

PLAN COMMISSION MINUTES

April 10, 2023

CALL TO ORDER: Chairman Wolter called the meeting to order at 6:30 pm.

ROLL CALL: Chairman Dean Wolter, Trustee Representative David Baum, Commissioners Tony Laszewski, Peter Nilles, Bob Williams, Bill Shadid and Josh Tarantino were present. Also present were Community Development Director Jeff Retzlaff and Planning Assistant Lori Johnson.

PUBLIC INPUT: Chairman Wolter explained any comments regarding Walmart be kept to things the Plan Commission would review and not crime or cleanliness of the store.

- Melanie Smythe, N140 W17938 Cedar Lane, disagreed with Chairman Wolter regarding Walmart because adding square footage is a zoning and land use issue and is related to what Plan Commission does.
- Jan Miller, W151 N10297 Windsong Circle W, suggested Walmart use a net in their pond to catch the trash and keep it cleaner.

APPROVAL OF MINUTES:

MOTION Baum second Shadid to Approve the minutes from March 13, 2023

MOTION carried unanimously.

MOTION Baum second Shadid to go to Items D and then Item F.

MOTION carried unanimously.

Silver Leaf Signs & Graphics, Agent for Germantown Investment Group LLC, Property Owner and Veterinary Dental Specialists – N97 W17095 Division Road. Sign Review application. Director Retzlaff summarized the proposal.

MOTION Baum second Laszewski to Approve the proposed signs for Veterinary Dental Specialists in the multi-tenant office building located at N97 W17095 Division Road subject to the following conditions:

- 1. Electrical permits shall be obtained from Inspection Services prior to installation of any/all electrical components.***

MOTION carried unanimously.

Signs & Lines by Stretch, Agent for TI Investors of Germantown LLC, Property Owner and Motis Brands – W210 N12975 Gateway Crossing. Director Retzlaff summarized the proposal.

MOTION Baum second Shadid to Approve the proposed wall sign for Motis Manufacturing in the multi-tenant building located at W210 N12975 Gateway Crossing (Zilber Building #5) in the Germantown Gateway Corporate Park subject to the following conditions:

- 1. Electrical permits shall be obtained from Inspection Services prior to installation of any/all electrical components.***

MOTION carried unanimously.

Amendment to the Village of Germantown 2050 Comprehensive Plan to incorporate the 2022 Intergovernmental Agreement for the provision of Municipal Wastewater and Water Utility Service between the Village of Richfield and the Village of Germantown. Staff was informed by SEWRPC that in order for SEWRPC to consider the proposed SSSA expansion, the comprehensive plans for both

Richfield and Germantown need to be amended to include the proposed SSSA expansion area as agreed to in the Richfield intergovernmental agreement. Director Retzlaff reviewed.

Public Hearing opened: 6:49 pm.

- Melanie Smythe, W140 N17938 Cedar Lane, thought the map shown for the IGA was incorrect and should be changed. Director Retzlaff explained map 7.11 intends to show the Village's planning area for MMSD and their requirement is that any amendment to a planning area include the nearest full quarter-quarter section. It is not the sewer service area, only the planning area. Ms. Smythe asked that a note be put on the map explaining that. Dean stated the proposed boundary map shows the sanitary sewer service boundaries, but because of the requirement for MMSD a square is needed.
- Scott Hefle, W159 N10514 Old Farm Road, spoke on the list of proposed developments that were not part of the IGA and asked if they were required by MMSD and by SEWPRC to add all the amendments to keep the project going. Director Retzlaff said they were not part of the IGA or required by SEWPRC or MMSD. The list is a staff generated list that was requested by SEWPRC to create a separate amendment for any additional SSA adjustments they would like to have done in the near term.
- Jan Miller, W151 N10297 Windsong Cir W, commented on the approved minutes say the Village Center District and Holy Hill District are top priorities and she would prefer this be held off until we get citizen input. She asked why the extra areas required by the MMSD are in the 2050 Plan and should be a separate document and reviewed at a separate meeting.

Public Hearing closed 7:00 pm.

MOTION Baum second Nilles to Adopt the Text Amendments and Maps as presented.

Discussion followed. Director Retzlaff explained that in order to implement the intergovernmental agreement, we need to officially expand our sanitary service area. The various requirements include expanding our planning area with the requirement from MMSD to include the nearest quarter section boundaries that includes areas not intended to be served. Chairman Wolter said that doesn't mean there will be development there. It's just possible planning for a 2050 Plan.

MOTION carried unanimously.

Michael Doran for U.S. Cellular, Agent for Faith Lutheran Church, Property Owner – W172 N11183 Division Road. Conditional Use Permit (CUP) and Site Plan Review for a 190' monopole tower and wireless telecommunication facility. Director Retzlaff summarized the proposal. Mike Doran, Agent for US Cellular, handed out a revised search ring document to PC members and spoke on the existing police tower. Shaun Hemsted, Agent for US Cellular, addressed staff issues. He explained the co-location requirement is limited to the search area and due to an erroneous error on their part by not providing that search area to Planning, they have now provided the half mile search area. He said they did look at the Police tower but the main issue is an existing tower that would cause PIN interference making the site useless and not an option. The other tower staff mentioned is

1.27 miles away and is in an area already served by US Cellular. He indicated the corrected affidavit provided tonight states there are no co-locatable structures within their search area. He disagreed with many of the recommendations by staff and said a denial is in direct conflict with WI State Statutes. He said US Cellular would be willing to research to reengineer the tower so that it does have a 45 percent fall zone so if the tower would fail it would be engineered with a failing point to allow the tower to fall within 95 feet.

Public Hearing opened 7:54 pm.

- Donna Rider, W169 N10759 Redwood Lane, spoke against approving, read a number of health conditions related to bio-effects, daycare and senior facilities near the tower.
- Charles Yaeger, W165 N11066 Kings Ct, spoke against the tower, would prefer tower located in an industrial area, not residential.
- David Johnson, N98 W17810 Lilly Ct., spoke on behalf of Faith Lutheran Church members, they are all in support of the US Cellular tower.
- Jerry Myszewski, W159 N11439 Red Oak Circle, spoke in favor, said the tower will bring in revenue for the church which they can use for needed improvements.

Public Hearing closed 8:04 pm.

Discussion followed. Commissioner Shadid asked what alternatives Plan Commission has. Director Retzlaff said setback and co-location issues would apply. He feels Section 17.50 does apply to a setback and a height requirement. He stated he does not have an opinion from the Village Attorney and was confused by the search ring issue that appears to be based on a location not near this site but apparently it doesn't need to be.

MOTION Shadid second Baum to Postpone and require US Cellular to look at moving the tower 195 feet from any property line.

MOTION Withdrawn Shadid.

MOTION Shadid second Baum to Approve the CUP application and site plans with the following conditions:

- 1. This approval authorizes the installation of a 195' monopole tower as set forth in the following documents and in any other supporting documents and plans made part of said application:***
 - a. Property Survey dated 8-17-22***
 - b. Structural Design Report dated 11-14-22***
 - c. FAA Opinion Letter dated 8-31-22***
 - d. RF Engineering Statement dated 1-10-23***
 - e. Co-location Affidavit dated 1-24-23***
 - f. Site plan set (construction & equipment drawings) dated 10-25-22 (revised date 1-11-23)***

All the operational characteristics and services as described, as well as any commitments made by the Applicant as set forth in the application, supporting documents, and made during presentations to the Village Plan Commission, Village Board and Village staff are deemed to be conditions of approval.

- 2. If use of the tower and/or operation of the communication equipment supported thereon 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 use which causes special problems or harmful effects otherwise associated with the use to be no longer ameliorated or eliminated, or where conditions imposed were anticipated to mitigate or eliminate harmful effects associated with the use but are subsequently insufficient to do so, or for similar cause based upon consideration for the public comfort, safety, and welfare, the conditional use permit may be terminated or modified by the Village Board by the amendment to or addition of conditions after public hearing thereon.

- 3. Installation and continued operation of the wireless communication facility shall comply with all requirements set forth in Section 17.56 (Wireless Communication Facilities) of the Village Code to the extent that such requirements do not conflict or are inconsistent with Wis. Stat. 66.0404; including, but not limited to the requirement that the applicant/owner shall provide an irrevocable letter of credit or cash to the Village in the amount of \$20,000 to guaranty the removal of wireless communication facilities and associated site restoration if/when said facilities are no longer used.*
- 4. The Applicant shall provide a final set of stamped and sealed engineering plans and the Engineer's certificate regarding the "height of tower" fall zone for the proposed tower at the time building permit applications are submitted.*
- 5. Building permits, including but not limited to construction permits, electrical permits, erosion control permits, may be required by the Village for the initial construction and subsequent equipment co-locations and upgrades. Contact Inspection Services in the Community Development Department prior to commencing any site preparation or construction on the property.*
- 6. The technical requirements set forth in the March 10, 2023 review memo from the Director of Public Works shall be addressed in a revised plan set or supplemental information submitted to the Public Works Department prior to issuance of any permit for construction of the proposed facility.*
- 7. The tower shall be designed for a fall zone within 95 feet of the west property line. ~~The proposed location of the tower (and equipment enclosure around the tower) shall be re-located as necessary to meet a minimum setback distance of 95 feet from the base of the tower to the west property line. A revised site plan set showing the revised tower and enclosure location and dimensioned setbacks shall be provided to the Community Development Department prior to issuance of any permit for construction of the proposed facility~~*
- 8. The height of the enclosure fence shall be increased to a height equal to the height of the tallest equipment cabinet to be installed for the US Cellular WTF within the enclosure but not less than six (6) feet as originally proposed.*
- 9. The minimum size Arborvitae at the time of planting shall not be less than six (6) feet (vs. the proposed 4 feet). A revised landscape plan sheet shall be submitted to the Community Development Department prior to issuance of any permit for construction of the proposed facility.*

Discussion continued. Director Retzlaff asked Shaun if he is objecting to the Ethoplex tower based on things he knows or because he feels he doesn't have to. Shaun explained there is no net gain or benefit to using that tower. The need is at the church that is located at the north end of the search ring. Commission Williams asked if there were any modifications that could be made to the tower at the Police station that would allow US Cellular to utilize that tower instead of putting a new tower at a different location within a third mile away. Shaun stated his personal opinion is possibly if the tower is

extended taller. It is not an acceptable height and would cause interference. Director Retzlaff asked if he feels that satisfies the requirement in the statute that says you need to provide an explanation as to why you chose the proposed location and why you didn't choose co-location, etc. (read the State Statute). Shaun said the Police Department tower is not registered and the ring did not include that tower. Mike Doran stated he saw the Police Department tower and knew it wouldn't work because of the whips.

Discussion continued. Commissioner Williams said the code and the State Statute say the Village can hire a consultant and require them to pay, giving us a written analysis of whether or not that will work. Director Retzlaff said Plan Commission has that ability, but we have a 90-day window to handle things in a timely manner and would need to ask the applicant for an agreement to extend the 90 days deadline. Trustee Baum said we're having issues with staffing at the Police department and an option is to utilize the County's radio system. What does that do to this tower, are the whips needed anymore. He would like to know that before making a decision. Discussion continued.

Director Retzlaff said the application submitted is sloppy, the zoning is incorrect and full of things that just cast doubt. Chairman Wolter commented on the report done on 3/21/22 saying it was confusing showing where the pins are and what the radius shows on the affidavit. He said it is misleading and most would think it's a misrepresentation. He said he understands why Faith Lutheran Church supports the tower and how it can help them.

MOTION Failed 4-2 (Shadid, Wolter)

MOTION Baum second Williams to Postpone further action until the next Plan Commission meeting on April 24th at which time I would like to have additional information as to what the Village's intent is for our police radio center, can the wick antennae be altered in any way that would allow the main structure to be utilized by the co-location and he would also like to get the interpretation of another expert as to the validity of the service area maps, is it all within the terms of what we're supposed to be doing and the Village Attorney should be consulted.

Hemsted said he didn't think the police tower was a viable option for them, but he would need the most recent structural analysis of the tower documents.

MOTION carried 6-1 (Wolter)

pb2 Architecture & Engineering, Agents for Meridian Germantown LLC, Property Owner and Walmart – W190 N9855 Appleton Avenue. Site Plan Review for a 3,865 sqft building addition, exterior renovations and a Sign Review application. Director Retzlaff summarized the proposal. Amy Miles, pb2 Architecture, answered questions. She indicated the expansion is a dedicated staging area for online orders. Discussion followed. Trustee Baum asked if there was something we could do to clean up the site. Director Retzlaff commented that staff had sent out the annual litter letters to area businesses and in response Walmart hired a contractor to clean up the property.

MOTION Baum second Nilles to Approve Site Plan application and detailed site and building plans for the proposed remodeling of the Walmart retail store located at W190 N9855 Appleton Avenue 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 architectural, engineering plans unless superseded by subsequent plan sheets approved by Village Staff pursuant to revisions required herein and/or by the Plan Commission:

- a. Civil engineering, utility, demolition plans dated January 5, 2023;***
- b. Architectural plans dated January 5, 2023;***
- 2. The following improvements are included in this approval:***
 - a. Expansion and remodeling of the existing seasonal outdoor product storage area on the south side of the building into an enclosed retail space for use as a customer “pick-up” and pick-up storage area;***
 - b. Minor modifications to and conversion of the parking lot curbs, stalls and drive lanes on the south side of the building into short-term parking for “pick-up” customers.***
- 3. All landscaping, grading, and parking lot paving improvements shown on the site plans shall be installed as proposed prior to issuance of an occupancy permit unless a cash bond or letter of credit in an amount equal to 120 percent of the estimated installation and material costs reviewed and approved by the Village is submitted to the Village as necessary to ensure that installation of the proposed features and improvements will be completed within one (1) year after issuance of the occupancy permit.***
- 4. State agency (DSPS) approved plans and a \$20,000 occupancy bond are required by Inspection Services at the time of building permit application for the building expansion. 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.***

MOTION carried unanimously.

MOTION Baum second Nilles to Approve the Sign Permit application for the proposed sign revisions for the Walmart retail store located at W190 N9855 Appleton Avenue 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 and specifications unless superseded by subsequent plan sheets approved by Village Staff pursuant to revisions required herein and/or by the Plan Commission:***
 - a. Architectural plans dated January 5, 2023;***
 - b. Supplemental sheets w/ “existing” and “proposed” renderings of the proposed lettering and location changes (date stamped received March 7, 2023)***
- 2. The following improvements are included in this approval:***
 - a. Minor lettering & color changes to the monument sign at the Maple Road @ Appleton Avenue intersection;***
 - b. Lettering, word, and location changes for the various signs that hang over the “department” entrances, i.e. “Home & Pharmacy”, “Outdoor”, etc.***
- 3. This approval does NOT include the exterior elevation paint color revisions contained in the original set of architectural plans dated January 5, 2023; that component of the proposal has been withdrawn.***

MOTION carried unanimously.

Moraine Development LLC, Applicant and Property Owner – W218 N11546 Appleton Avenue.

Consultation for the proposed restoration and re-development of the 87-acre (inactive) gravel mining property. Hans Dawson, President, Lannon Stone Inc., agents for Moraine Development LLC, property owner, is seeking feedback on a proposal to restore and re-develop the 87-acre property formerly used as a gravel mining operation. Director Retzlaff summarized the proposal. Hans Dawson explained he and his sister Heidi had purchased the property from bankruptcy court. They intend to make the property a beautiful part of the Village and after restoring the site, they will keep it as private residential development for their family to use in the future. Discussion followed.

Chairman Wolter thanked Mr. Dawson for taking the project on and making restorations to the property. Mr. Dawson said he would like to have approval of a site plan to complete the grading and start planting in the spring. He said they were interested in applying for a PDD and indicated it will take months and months of mass excavating on the site. Chairman Wolter said during the PDD process some things are requested on behalf of the Village and asked Hans if he would be open to any recreation paths that would skirt the outside of the development for a possible bike path. Director Retzlaff explained a PDD is intended as a give and take on amenities. He asked what sort of measures will be taken to control dust. He is concerned about the negative impacts before it becomes an asset to the Village. Hans said the work would be done during normal business hours and that they would use the water on the site to spray for dust control. He indicated there is no timeframe for the residential development. Director Retzlaff advised them they will need a grading and erosion control plan. Chris Hitch, RA Smith, stated the restoration plans are the mass grading and erosion control stabilization vegetation plans. There would be a mass grading operation with a fleet of machines on site for a good part of the summer. It will take years to let the natural cycle build on itself and start to restore the land. Director Retzlaff informed Hans the ability to develop the property once it is restored is dependent on getting zoning approval. And in order to get zoning approval under a PDD you will need a little bit more detail than what you currently have. He asked if they were comfortable moving forward or do they need more formal action. Hans commented that they wanted to have a concept of how it will look before they do the grading. The development will be privately owned.

ANNOUNCEMENTS: A Plan Commission meeting is scheduled for April 24, 2023

ADJOURNMENT: There being no further business the meeting was adjourned at 10:00 pm.

Respectfully submitted,

Lori Johnson
Planning Assistant