

**CITY OF CEDARBURG
PLAN COMMISSION**

December 02, 2024

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, December 2, 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 7:02 p.m. by Commissioner Jack Arnett.

Roll Call - Mayor Patricia Thome (arrived at 7:17 p.m.), Council Member James Fitzpatrick, Adam Voltz, Jack Arnett, Sig Strautmanis, Jon Scholz, and Sherry Bublitz (via Zoom)

Also Present - City Planner Mary Censky, City Administrator Mikko Hilvo, Administrative Assistant Theresa Hanaman

STATEMENT OF PUBLIC NOTICE

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

APPROVAL OF MINUTES

A motion was made by Commissioner Strautmanis, seconded by Commissioner Voltz, to approve the minutes from November 4, 2024, and November 13, 2024. Motion carried without a negative vote. Mayor Thome excused.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

APPLICANT EMMY HILGENDORF, D/B/A CORNERSTONE CHRISTIAN LEARNING CENTER IN C/O ARCHITECT MARK HERTZFELDT OF DESIGN 2 CONSTRUCT REQUEST FINAL/FOLLOW-UP APPROVAL OF THE ARCHITECTURAL PLANS FOR INCLUSION UNDER THEIR RECENTLY APPROVED CONDITIONAL USE PERMIT (CUP) TO DEVELOP A DAYCARE FACILITY ON 2.5 ACRES OF LAND LOCATED IN THE CITY'S HWY. 60 BUSINESS PARK. THE CURRENT OWNER OF THIS M-3 BUSINESS PARK DISTRICT ZONED PROPERTY IS THE CITY OF CEDARBURG.

Planner Censky reminded Commissioners that on November 4, 2024, the applicant received a Conditional Use Permit (CUP) approval to develop a 10,650 sq. ft. (+ possible 5,661 sq. ft. future addition) on 2.5 acres of vacant land located in the southwest corner of the City's Hwy. 60 Business Park. This approval was subject to, among other things, the applicant making architectural plan revisions in accordance with the guidance given by the Plan Commission and returning for final approval of those revised plans at a subsequent Plan Commission meeting.

The Planner deferred to the final guidance of the architecture specialist members of the Plan Commission as to changes made, and whether to approve as presented by architect Mark Hertzfeld. Commissioner Voltz commented that the long roof was addressed with the addition of side wall gables and recomposed stonework along the entry. Someone noted that this architecture is acceptable in light of this being a transitional building between the residential neighborhood to the west and the rest of the industrial/commercial buildings within the business park. Noting that this is a transitional building and that its residential scale and design elements are consistent with the daycare use but may not be considered appropriate on other sites/buildings/uses in the business park.

Action:

A motion was made by Commissioner Scholz, seconded by Council member Fitzpatrick to approve the final architectural plans for inclusion in the CUP documents. Motion carried without a negative vote. Mayor Thome excused.

APPLICANTS BRAD DEVORKIN AND MICHELE TIETZ, D/B/A LIME CANTINA, REQUEST APPROVAL OF A TEMPORARY USE PERMIT TO PLACE AN ENCLOSED TENT OVER THEIR OUTDOOR SEATING AREA AT W62 N550 WASHINGTON AVENUE FROM OCTOBER 1, 2024 THROUGH APRIL 30, 2025. THIS B-3 (HPD) CENTRAL BUSINESS DISTRICT W/HISTORIC PRESERVATION OVERLAY DISTRICT ZONED PROPERTY IS OWNED BY CEDARBURG DINING LLC.

Council member Fitzpatrick stated he was inclined to approve the tent for two (2) years for the Stilt House since this is an annual occurrence.

Action:

A motion was made by Council member Fitzpatrick, seconded by Commissioner Voltz, to approve the temporary use permit to install this same tent in the outdoor seating area for Lime Cantina for two (2) consecutive seasons subject to the yearly inspections being done by the City Fire and Building Inspectors as stated in the Planners' recommendations. Motion carried without a negative vote. Mayor Thome excused.

APPLICANT/PROPERTY OWNERS MIKE AND CINDI PURNELL, D/B/A BURG 63, LLC, REQUEST APPROVAL TO RAZE/REMOVE THE EXISTING PRINCIPAL RESIDENCE AND DETACHED ACCESSORY GARAGE STRUCTURES ON THE PROPERTY LOCATED AT N70 W6222 BRIDGE ROAD. THIS PROPERTY IS ZONED RS-6 SINGLE-FAMILY/TWO-FAMILY RESIDENTIAL DISTRICT. IT IS LOCATED IN THE COLUMBIA HISTORIC DISTRICT AND THE STRUCTURES APPEAR TO BE CLASSIFIED AS CONTRIBUTING.

Planner Censky explained Section 13-1-70(o)(1)c. of the City Code states that "No person in charge of a landmark or development in an HPD district shall be granted a permit to demolish such

property without the review and recommendation of the Historic Preservation Commission (Landmarks Commission) to the City Plan Commission”.

On October 2, 2024, the City submitted a notice (Request for Review and Comment) to the Wisconsin State Historic Preservation Office (SHPO) on SHPO forms. On October 30, 2024 email correspondence was received from SHPO confirming they concur with the request to raze these buildings. During their review period, a photo inventory of the exterior of the principal residence structure was requested and provided to SHPO.

On November 14, 2024, the Landmarks Commission did consider and recommend against the raze/removal of these structures.

These structures are represented by the applicant as being in poor condition. This property is not located in a historic preservation overlay zoning district, so the City does not have the same tools to compel protection, preservation, or rehabilitation of these structures as the City does within its HPD Historic Preservation Overlay Zoning District.

Council member Fitzpatrick disagrees with the decision made by Landmarks and would like to proceed with the raze order. Commissioner Voltz found online the structure of the home was built in 1860. He stated that it does appear to have the historic form intact with some alteration, but if conditions are such that demolition is warranted, he would approve the raze order. Commissioner Voltz doesn't want to establish a pattern of demolition by neglect and hopes this does not set a precedent.

Attorney Marcovitz for the applicant handed out the home's inspection report to make part of the record. Attorney Marcovitz went on to relay that state statute section 66.0413(3)(d) addresses Razing Historic Buildings. It prescribes a 'value to repair costs ratio' within which repairs are presumed reasonable. Cases should be decided on facts. This property was not well cared for and was allowed to become run down.

The applicant discussed the steps he took before purchasing the house regarding demolition. The applicant came to the former City Planner over a year ago and after a cursory review of the code was given a response that razing/demolishing would be okay, and the applicant would not have to go through a process such as Landmarks Commission or Plan Commission approval to take the structures down. Now this year he came to follow through with the demolition and was told there was this process for approval before a raze permit could be issued.

Action:

A motion was made by Council member Fitzpatrick, seconded by Commissioner Scholz, to approve the razing/removal of the existing principal residence and detached accessory garage structures on the property located at N70 W6222 Bridge Road. Motion carried without a negative vote.

APPLICANT/PROPERTY OWNER STONE LAKE DEVELOPMENT, INC., C/O CRAIG CALIENDO, REQUESTS FAVORABLE RECOMMENDATION TO THE COMMON COUNCIL FOR APPROVAL OF A CERTIFIED SURVEY MAP COMBINING WHAT IS PRESENTLY TWO LOTS, THEN SUBDIVIDING THIS WHOLE (I.E., 41.36-ACRE) STONE LAKE CONDOMINIUM SITE INTO THREE PARCELS, AND DEDICATING THE PORTION OF INTERIOR ROAD THAT WILL BE PUBLIC.

The applicant presents a certified survey map that is consistent with City staff expectations based upon the preliminary condominium plat approved back in 2022. This CSM combines the three existing lots, then reconfigures the whole (i.e., 41.36-acre) Stone Lake Condominium site into three parcels and dedicates the portion of the interior road that will be public. Lots 1 and 2 depict the areas that will be developed in the initial phase of the Stone Lake Condominium. Lot 3 depicts the area that will be developed subsequently (referred to as the expansion lands in the Declaration of Condominium).

Action:

A motion was made by Commissioner Strautmanis, seconded by Commissioner Arnett, to recommend to the Common Council for approval of the Certified Survey Map with the Planners recommendation for final review and approval by the City Engineer as may be required. Motion carried without a negative vote.

APPLICANT/PROPERTY OWNER STONE LAKE DEVELOPMENT, INC., IN C/O CRAIG CALIENDO, REQUEST FAVORABLE RECOMMENDATION TO THE COMMON COUNCIL FOR APPROVAL OF THE FINAL PLAT AND DECLARATION FOR STONE LAKE CONDOMINIUM. THIS PROPERTY IS ZONED RD-1 (PUD) TWO-FAMILY DISTRICT WITH PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT.

The applicant presents a final condominium plat that is consistent with City staff expectations based upon the preliminary condominium plat approved back in 2022. This plat and related details are contained within the Declaration of Condominium for Stone Lake Condominium. The initial phase of this development will contain units 1-32 in 16 buildings. In time, when the developer is ready to bring additional units/buildings online, this declaration will be amended to cover the expansion lands.

Commissioner Arnett would like it noted in the Declaration of Condominium, that all owners in this condominium, even those who only have frontage on the public road, are also responsible for their equitable share of the condominium costs for upkeep and plowing, on the private road.

Action:

A motion was made by Commissioner Arnett, seconded by Commissioner Scholz, to recommend to the Common Council for approval of the Final Plat and Declaration for Stone Lake Condominiums with the Planners' recommendation for final review and approval by the City Engineer as may be required and to include in the Declaration of Condominium that all owners in

this condominium, even those who only have frontage on the public road, are also responsible for their equitable share of the condominium costs for upkeep and plowing on the private road. Motion carried without a negative vote.

APPLICANT ROBERT BACH, D/B/A P2 DEVELOPMENT COMPANY, REQUESTS APPROVAL OF BUILDING, SITE, AND USE PLANS TO ADD A FOURTH/FINAL 8-UNIT MULTI-FAMILY RESIDENTIAL BUILDING TO THE EXISTING SITE OF CONCORD APARTMENTS LOCATED AT N142 W6196-6212 CONCORD STREET. THIS 2.25-ACRE PROPERTY IS ZONED RM-2 MULTI-FAMILY RESIDENTIAL DISTRICT. CURRENT PROPERTY OWNER IS CONCORD APARTMENTS LLC.

The applicant proposes to fill in the remaining buildable area of this site with an 8-unit multifamily residential building. The proposed units are 3 bedrooms and 2.5 baths with 2-stall garages attached. To prevent garage doors from being blocked by others, the applicant describes the spaces in front of the garages as driveways. These driveways result in the elimination of ~18 existing parking stalls from the site. Overall, based on the total of 32 units on the site, the required number of stalls would be 48. Fifty-two stalls are provided. The 3 existing buildings (24 units) must be provided with 36 stalls onto themselves, based on the Code. Thirty-six stalls accessible to those units are provided.

Planner Censky explained that architecturally, the proposed new building is dissimilar to the existing buildings on the site and surrounding sites as to style, materials, and colors. By Code, overall height (TBD), may not exceed 35 feet. During the meeting, there was an in-depth discussion regarding the height of the proposed new building in relation to the heights of the existing structures in the area. Commissioners expressed a need for specific information, requesting the exact heights of both the new building and the three existing buildings for comparison purposes.

Furthermore, the discussion also addressed the lot area size requirements in the Rm-2 District. It appears this project either needs to reduce the unit count in order to meet the minimum required overall lot size, or it needs to pick up available lands from a neighbor.

If the Plan Commission finds there are compelling reasons to develop this site at the proposed density, PUD rezoning could be used. The criteria guide as to reasons for allowing extra density under PUD is set forth in the Code.

The Planner recommends the density must be lowered to meet the Code's minimum lot size **or** the site must be rezoned to Planned Unit Development (PUD) to allow for more density. The applicant must also return to the Plan Commission for final approval of detailed color and material samples, dumpster corral size/design, and building height. The City Engineer must review and approve the grading, drainage, stormwater management, erosion control, and utility plans before issuing a building permit. The applicant must follow the Fire Department's Code requirements.

Action:

A motion was made by Commission Arnett, seconded by Council member Fitzpatrick to postpone action on the plans for an additional 8-unit multifamily residential building to the January 6, 2024, Plan Commission meeting. Motion carried without a negative vote.

APPLICANT BLIND HORSE WINERY, IN C/O ARCHITECT JASON AHRENS WITH DISTINCTIVE DESIGN STUDIO, REQUEST USE, SITE PLAN, ARCHITECTURAL PLAN AMENDMENT APPROVAL TO ADD THE ACCESSORY USES/STRUCTURES OF PERMANENT FOOD TRUCK/TRAILER, AND OUTDOOR WALK-IN FREEZER, TO THEIR RECENTLY APPROVED TASTING ROOM BUILDING/SITE/USE LOCATED AT W63 N674 WASHINGTON AVENUE. THIS PROPERTY, OWNED BY ORMSBY ACQUISITIONS LLC, IS ZONED B-3 (HPD) CENTRAL BUSINESS DISTRICT WITH HISTORIC PRESERVATION DISTRICT OVERLAY.

The applicant requests approval to permanently place a 48 sq. ft. walk-in refrigerator-freezer behind/directly north of and attached to the patio bar feature on the site.

On November 14, 2024, the Landmarks Commission considered this accessory structure and recommended approval for the walk-in freezer subject to the conditions that the walk-in refrigerator/freezer unit as proposed with the addition of [dark] aluminum or wood trim being placed around the top of the three walls to diminish the view of the white membrane roof, and the condenser unit must be placed inside the fenced enclosure around the patio bar.

Action:

A motion was made by Commission Arnett, seconded by Council member Fitzpatrick, to approve the outdoor walk-in freezer with the conditions set by the Planner and Landmarks Commission. Motion carried without a negative vote.

The applicant also requests approval to permanently place a ~150 sq. ft. food truck on the site in the north side aisle-way, north of the principal building and east of the dumpster corral. This trailer will stand ~8 feet tall (~10 feet to the top of the roof-mounted exhaust fan/ air conditioner unit).

Planner Censky and the Plan Commission discussed whether this trailer is a food truck or is it considered a permanent structure. Plan Commission discussed what the foundation of the trailer would look like. If this is permanently fixed to utilities what could prevent the trailer from moving or being jarred. Mayor Thome is not in favor of a permanent kitchen in a temporary structure even if it is permanently served with sewer and water and is not a brick-and-mortar structure.

Commissioner Voltz likes the idea of the horse trailer but how to make it fully functional is the question. Commissioner Voltz also questioned if the tires are real or just for show. If it's sitting on real tires, what would you do if you have a flat tire since it would be permanently hooked up to

utilities. Commissioner Arnett asked for clarification regarding the ventilation of the cooking apparatus.

Steve Peskie of Distinctive Design described the food trailer as a trailer in an RV park. It can be hooked up, disconnected, or moved away. Blind Horse owner Mr. Moeller described the trailer as not a road-worthy vehicle or structure, a trailer that is fabricated to their design but would need to be picked up and put on a trailer if you want to move it to another location. The façade is shaped like a trailer and built from scratch to look like a horse trailer but it's placed as a permanent structure.

Mayor Thome asked Planner Censky if the Code allows for permanent locations, long long-term mobile food vendors. Planner Censky confirmed that mobile food establishments are only allowed as a temporary use in the B-3(HPD) zoning district and that Temporary Uses are only allowed 'for a one-time two-week period or 14 cumulative days. She noted that this trailer meets the definition of a structure in the City's Code.

Plan Commission noted the applicant would have to obtain a valid mobile vendor or mobile food establishment license from the city clerk before placing a food truck on this site, in accordance with Title 7, Chapter 18 of the City Code, prior to starting operations.

Planner Censky explained that there appear to be some unattainable code requirements set forth by the Fire Department regarding the proposed mobile food truck/trailer at this location.

Further detailed explanation from the applicant as to exactly what the design, connections, and operating characteristics of this trailer will be in order to determine if this would be classified as permanent or mobile and to identify the relevant code requirements.

The applicant must also adhere to all requirements from the City Engineering and Wastewater Treatment Departments, as well as the Cedarburg Light & Water Department, regarding connections from the truck/trailer to the city's sewer and water systems. Planner Censky stated connecting a mobile truck/trailer to fixed infrastructure, such as a water lateral or sewer lateral, will necessitate that the truck/trailer be in a permanently fixed position.

Landmarks Commission made a recommendation to the Plan Commission to approve the trailer, however, Plan Commission needs more information to determine if the trailer is going to be a permanent structure or a mobile food establishment.

Action:

A motion was made by Commissioner Arnett, second Commissioner Strautmanis, to postpone the approval of the proposed kitchen trailer until the January 6, 2024, Plan Commission meeting. Motion carried without a negative vote.

REVIEW, DISCUSSION, AND POSSIBLE RECOMMENDATION TO THE COMMON COUNCIL TO MAKE CHANGES TO SECTIONS 2-4-10 LANDMARKS COMMISSION, 13-1-55 B-3 CENTRAL BUSINESS DISTRICT, 13-1-70 HPD HISTORIC PRESERVATION OVERLAY DISTRICT, AND 15-1-14 REQUIREMENTS FOR RESTORATION AND/OR REHABILITATION OF HISTORIC PROPERTIES DESIGNATED BY THE LANDMARKS COMMISSION.

The City is aware that its Codes pertaining to the designation and protection of historic properties are not consistent with the requirements of the National Park Service and the State of Wisconsin Historic Preservation Office standards for Certified Local Governments. Planner Censky updated the City Code at the Landmarks Commission's request. On November 14, 2024, the Landmarks Commission reviewed the proposed Code changes and favorably recommended that the Plan Commission and Common Council follow through to adoption by ordinance.

The DRAFT of changes proposed to various sections of the City Code have been reviewed by Jason Tish, Certified Local Government Coordinator, and Preservation Education Coordinator in the Wisconsin State Historic Preservation Office. Mr. Tish has confirmed that the changes, as presented, will result in the City retaining its certified local government status by assigning the Landmarks Commission the power to designate landmarks, landmark sites, and historic districts within the city limits of Cedarburg, and to regulate design, construction, repair, maintenance, reconstruction, alteration, and demolition of landmark structures, landmark sites, and historic districts throughout the City by the issuance/approval or denial of a Certificate of Appropriateness.

Planner Censky provided a document which gives a brief overview of the role of Certified Local Governments (CLGs), highlighting the certification process and their commitment to local preservation.

Commissioners wondered about the appeal process from Landmarks Commission actions. The Planner explained that [Section 62.23\(7\)\(em\)3. of the Wisconsin Statutes](#) provides that decisions of a landmarks commission are appealable to the common council, which may overturn a decision of the commission by a majority vote of the common council.

Commissioners asked that this appeal information be put into the City's Code as well.

Action:

A motion was made by Commissioner Arnett, seconded by Commissioner Voltz, to recommend to the Common Council to make changes to Section 2-4-10, Section 13-1-5, Section 13-1-70, and Section 15-1-14 of the Landmarks Commission codes, provided language clarifying the right to appeal decisions of the Landmarks Commission to the Common Council is added to the language as well. Motion carried without a negative vote.

REVIEW AND DISCUSSION ON MATTERS RELATED TO THE COMPREHENSIVE PLAN UPDATE

Planner Censky noted that the draft of Chapter 2 is now available, except for information from Light and Water and Engineering regarding the location and number of homes to be served. The Smart Growth areas, now renumbered one through twelve, have been clearly mapped with their boundaries.

Chapter 8 has been updated to include the twelve smart growth areas in their final form, along with the projected future land use classifications as determined by the Plan Commission.

Planner Censky also provided details on the upcoming Public Hearing/Open House and what the Plan Commission can expect during the meeting.

COMMENTS AND ANNOUNCEMENTS BY PLAN COMMISSIONERS - None

MAYOR'S ANNOUNCEMENTS - None

ADJOURNMENT

A motion was made by Commissioner Arnett, seconded by Council Member Fitzpatrick to adjourn the meeting at 9:59 p.m. The motion carried without a negative vote.

Theresa Hanaman
Administrative Assistant