PLAN COMMISSION MINUTES
September 11, 2017

CALL TO ORDER: Chairman Wolter called the meeting to order at 6:34 p.m.

ROLL CALL: Chairman Dean Wolter, Trustee Representative David Baum, Commissioners Bill Shadid, Bob Williams, Peter Nilles and Tony Laszewski were present. Commissioner Mary Ellen Gray was absent and excused. Also present were Community Development Director/Village Planner Jeff Retzlaff and Planning Assistant Lori Johnson.

PUBLIC INPUT: None

APPROVAL OF MINUTES: ***MOTION Baum second Shadid to Approve the minutes from 8-28-17.***

MOTION carried unanimously.

Germantown Historical Society – Dheinsville Park – N128 W18780 Holy Hill Road. The request is for approval of site development and building plans for an 11,200 sqft open-air pavilion to be constructed within the Village's Dheinsville Park property. Planner Retzlaff summarized the proposal.

Jeff Dhein, President Germantown Historical Society, explained the west wall will be a permanently closed wooden structure. Trustee Baum asked what the happens when the building reaches the end of its useful life. Planner Retzlaff said that issue is not specifically addressed in the memorandum of understanding. Tony said it becomes village property. Mr. Dhein said they have no intentions of letting the structure get into a state of disrepair.

MOTION Baum second Laszewski to Approve the site development and building plans for the proposed 11,200 sqft pavilion to be constructed within the Village's Dheinsville Park property on Holy Hill Road subject to the following conditions:

1. ***Approval is for the site and building plan set dated March 13, 2017 unless otherwise revised by a subsequent plan set approved by the Village Planner pursuant to revisions required herein.***
2. ***State approved plans are required by Inspection services as part of the building permit application.***
3. ***A fire lane approved by the Germantown Fire Department is required around the perimeter of the building connecting to the parking area or roadway for emergency vehicle access.***

Chairman Wolter asked if the pavilion would be fit with temporary doors. Mr. Dhein said the building would have accordion style doors that could be locked. Planner Retzlaff said the Memorandum of Understanding does address insurance and calamity, but maintenance is an issue that could be discussed.

MOTION carried unanimously.

MOTION Baum second Shadid to postpone Item B for Walmart until the applicant arrives.

MOTION carried unanimously.

H&K Partners for Kentucky Fried Chicken – N06 W17850 County Line Road. The application is for exterior remodeling of the existing KFC restaurant. Planner Retzlaff summarized the proposal and said representatives for the applicant would not be in attendance. He asked the Plan Commission if they wanted to table action or review the project. He said he explained to the applicant there would be discussion relating to the removal of the tower cap feature on the building. The applicant indicated they were not aware of this feature. Discussion followed regarding signage on the building. Planner Retzlaff said no new signage was proposed at this time.

MOTION Baum second Shadid to Approve the site and building plans for the proposed exterior remodeling of the KFC restaurant located at N96 W17860 County Line Road subject to the following conditions:

1. ***The proposed exterior light fixtures shall provide a complete "cut-off" fixture and not be tilted such that light is directed away from the building.***

Planner Retzlaff said the Plan Commission needs to discuss the tower cap feature and decide if they want to keep it. He said in 2007 the Commission specifically asked for the tower cap. Trustee Baum said we should consider an overhead canopy after reviewing other establishments saying they would add a lot to the building. He said the entrance on the side was an issue the last time Plan Commission reviewed plans and did not like the arrow pointing the front door. Chairman Wolter was not in favor if the 3 lights hanging over the front of the building.

MOTION Baum second Laszewski to Table until the applicant can come back with signage.

MOTION carried unanimously.

Pb2 Architecture for Walmart – W190 N9855 Appleton Avenue. The application is for exterior remodeling of the existing Walmart retail store. Planner Retzlaff summarized the proposal. Jim Gallagher, pb2 Architecture answered questions.

Trustee Baum had concerns with the proposed blue and gray colors not working in this area saying the current color scheme is cohesive with surrounding architecture. Chairman Wolter asked if the new colors are part of the new corporate color scheme. Mr. Gallagher said they are trying to avoid monotony instead of earth tones everywhere adding the masonry will stay the same. Chairman Wolter commented there was a lot of brick staying the same so there won't be as much gray as what is represented. He said the renderings don't represent the revisions well and only the openings will be painted.

MOTION Laszewski second Shadid to Approve the site and building plans for the proposed remodeling of the Walmart retail store located at W190 N9855 Appleton Avenue.

Trustee Baum said he can't find this photo type on-line to see what it will look like without having exact samples. Chairman Wolter commented that the revisions won't make the building mundane and he appreciates that Walmart put a fair amount of expense inside the building and is making an effort to give the outside a new look.

MOTION carried 5-1 (Baum).

Top Leaf Development for Alan & Lynda Luther – 107 acres South of Freistadt Road, North of Elm Lane and West of Wasaukee Road. Top Leaf Development and Alan & Lynda Luther, property owners, are requesting feedback on a 107-acre residential development proposal with 43 single-family lots. Planner Retzlaff summarized the proposal. Pete Hurth, Baudhuin Survey & Engineering and Shari Waggoner, Top Leaf Development, spoke on the project. Mr. Hurth said the soil borings were done and the lot layout is suitable to support a mount system. A wetland delineation will be ordered and the outlots will be put in to reflect the wetlands on the property. They would like to determine which access is best and discussed the different options.

Plan Commissioner had the following comments and concerns:

- Improve remaining 700 feet of Elm Lane, prefers option 2 connecting with Elm Lane
- Don't like the 5 and 8 acres sites. Not a good use of the land. Like the 1.5 and 2 acre lots on the east side. Larger lots will take longer to sell. Keep the same plan all the way through. Ms. Waggoner said there wasn't a good way to get back there and there is a cost effectiveness for a few lots or extending Elm Lane.
- Would like this development to connect to the park
- Access to another parking lot would be beneficial to the area.
- Connect cul-de-sac in option 2 to Elm Lane
- Would like to see a more finished look to the southwest corner
- Re-design the southwest corner; leave center area green and put lots on the west
- Elm Lane was intended to be connected in the future
- Show us different options for access

Discussion continued regarding different access options. Shari Waggoner, Top Leave Development said their intention is to get lots on the market as soon as next year. Pete Hurth, Baudhuin Survey & Engineering, asked if there was any leeway to include wetlands on a lot. Planner Retzlaff explained that for lots this size, wetlands and floodplain are required to be in an open space outlot and not part of a developed lot, in order to preserve them. Ms. Waggoner asked if they could use a PDD overlay to get some flexibility. Planner Retzlaff said it's possible to get some flexibility in exchange for some other amenity.

Trustee Baum said he'd like to see what they come up with and then decide which way to achieve it. He'd rather see smaller lots and a PDD may be a way to achieve that. Planner Retzlaff said the connection from Forest Drive to Freistadt Road is needed and right-of-way needs to be dedicated along Elm Lane.

This item was for discussion only. No action was taken.

Community Development Department – Proposed Zoning Code Amendment: Section 17.30: B-3 General Business District (Residential Uses). The purpose for the amendment is to clarify the intent and permitted use sections of the B-3 District regulations regarding residential uses. Some of the older, original residential buildings on Main Street, that were converted to and operated as a business, now want to revert back to a residential use. The B-3 District regulations do not specifically provide for residential uses or provide for the reversion of a building once used for business purposes to go back to a residential use. The amendment language would make it clear that converting these uses would be allowed. Planner Retzlaff reviewed the proposed language changes to the code that would allow a property to revert back to a residential use. He said he prefers option 2 which requires a conditional use permit, but realizes there is a hurdle with the cost of the permit.

Discussion followed. Trustee Baum asked if there was a way to expedite a CUP at lower cost with one public hearing for all the properties at one time. He suggested using a special form that would include rules to abide by. Planner Retzlaff said a public hearing would be required for the code amendment and all property owners affected could be notified at that time. He also discussed the possibility of creating an overlay zoning district that is recorded at the time of sale that would include our concerns. Chairman Wolter said he understands the need to provide a way to accommodate the reverting and agrees with trying to transition the area, but also believes in property rights. He asked if this is something we want to allow.

Commissioner Laszewski preferred option 1. Chairman Wolter and Trustee Baum also preferred option 1 saying option 2 was too costly and overbearing. Planner Retzlaff suggested requiring a zoning permit where we could attach a “code of Main Street living” outlining expectations and what is planned for the area. It would make the process clear what is required to revert. Chairman Wolter said we can hold the code as is or we do something that will allow a property to revert. He doesn’t think there is a way to add an entertainment district clause in the code for the buyer to beware of, without the need for a conditional use. If the board chooses to add an additional provision or permit, then they can choose to do that with the public hearing involvement as part of that board meeting.

MOTION Baum second Shadid to present both options of the amendments to Section 17.30 of the Municipal Code to the Village Board, with a preference for Option 1.

SECTION 1. That Section 17.30 (B-3: General Business District) is revised as follows where words that are ~~stricken~~ are deleted and words that are underlined are to be added:

17.30 GENERAL BUSINESS DISTRICT.

The B-3 District is intended to provide for the orderly continuation and revitalization of the older established Main Street "central business district" (including the area designated as “Village Mixed Use” on the Future Land Use Plan) area of the Village where uses are not exclusively of one type but, rather, mixed and include retail sales shops, wholesale and warehousing outlets, and institutional, recreational and residential uses. Many of the existing businesses in this district may not meet the requirements of the B-1 or B-2 Districts. It is the intent of this district to provide minimum requirements for all new uses of land within the district and a guide for the redevelopment or revitalization of existing uses of land within the district. Further, it is intended that the conversion of buildings located in the historic Main Street area and categorized as “Village Mixed Use” on the Village’s Land Use Plan map from a residential use to a business use or from a business use to a residential use can occur provided that such conversion does not create conflicts with other nearby land uses, or, that impede the intended transformation of the Main Street area into a pedestrian-oriented retail and entertainment area.

OPTION 1: ALLOWS COMMERCIAL USE PROPERTIES TO “REVERT” BACK TO A RESIDENTIAL USE “BY RIGHT” (NO APPROVAL OR PERMIT REQUIRED)

SECTION 2. That Section 17.30(1) (Permitted Principal Uses) is revised as follows where words that are ~~stricken~~ are deleted and words that are underlined are to be added:

17.30(1)(iii) Single-family residential uses in a building originally constructed for residential use that was subsequently converted into a business use, in whole or in part, that the owner wants to revert back to a residential use, in whole or in part, subject to all applicable REQUIREMENTS, restrictions and allowances of the Village's Zoning and Building Codes.

OPTION 2: ALLOWS COMMERCIAL USE PROPERTIES TO "REVERT" BACK TO A RESIDENTIAL USE WITH A CONDITIONAL USE PERMIT (CUP)

SECTION 2. That Section 17.30(3) (Conditional Uses) is revised as follows where words that are ~~stricken~~ are deleted and words that are underlined are to be added:

17.30(3)(oo) Single-family residential uses in a building originally constructed for residential use that was subsequently converted into a business use, in whole or in part, that the owner wants to revert back to a residential use, in whole or in part, subject to the following requirements:

1. ***Said reversion shall abide by all applicable requirements, restrictions and allowances of the Village's Zoning and Building Codes;***
2. ***The owner shall provide sufficient evidence that such conversion will not create a situation where potential negative impacts (e.g. traffic, noise, odor, etc.) associated with or caused by the operation of an existing non-residential land would affect the owners and occupants of said property proposed to revert back to a residential use; or***
3. ***The owner of said residential property shall sign a statement acknowledging and accepting the following:***
   a. ***The property is located within an area designated by the Village as "Village Mixed Use" wherein a variety of residential and non-residential land uses are allowed to occur;***
   b. ***The "Village Mixed Use" area is expected and encouraged to re-develop over time into a pedestrian-oriented retail and entertainment area;***
   c. ***The potential exists for negative impacts (e.g. traffic, noise, odor, etc.) associated with or caused by the operation of both existing and newly developed non-residential land uses to adversely affect the owners and/or occupants of said property on a regular basis.***

MOTION carried unanimously.

ANNOUNCEMENTS: None

The next Plan Commission meeting is October 9, 2017.

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:52 p.m.

Respectfully submitted,

Lori Johnson
Planning Assistant