTING BANK BUILDING AT N69 W5269 COLUMBIA ROAD TO A MEDICAL CLINIC. THE APPLICANT IS WEAS DEVELOPMENT LLC W/CONSENT OF CURRENT PROPERTY OWNER BMO BANK N.A. THIS 1.5-ACRE SITE IS ZONED B-2 COMMUNITY BUSINESS DISTRICT.**

The Planning Commission reviewed and considered this request at the June 3, 2024, meeting. The use, building and site plans were generally well received with limited few exceptions such as the architectural blending of the addition with the existing building, screening of the rooftop HVAC equipment and ingress/egress at the northmost point along Highland Drive. Action on the plan was deferred pending further work on the architecture and screening, and information being collected about the ingress/egress.

Planner Censky reached out to the Police Chief shortly after last month's meeting. It was explained that the Commission was considering whether the full contingent of turning moves should be retained at the northmost entry/exit point along Highland Drive. The Chief acknowledged that there may be times when there is a que of vehicles at the intersection which may make certain entry/exit moves at this point feel tricky, but he stated that they have no record of an inordinately high call volume at this site or intersection. He stated that he would not be opposed to leaving the movements 'as is.'

Architecturally, there have been multiple discussions, email exchanges, and plan iterations exchanged between the Planner, architectural representatives on the Plan Commission, and the applicant over the past 4 weeks. The Plan Commissioners with architectural expertise were able to review and offer comments/ideas which the applicant considered and worked in to the design, ultimately leading up to this most recent version. This architectural edition appears to substantially improve the pairing of the proposed addition and HVAC screening with the existing building.

The applicant confirms that this medical clinic's use is not proposed to include inpatient care, urgent/quick care, or emergency health care services. They also confirmed that typical days/hours of use for this clinic will be approximately 7 a.m. through 8 p.m., Monday – Friday.

Planner Censky recommends the following conditions be considered for attachment to any Building, Site and Operating Plan approval the Planning Commission may be inclined to grant in this matter:

- 1) Applicant to secure the necessary building, electrical, plumbing, razing, and any/all other permits as may be required by Code, prior to the start of construction on this project.
- 2) The colors for the rooftop HVAC screening surround shall be color matched to the existing building siding and trim elements.
- 3) To whatever extent the back of wall for the elevated corner feature of the addition are visible to the surrounding view, they shall be finished using the same materials as front side. If a membrane or other material is to backdrop those elevated areas, it shall color match the front side material.
- 4) Applicant to raze and remove the existing drive-thru banking accessory structure on this site prior to the start of occupancy for the medical clinic use.

Commissioner Voltz commented that the original plan proposal had a uniform look with one gesture. The architectural team with WEAS Development revised the window style and the mechanical screen for the HVAC. Commissioner Voltz sees an all-stone addition and the corner

is differentiated from the rest of the mass with a stone awning element added and carried throughout.

Commissioner Strautmanis mentioned that the mechanical screen picks up on the eave line of the existing building and gives it architectural characteristics as opposed to the gabled version.

Council Member Fitzpatrick commented that the first iteration looked fine, but this revision looks quite a bit better and thanked Commission members who helped with the revised plans.

Commissioner Arnett confirmed the Fire Department was happy with the ingress/egress and agreed with the updated plans.

A motion was made by Commissioner Strautmanis to approve the modifications as resubmitted with the conditions presented by the City Planner and the recommendations of both reports from June 03, 2024 and July 1, 2024 meetings, seconded by Commissioner Voltz. Motion carried without a negative vote.

### **REGULAR BUSINESS; AND ACTION THEREON**

#### **REVIEW, DISCUSSION AND POSSIBLE ACTION ON THE REQUEST FOR WAIVER APPROVAL TO CONSTRUCT A 912 SQ. FT. DETACHED GARAGE IN SUPPORT OF AN EXISTING DUPLEX USE AT N45 W5707-09 SPRING STREET. THE APPLICANT/PROPERTY OWNER IS SHANE SAMSON. THIS .21 ACRE SITE IS ZONED RS-6 SINGLE-FAMILY/TWO FAMILY RESIDENTIAL DISTRICT**

Planner Censky explained this site presently has no garage. The permitted use is duplex residential. Mr. Samson proposes to construct a 38'wide x 24' deep, 912 sq. ft. detached, 4-car garage to support this duplex residential use.

City Code Section 13-1-10 (g) of the City Code Provides that:

- Accessory uses and detached accessory structures are permitted in the rear yard only;
- They shall not be closer than ten feet to the principal structure;
- Shall not exceed 20 feet in height;
- Shall not be closer than three feet to any lot line nor five feet to an alley line;
- All accessory structures combined, in a single-family and two-family residential district, shall not exceed 720 square feet in area;
- A maximum of two detached accessory structures are allowed on a residential lot;
- Appeals for a waiver to the restriction on the size of accessory structures shall be made to the Cedarburg Plan Commission”.

Mr. Samson’s lot is approximately 60 feet wide at the rear, leaving more than enough space for him to meet the required 3-foot offsets to the side and rear lot lines. There is also plenty of room to maintain the required 10-foot separation between the proposed new detached garage and the principal residence structure. The building plan shows overall building height to be 15’8&11/16<sup>th</sup>”

tall at the peak. Currently, there is a small garden shed on the property. Mr. Samson indicates he intends to remove this shed from the property in favor of the new garage, if a waiver is granted.

Planner Censky recommends the following conditions be considered for attachment to any waiver approval the Planning Commission may be inclined to grant in this matter:

- 1) Applicant to secure the necessary building, electrical, and any other permits as may be required by Code, prior to the start of construction on this detached garage structure.
- 2) Applicant to remove the existing garden shed from this site within 30 days of completion of the new detached garage.

Council Member Fitzpatrick questioned why the ordinance exists if it adheres to all other restrictions, why is the area of accessory structures limited. Also, what would be considered extenuating circumstances. Planner Censky explained it's not unusual to have a maximum size accessory structure limit in the code because you don't want accessory structures to out-mass the principal structure. Other municipalities' codes also generally have a threshold of less than 1000 sq. ft. in accessory structures.

Commissioner Voltz has seen a handful of applications requesting larger accessory structures. Commissioner Strautmanis feels intent was not to limit what people can do unless it would exceed a traditional 2 car garage. Plan Commission wanted to understand and to know what this looks like to look at this in context, so everyone agrees. An example would be a monster garage to fill an entire back yard because it meets off sets and setbacks also doesn't seem like a good path so Plan Commission set a threshold.

Mr. Samson updated Plan Commission that he will be changing the proposed 2x6 stud wall with a 2x4 stud wall, the overhang from 2 ft. to 1 ft., and the doors will be changed to 10 ft. to allow enough room for his vehicle. Planner Censky confirmed that this will not change the actual height of the structure that will remain no higher than 20 ft.

Commissioner Scholz mentioned the change in stud wall would not allow this structure to become a dwelling at any time even though it will be insulated. Code for residential uses requires walls to be built with 2x6 studs. The resident confirmed the siding color would be the same color as the house when asked by Commissioner Strautmanis.

Commissioner Bublitz made a motion to approve the waiver with the Planners recommendations, seconded by Commissioner Scholz. Motion carried without a negative vote.

**REVIEW, DISCUSSION AND POSSIBLE ACTION ON THE REQUEST FOR BUILDING, SITE AND OPERATING PLAN APPROVAL FOR BLIND HORSE WINERY LOCATED IN KOHLER WI. THE APPLICANT IS BLIND HORSE WINERY IN C/O ARCHITECT JASON AHRENS OF DISTINCTIVE DESIGN STUDIO. THE CURRENT PROPERTY OWNER IS ORMSBY ACQUISITIONS LLC. THIS .18-ACRE SITE IS ZONED B-3 CENTRAL BUSINESS DISTRICT WITH HISTORIC PRESERVATION OVERLAY DISTRICT.**

Planner Censky clarified the proposed use is consistent with the listed permitted uses in the B-3 District “Cocktail lounges, bars, and taverns” and “Restaurants (without drive-thru facilities)”. This plan reflects compliance with the spatial and bulk requirements of the B-3 District in terms of setbacks and offsets. The buildings are both preexisting so the Floor Area Ratio is not changing and the building setback from the Ordinary High Watermark of Cedar Creek is not changing.

This plan calls for refined finish of the outdoor space between the principal building and Cedar Creek. The area will offer generous seating opportunities and is intended to include outdoor dining and alcohol consumption. The existing accessory building will be refurbished for use as a patio bar. The exterior finishes and design of the principal accessory buildings, as well as the various screening and seating solutions, have been reviewed and approved by the Landmarks Commission. One change to the plans (based on very recent action of the Landmarks Commission) replaces the gabion screening walls around the dumpster to a schmeary masonry wall construction with timber top and downlighting.

The City has been involved over the years in efforts to create a planned public access walkway through this corridor along the Creek. Coordination with that effort as to the design of this outdoor area and its connection to that plan should be incorporated into this plan design. As presented, a retaining wall is proposed to be placed at the east edge of the seating area, with steps leading down to a walkway extending end to end along the frontage of the Creek. A substantial portion of the outdoor seating area and all of the retaining wall, steps and boardwalk are located in the Floodway.

Landscaping is thoughtfully incorporated into this plan for the outdoor space. It includes properly scaled trees, colorful shrubs and perennial plants. No new landscaping is proposed to be added outside of the enclosed seating area.

Exterior lighting of this site includes gaslight fixtures at the front entry door, gooseneck-style downlighting along the north building wall, and controllable-cast uplighting along the screening wall which runs along the north and south sides of the outdoor seating area.

Parking for up to one car is proposed on this plan, on the paved area immediately west of the dumpster area. The applicant shows it as two stalls, but the stall proportions don’t work to support two cars (per the City’s stall specifications) in this alignment. Pursuant to Section 13-1-83 of the City Code, “In all commercial and industrial districts, the minimum number of required parking spaces may be adjusted by the plan commission on a case-by-case basis. The petitioner for such an adjustment shall show to the satisfaction of the plan commission that adequate parking will be provided for customers, clients, visitors, and employees”. The proposed onsite stall(s) is intended to serve the upstairs office tenant in this building.

The Planner recommends the following conditions be considered for attachment to any approval the Planning Commission may be inclined to grant in this matter:

- 1) Applicant to satisfy the requirements of the City Engineer as follows:
  - a. Riverwalk location, size, elevation, etc. should be coordinated (and ultimately approved, in terms of design, location and grant of easements) with community

- plans to organize a more formal public accessway along the Creek in this corridor. Applicant to work with City Staff in sorting through these requirements and final approval plans.
- b. Applicant to acknowledge that there isn't enough room, as depicted, to meet City specifications for two parking spaces on the north edge of the property west of the dumpster, per the plan.
- 2) Applicant to satisfy the requirements of the City of Cedarburg Fire Department as follows:
    - a. A Commercial Kitchen Hood is required for cooking equipment that produces grease-laden vapors-pizza ovens – NFPA 1 (2024 ed., 50.2.1.1)
    - b. Hood shall be equipped with an extinguishing system (NFPA 1,2024 ed., 50.4.3.1)
    - c. Class K extinguisher is required in addition to the hood suppression system – NFA 1 (2024) 50.4.4.1
  - 3) Any required modifications to the site or building plans, recognizable from the exterior of the building as a result of HVAC/Fire Code requirements, may be subject to review and approval by the Landmarks Commission and Planning Commission depending on the magnitude and location of such changes.
  - 4) Applicant to wrap the 5' tall screening around to the south side of the air conditioning units at the southeast corner of the principal building.
  - 5) Applicant to provide evidence of review and approval from the DNR as to the manner of collecting and discharging stormwater from this site in light of the increased impervious surfaces to be placed.
  - 6) Applicant to provide evidence of DNR approval as to hydraulic impact analysis of all changes proposed in the Floodway and their potential impact upon flood flows and the regional flood height.
  - 7) All site improvements located in the Floodway shall be properly floodproofed.

Council member Fitzpatrick questioned whether the DNR getting involved will set Blind Horse back and what risk there is to the City if the plans are approved, and something were to go wrong. Planner Censky informed Commission that this would be a legal question that she is unable to answer and anything legal would have to go through the City's Attorney. Council member Fitzpatrick also asked about the definition of a Hydraulic Analysis by the DNR.

Planner Censky stated it's an accounting of what is being placed in the floodplain that is new. Screening walls, gabion benches, hard services, retaining wall, and a proposed creek side boardwalk will be new to this site. If there is a flood these items could detain debris that could back up flood waters so much so that people up stream are going to be affected. When asked about the creek walk and if this too had to go through the same process, City Administrator Hilvo confirmed the creek walk was required to get approval from the DNR.

Mr. Ahrens representing Distinctive Design Studio confirmed they are starting discussions with the DNR and spoke with Michelle Soderberg about the creek walk to get approval regarding the Floodway. Commissioner Arnett is okay with the condition that turns the Blind Horse over to DNR and to abide by all ordinances of DNR and Cedarburg. Commissioner Arnett doubts that the Blind

Horse which is four buildings from the damn would have a log that gets caught in the retaining wall and backs water to above the damn level.

Mayor Thome mentioned the Blind Horse has been in front of Landmarks Commission multiple times with an adequate amount of examination and a lot of input has gone into this site. Commissioner Strautmanis noted the Landmarks Commission oversees the Downtown B3 District and concurs with the decisions of the Landmarks Commission and hopes the Blind Horse gets through the DNR process quickly. Commissioners all agreed that the courtyard and creek walk will look beautiful with high-quality materials.

Commissioner Scholz made a motion to approve the building, site, and operating plan with the Planner's recommendations, seconded by Council member Fitzpatrick. Motion carried without a negative vote.

**REVIEW, DISCUSSION AND POSSIBLE ACTION/RECOMMENDATION TO THE COMMON COUNCIL ON A DRAFT RESOLUTION PREPARED IN SUPPORT OF THE CITY'S PLAN TO BEGIN THE PROCESS OF UPDATING ITS CURRENT "SMART GROWTH COMPREHENSIVE LAND USE PLAN – 2025". THIS DRAFT RESOLUTION CONTAINS THE PROPOSED "PUBLIC PARTICIPATION PLAN TO BE FOLLOWED THROUGH THE COURSE OF THE PENDING UPDATE.**

Planner Censky explained [Section 66.1001\(4\)\(a\) of the Wis Stats](#) provides that:

"The governing body of a local governmental unit shall adopt written procedures that are designed to foster public participation, including open discussion, communication programs, information services, and public meetings for which advance notice has been provided, in every stage of the preparation of a comprehensive plan. The written procedures shall provide for wide distribution of proposed, alternative, or amended elements of a comprehensive plan and shall provide an opportunity for written comments on the plan to be submitted by members of the public to the governing body and for the governing body to respond to such written comments. The written procedures shall describe the methods the governing body of a local governmental unit will use to distribute proposed, alternative, or amended elements of a comprehensive plan to owners of property, or to persons who have a leasehold interest in property pursuant to which the persons may extract nonmetallic mineral resources in or on property, in which the allowable use or intensity of use of the property is changed by the comprehensive plan."

On June 24, 2024, the Common Council was advised that the Planning Commission intends to begin the process of updating the City's existing "[Smart Growth Comprehensive Land Use plan – 2025](#)". The Plan Commission was informed that the required first step in this process is to adopt a Public Participation Plan and advised that this would be the subject of consideration and possible action/recommendation at the Plan Commissions July 1, 2024, meeting.

Following adoption of the Public Participation Plan, the Plan Commission can start in earnest with the update effort.

Planner Censky asked if the Plan Commissioners feel the means/methods described in the attachment satisfactorily ensure public input and engagement opportunities as a part of this planned update, a favorable recommendation to the Common Council to approve/adopt the attached DRAFT Resolution would be in order.

Commission members discussed what the outline would look like for the Comprehensive Plan Update. Questions arose such as how to identify target dates, how to keep the public informed and the number of meetings that would be necessary. Council member Fitzgerald questioned the thoughts the recent developers have with this decision due to the lengthy process.

Discussion continued regarding how to plan and the participation of residents. It was noted that the city could send out a flyer in the utility bill, post on Facebook, and the News Graphic. Residents are also able to sign up through the City of Cedarburg website, Notify Me tab. There is a special tab to be included with any new information on the Smart Growth Comprehensive Smart Plan. (Please see link <https://www.cityofcedarburg.wi.gov/subscribe> )

Commissioner Bublitz made a motion to approve the PPP Resolution Plan, seconded by Commissioner Arnett. Motion carried without a negative vote.

**REVIEW/DISCUSSION AND POSSIBLE ACTION/RECOMMENDATION TO THE COMMON COUNCIL ON A DRAFT ORDINANCE PREPARED IN SUPPORT OF ADDING “OUTDOOR DINING/DRINKING/SEATING/GATHERING SPACE WITH OR WITHOUT ALCOHOL CONSUMPTION” AND “OUTDOOR ENTERTAINMENT USE-AMPLIFIED OR NOT” TO THE LIST OF CONDITIONAL USES IN THE B-1 NEIGHBORHOOD, B-2 COMMUNITY, AND B-3 CENTRAL BUSINESS DISTRICTS.**

Planner Censky is aware that the City is facing citizen complaints with respect to noise overflow from approved outdoor entertainment venues on private properties in the City. One solution used in some communities to manage outdoor gathering, dining, consumption and entertainment spaces on privately owned business properties has been to include them as conditional uses in the zoning code. In doing this, it allows the City to evaluate each request for this type of use, uniquely unto itself. In its own setting with all the details presented, such as a site plan, where the outdoor entertainment will be, which way will it face, are there sound bending devices, are there trees as a backdrop. Other considerations to question would be how many days a week will the events take place, how many hours per day, and would this be all year long or temporary.

Each business would have to go through Plan Commission once for the Conditional Use Permit (CUP), and then Common Council for approval of the license which is currently required to be renewed yearly. Anyone in the Downtown B3 District would go through Landmarks Commission first, then Plan Commission. CUP does trigger a public hearing and that enlists the public to come out discuss anything that is unique to that specific location.

Council member Fitzpatrick is unclear how the current policy does not allow us to supervise and act if need be. The additional regulation does not accomplish anything over and above what the existing licensing policy accomplishes.

Commissioner Arnett said although he likes the concept of looking at each individual site and making a judgement call, he would be skeptical of public hearings. Commissioner Arnett fears it will be a tool to go against small businesses. Is this board going to say one business can open till 6 pm and another can be open until 9 pm but they are half a block away from each other.

Commissioner Strautmanis questioned what would happen to existing businesses that already have approval, would they need to come back to Plan Commission. Planner Censky clarified that the license policy would be amended so at the time of the annual renewal of a license as is currently required, applicants would need to come through the Planning Commission one time for their CUP status to be documented. After that, they will fall back into the annual license renewal process through the Clerk's office.

Commissioner Bublitz is questioning the number of complaints received by the City and how long have the complaints been received about the decibel levels. Mayor Thome commented that the decibel levels don't really mean that much, it's based on the weather, the tone of the music, and sound bouncing off buildings and walls.

Council member Fitzpatrick and Commissioner members Arnett, Voltz, Scholz, and Strautmanis suggest no change regarding the ordinance. Commissioner Bublitz would like to take this item to Common Council along with Mayor Thome to be able to look at each business individually.

No action

### **PUBLIC COMMENT**

BJ Homayouni, Union House – W62 N559 Washington Avenue  
Michelle Tietz, Lime Cantina -W62 N550 Washington Avenue  
Liz Brown, Resident – W62 N667 Riveredge Drive  
Paula Cartwright, Resident - W62 N684 Riveredge Drive  
Kevin Pelkey, Art of Joy – W63 N664 Washington Avenue  
Terrance King, Resident – W63 N762 Sheboygan Road

### **COMMENTS AND ANNOUNCEMENTS BY PLAN COMMISSIONERS** - none

### **MAYOR'S ANNOUNCEMENTS** - none

### **ADJOURNMENT**

A motion made by Commissioner Arnett, seconded by Common Council Member Bublitz to adjourn the meeting at 9:16 p.m. Motion carried without negative vote.

**PLAN COMMISSION**  
**July 1, 2024**

**PLN20240701-10**  
**UNAPPROVED MINUTES**

Theresa Hanaman  
Administrative Secretary