

PLAN COMMISSION MINUTES

July 12, 2021

CALL TO ORDER: Planning Assistant Lori Johnson called the meeting to order at 6:30 pm.

MOTION Laszewski second Nilles to appoint Trustee Baum as Chairman Pro Tem.

MOTION carried unanimously.

ROLL CALL: Trustee Rep David Baum, Commissioners Tony Laszewski, Peter Nilles and Matt Kimmler were in attendance. Chairman Wolter, Commissioners Bob Williams and Bill Shadid were absent and excused. Also present were Community Development Director Jeff Retzlaff, Associate Planner Emily Zandt and Planning Assistant Lori Johnson.

PUBLIC INPUT:

None

APPROVAL OF MINUTES:

MOTION Laszewski second Peter to Approve the Minutes from June 14th and June 28, 2021.

MOTION carried unanimously.

TR Capital, LLC - W219 N11588 Appleton Avenue The property owner is seeking approval of a 2020 Land Use Plan Amendment from Commercial to Industrial/Office, a Rezoning from B-1: Neighborhood Business to M-1: Limited Industrial and a Conditional Use Permit for commercial self-storage within an enclosed building and outside within a secure area screened from view on the 3.65-acre property. Associate Planner Zandt summarized the proposal.

Public Hearing opened at 6:39 pm.

Chairman Baum read comments received into the record:

-Moraine Development LLC, Appleton Avenue, wrote in favor of the project and supports the new use for the land.

-Jean & Jay Berenschot, N112 W21682 Mequon Road, wrote they had no objection to the proposed rezoning.

-Mark & Lyndall Naumann, N112 W21859 Bark Lake Road, agreed with the new development and had no objections to the storage facility

-Sara Bojarski, N105 W21151 Oak Lane, wrote in opposition to the request to change the zoning and the conditional use because of noise, truck traffic, dirt.

-Ray Kulenski, N112 W21498 Mequon Road, had concerns with traffic and people using the facility any time they want, debris falling off trucks like cushions, who will clean it up, theft and burglary.

Public Hearing closed at 6:49 pm.

MOTION Nilles second Laszewski to Approve the 2020 Land Use Plan (LUP) map amendment to change the designation of the property at W219N11588 Appleton Avenue (3.65 acres) from Commercial to Industrial/Office as proposed.

Eric Roberts, TR Capital, said this is a concept plan and that engineering plans will come forward at a future meeting. He said this is not an industrial use in nature, parking boats and trailers is a residential use. He stated secure fencing will completely surround the property. He explained just the storage units would be open 24/7 but not the outside storage area. A security code will be needed to get into the property. He added it has not been decided if power would be available inside the units. He said they do not want to disturb the DNR cap by adding more lighting. The DNR cap is already paved and is required to remain paved. They intend to maintain that with additional paving

around it. Director Retzlaff said detailed site plans will need to be brought to Plan Commission for review and approval.

MOTION carried unanimously.

MOTION Laszewski second Nilles to Approve the rezoning of the 3.65-acre property at W219N11588 Appleton Avenue from B-1 Neighborhood Business to M-1 Limited Industrial as proposed.

Commissioner Laszewski commented the use as storage units is not an intense use and seems more in line with a family business. Director Retzlaff explained the change in zoning is needed to allow for use of the property as a storage facility.

MOTION carried unanimously.

MOTION Laszewski second Nilles to Approve conditional use permit for commercial self-storage buildings where storage is conducted within an enclosed building, individual units within a building, or outside of a building but within a secure area screened from view for the 3.65-acre property located W219N11588 Appleton Avenue subject to the following conditions:

- 1. The uses and activities allowed on the property shall be limited to those uses and activities and relative locations specified in the conditional use permit (CUP) application and supporting documents dated June 28, 2021. The size and relative location of those areas within the property from which said uses and activities are permitted are limited to that presented in the site plan and description submitted with the supporting documents. Days and hours of operation shall be limited to those specified in the CUP application (Monday through Sunday Daylight hours) and supporting documents submitted to the Village. The Owner/Operator is responsible for reporting any significant changes in the type, intensity, amount or location of the land uses and activities, days and hours of operation, size or location or other operational characteristics of said uses and activities authorized under this CUP to the Village Planner.***
- 2. A site plan shall be submitted as reviewed for approval by the Plan Commission prior to grading or the issuance of building permits for the property.***
- 3. No tenant, nor the property owner, may run additional businesses from the subject property at any time, including from the storage units or the outdoor parking area.***
- 4. No portion of this property, storage structures, or parked vehicles may be used as a residence.***
- 5. There shall be no storage of hazardous materials on the subject property.***

MOTION carried unanimously.

John E. & Brenda Perry - N124 W14106 Lovers Lane. The property owners are seeking approval of a 3-lot Certified Survey Map and Rezoning of a portion of proposed Lot 2 from Rs-2: Single-Family to A-2: Agricultural and proposed Lot 3 from Rs-2: Single Family Residential to Rs-3 Single Family. Proposed Lot 1 will remain in the A-2: Agricultural District. Director Retzlaff summarize the proposal.

Public Hearing opened at 7:17 pm.
Chairman Baum read comments into the record:

-Laura Sanders, N124 W13530 Lovers Lane, disagreed with the proposed land split creating the 1-acre parcel. She would like the board to consider all three lots meet a 5-acre minimum parcel size.

-Mark & Mary Timm, N124 W13976 Lovers Lane, feel the proposed 1-acre lot is unnecessary and will open the door for others to split their land in the future. They hope to retain the rural characteristics of the northern end of Germantown.

-Robert Aiken, N119 W17780 Cove Lane, does not agree with the 1-acre parcel. He believes 5 acres is required. He like the Perry project but doesn't think the 1-acre parcel fits in.

-John Perry said he has owned the property since 2017 when there was an old farmhouse there. He originally was going to keep the farmhouse and move it, but soils would not allow that. He discovered the rural residential classification after meeting with the Planner. He said the old house has been torn down to allow for a new home, but the property had too many outbuildings to keep the Rs-2 zoning so he needed to expand the lot.

-Jenise Seeger, N124 W13440 Lovers Lane, is opposed to the 1-acre parcel and asked why it was necessary. Mr. Perry explained the 1-acre lot would allow for a new house for his in-laws at some time in the future.

Director Retzlaff explained it is a generally know policy of the Village that parcels north of Freistadt Road are limited to a 5-acre minimum. However, the Land Use Plan was adopted to allow the land shown in yellow, the rural residential area, to divide into 1 acre. He said there are a handful of properties that fall within the current policy. Bob Aiken stated if you drive down Lovers Lane, everyone has 5 acres or more and with Mr. Perry's remaining 36 acres he could do a larger lot and conform to the rest of the neighborhood. Mark Timm commented if the goal was to have another residence, Mr. Perry could incorporate the 1-acre into Lot 1 to build another residence versus the way he has proposed it. He said everyone has considered this area as 5-acres. There is a lot of yellow on the map and others may come forward to seek small lots.

-Jeff Groth, N124 W13832 Lovers Lane, asked when the parcel was rezoned. Director Retzlaff said lot wasn't rezoned, the yellow is land use plan classification, not a zoning classification. The map has not changed since the plan was adopted. The Perry parcel's yellow land use classification and Rs-2 zoning was existing.

-Clark Sherman, from Milwaukee, said he was on the long-range planning committee for 2020 and he remembers the 5-acre minimum lot size north of Freistadt Road.

John Perry said there are a few other properties on Lovers Lane and Mary Buth that are zoned Rs-3. Everyone else is Rs-1 or Rs-2 and he would like the opportunity to try for a 1-acre lot.

Public Hearing closed 7:46 pm.

MOTION Nilles second Laszewski to Approve the proposed 3-lot Certified Survey Map (CSM) for the John & Brenda Perry property to redivide two parcels totaling 38.2 acres into three parcels located on Lovers Lane subject to the following conditions:

- 1. All technical issues and plan corrections that may be identified by the Village Engineering Department shall be addressed and reflected in a revised CSM submitted and approved by the Engineering Department prior to recording the CSM.***
- 2. Notes requiring a wetland delineation and soil evaluations if/when Lot 1 is proposed for development should be included on the CSM.***

Chairman Baum said he did not want to cut up a 5-acre lot but changed his mind when Director Retzlaff explained it was allowed to be done because the parcel was in the yellow land use classification. And there are other 1 acre lots in the area. We are working hard on our next plan to preserve everything north of here as best we can for 5-acre farm properties and greater. This one parcel he will accept. Commissioner Laszewski said he when he looks at the map, he sees the yellow and for the last 20 years this is the map he's followed. Director Retzlaff explained the current Land Use Plan map that shows the green and yellow was approved in 2004 and there have been no map amendments that changed the classification on the Perry Property.

MOTION carried 3-1 (Nilles)

MOTION Laszewski second Kimmler to Approve the Rezoning proposed rezoning for the John & Brenda Perry property to rezone a portion of proposed Lot 2 (10.65 acres) from Rs-2: Single-Family to A-2: Agricultural and all of proposed Lot 3 (1.01 acres) from Rs-2: Single-Family to Rs-3: Single-Family.

MOTION carried 3-1 (Nilles)

John D. East - W164 N11974 Fond du Lac Avenue. John East, operator of East Outdoor Services, is requesting approval of a Conditional Use Permit to operate a tree removal, trimming and stump grinding service as a major home occupation. Director Retzlaff summarized the proposal. John East explained he runs a very small business, there are no retail sales on site, no materials are brought back to the site and overnight parking is in the back of the property off Fond du Lac Avenue. He does not plan to expand the business and wants to keep it small and family oriented.

Public Hearing opened at 8:00 pm.

Chairman Baum read the following comment into the record:

-Tasha Bagley, W165 N11904 Fond du Lac Avenue, asked that the request be denied because of noise, a woodchopper and cars burning rubber out of the driveway. She would not have a problem if there was no chopping or sawing performed or speeding cars.

-John East explained the noise is from him working on the adjoining neighbors property, including stump grinding. He will address the speeding car issue with his employees.

Public Hearing closed at 8:07 pm.

MOTION Nilles second Laszewski to Approve a conditional use permit (CUP) for John East and East Outdoor Services to operate as a "major" home occupation providing tree trimming, removal and stump grinding services from the property located at W164 N11974 Fond du Lac Avenue subject to the following conditions:

- 1. The uses and activities allowed on the property shall be limited to those uses and activities and relative locations for vehicle parking specified in the conditional use permit (CUP) application and supporting documents dated June 4, 2021. The size and relative location of those areas within the property from which said uses and activities are permitted are limited to that presented in the detailed site plan and description submitted with the supporting documents. Days and hours of operation shall be limited to those specified in the CUP application and supporting documents submitted to the Village (Monday through Friday, 8am to 5pm). The Owner/Operator is responsible for reporting any significant changes in the type, intensity, amount or location of the land uses and***

- activities, days and hours of operation, size or location or other operational characteristics of said uses and activities authorized under this CUP to the Village Zoning Administrator.*
- 2. The on-site storage or parking of business vehicles and equipment shall be permitted in an enclosed accessory building or in a side or rear yard provided that the area used for such storage or parking is screened from view from all public streets and adjacent property. Other than when the business trucks are leaving from/returning to the site, business vehicles should be parked in the side yard as shown in the application photos.*
 - 3. Outdoor storage of trees, branches, stumps or other tree components is prohibited.*
 - 4. Wholesale and/or retail sale of landscaping products, trees or other business-related products from the property is prohibited.*
 - 5. In the event the Village receives complaints regarding outdoor storage, noise, dust, odor, vibration or other negative impacts on surrounding neighborhood and properties, the Owner/Operator shall work cooperatively with the Village to address the complaints and mitigate the issue.*
 - 6. Site improvements, buildings, signage, exterior lighting and any other improvements on the property that are necessary for the land uses and activities authorized under this CUP shall be reviewed and approved by the Village through the Zoning Permit or Site Plan application process as determined by the Village Zoning Administrator. If required, Site Plan review and approval will include Plan Commission review and approval.*
 - 7. If the use, activities and/or operation subject of this permit falls out of conformity with the conditions herein, or where there is a change in the nature, character, intensity or extent of the permitted conditional uses and activities which cause special problems or harmful effects associated with the permitted uses and activities that were not revealed or anticipated at the time this CUP was granted, or, where conditions imposed by this CUP that were anticipated to mitigate or eliminate harmful effects associated with the uses and activities but are subsequently insufficient to do so, or, for similar cause based upon consideration for the public comfort, safety, and welfare, this conditional use permit may be terminated or modified by the Village Board by the amendment to or addition of conditions after public hearing thereon.*
 - 8. Upon issuance of the CUP, the business shall comply with all general and specific requirements and performance criteria applicable to all "major" home occupations under Section 17.61 of the Zoning Code. Operation of the business in a manner that does not comply with the applicable requirement under 17.61 or inconsistent with the application dated June 4, 2021 and the conditions of approval adopted herein shall be deemed a violation of the Village Municipal Code and subject to the enforcement provisions contained therein.*

Commissioner Nilles amended the Motion to delete Condition #5 that was a duplicate. Commissioner Laszewski approved.

MOTION to Amend Condition #3 Laszewski second Nilles to prohibit mulching, shredding and grinding operations other than ordinary and customary residential use not to include commercial uses.

Chairman Baum said in the past we have dealt with landscape businesses that don't intend to grow but it happens. He said we need to cognizant of home occupations and how they're going to grow and that we may need to shut them down. The conditions of approval will let the residents know what the restrictions are.

Commissioner Kimmler requested additional language be added to Amendment to Condition #3 to include language prohibiting storage of any other landscape materials, stone or other mulch that could be unsightly. Commissioner Laszewski and Nilles approved of the additional language.

MOTION to Amend carried unanimously.

MOTION to Approve as Amended carried unanimously.

Mike Faber, Agent for Capstone Development Company - N128 W20943 Holy Hill Road.

Request for feedback on Capstone 41 a proposed 52.5 acre business park development located on Holy Hill Road as part of the Tax Increment District (TID) No.7 expansion to include up to three multi-tenant buildings totaling approximately 785,400 sqft for light manufacturing, assembly, warehouse, distribution or e-commerce uses consistent with the M-1: Limited Industrial Zoning District. Director Retzlaff summarized the plan. Mike Faber, Capstone Development, reviewed the upcoming proposal.

Plan Commission members had the following comments and concerns:

- Will we acknowledge the feedback provided in the 2050 survey. Comments included not wanting any more buildings, buildings need more architectural features with no bright colors, earth tone colors preferred.
- Decisions for TID 7 and TID 8 have already been made regarding future development. Plan Commission has been consistently concerned with architecture, colors, materials and screening roof top units. However these are not specific requirements in the code.
- Proposed building shows same detailing as the other buildings in the area, nothing of high quality or design. Appears to be a distribution building with lots of truck docks. Detailed landscaping with berming will be needed to block the view. Buildings are large, not a lot of room for landscaping. Buildings should be setback further from road to allow for more landscaping, including berms with deciduous trees and evergreens.
- Business Park on Mequon Road has several rows of trees. There is a 150-foot setback to the buildings to allow for substantial berming and landscaping due to the relationship to the residential. This looks more appealing. More landscape screening may not be required if the buildings could be reoriented, or setback further from the road and the docks are not seen.
- Director Retzlaff reviewed the Holy Hill Road improvement design plans with the Public Works Director, including curb cuts and driveway pads that were provided. At this point the plans do not show a particular curb cut at the eastern most driveway that is shown on this site plan. Will need further coordination with the developer on the orientation of the driveway including the need for a full movement driveway.
- The setback shown along the eastern most property line to the proposed parking is totally inadequate at a minimum of an 8-foot setback. Something more needs to be done with regard to the parking and the east property line. Need a way to address the absolute minimum setback from a parking stall to the property line.

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

Marty & Meghann Ybarra - W202 N11860 Merkel Drive. The property owners are seeking approval to construct a privacy fence in a front yard at a height of 6 feet. Associate Planner Zandt summarized the proposal.

MOTION Laszewski second Nilles to Approve the proposed installation of a fence 6' in height along the Merkel Drive front/street yard for the residential lot located at W202 N11860 Merkel Drive.

MOTION carried unanimously.

Melvin Schuette - N124 W14435 Lovers Lane. The property owner is seeking approval to construct a 2,400 sqft detached residential accessory storage building on a 10-acre parcel located at N124 W14435 Lovers Lane. Director Retzlaff summarized the proposal to approve the building materials for the accessory building.

MOTION Laszewski second Nilles to Approve the 2,400 sqft detached residential accessory storage building at N124 W14435 Lovers Lane as proposed.

Commission Laszewski asked how visible the building would be from the street. Chairman Baum stated you cannot see the house from the street.

MOTION carried unanimously.

Harbor Freight Tools - N96 W18650 County Line Road. Request is for approval of site development and building plans for exterior improvements and signage for the existing commercial building. Associate Planner Zandt summarized the proposal.

MOTION Laszewski second Nilles to Approve the site development & building plans for an exterior remodel and new signage for the existing commercial building located on the 5.35-acre lot at N96W18650 County Line Road, subject to the following conditions:

- 1. This approval is subject to all the conditions and requirements set forth herein and adopted by the Plan Commission. Approval is granted for the following plans unless superseded by subsequent plan sheets approved by the Village Planner or Engineer pursuant to revisions required herein and/or by the Plan Commission:***
 - a. Architectural plan set dated June 8, 2021***
- 2. Per the memo dated June 30, 2021, detailed grading plans of the ADA improvements shall be submitted with the building permits for review and approval by the building inspector to ensure compliance with the ADA code.***
- 3. State agency (DSPS) approved plans and a \$20,000 occupancy bond are required by Inspection Services at the time of building permit application. The Village of Germantown is an authorized delegated agent of DSPS to provide all commercial plan review and inspection services through SAFEBuilt of WI and the Village of Germantown.***
- 4. An electrical permit shall be obtained from Inspection Services prior to installation of any/all electrical components.***

Discussion followed. Chairman Baum said the parking lot has no trees and asked if there was a landscaping requirement that could be used. Director Retzlaff explained historically if there is no reconstruction or redevelopment of the parking areas landscaping is not required. Chairman Baum

said that when the lot is repaved landscaping will be required. Dan Van Luvender, Project Manager, explained the owner intends to have the parking lot repaired, resealed and restriped. Chairman Baum said the owner should reach out to the Planning Department at that time to discuss landscaping. Associate Planner Zandt explained the Public Works and Engineering Departments are requiring grading plans for the ADA improvements to the ramps. Mr. Van Luvender stated the ramps are existing. Chairman Baum advised him if the ramps are replaced, grading plans will be required and to call engineering staff for clarification. Director Retzlaff commented that the Village would likely be receptive to additional signage on the north side of the building facing Appleton Avenue

MOTION carried unanimously.

ANNOUNCEMENTS: None

ADJOURNMENT: There being no further business, the meeting was adjourned at 9:15 pm.

Respectfully submitted,

Lori Johnson
Planning Assistant