

PLAN COMMISSION MINUTES

March 10, 2014

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

ROLL CALL: Chairman Wolter, Trustee Representative Baum, Commissioners Warren, Stauffacher, Peck, Gray and Yokes were present. Also present were Village Planner Jeff Retzlaff, Village Engineer Brionne Bischke and Planning Assistant Lori Johnson.

PUBLIC INPUT: None

PREVIOUS MINUTES: *MOTION Baum second Warren to Approve the Minutes from February 24, 2014.*

MOTION to Amend Gray second Baum to change the language under Rick's Quick Lube to state that the original landscaping as proposed be removed and replaced by what is indicated in the minutes.

MOTION to Amend carried unanimously.

MOTION to Approve as Amended carried unanimously.

Core Commercial, Inc. for Russell & Karen Kloehn and Paul & Vivian Pingel – N96 W19100 and N96 W19062 County Line Road. Applications for Site Development and Building Plans for a 23,248 sqft multi-tenant retail center. Planner Retzlaff summarized the revised proposal. Grant Duchac and Jeff Liebergen, Excel Engineering, reviewed revisions to the plan and answered questions.

Commissioner Stauffacher liked the revised plans and said he appreciated that the developer incorporated Plan Commission's input from the last meeting into the plans. Discussion followed regarding loading and unloading for the site and the 8 foot sidewalk area in the back of the building. Engineer Bischke said a bump out is needed to accommodate a swing motion to allow room for deliveries. In addition there should be railings approximate to where the doors are. Planner Retzlaff also cautioned the developer citing the 3 to 1 slope on the other side of the retaining wall. Trustee Baum appreciated the modifications but didn't like the canopies over the doors. Planner Retzlaff asked if Plan Commission had any concerns regarding the 6 foot front sidewalk. Trustee Baum said it would be tight but doesn't see it as a concern. Chairman Wolter questioned the size of the retention pond. Engineer Bischke confirmed it could be smaller. Mr. Duchac said they proposed a larger pond for flexibility and said it could be made smaller. Commissioner Gray commented on the landscaping. She said the acer rubrum is not a good choice and suggested replacing them in the front with autumn blaze maples and honey locust on the side. She said the weigela is a ratty bush and shrub roses would be better and the plantings around the sign could be doubled.

MOTION Baum second Stauffacher to Approve the Site Development, Building and Sign Plans for a 23,248 sqft retail center on the 3.7-acre parcel located west of the Germantown Plaza II at N96 W19100 County Line Road subject to the following conditions:

- 1. Approval is for the site development and building plan set dated March 5, 2014, and, the monument sign plan dated February 20, 2014, unless otherwise revised by subsequent plans submitted to and approved by the Village Planner pursuant to revisions required by the Plan Commission.***

- 2. All landscaping, screening, and lighting improvements shown on the approved 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.**
- 3. A monitored sprinkler system and Knox Box shall be installed in the building as required by the Fire Department.**
- 4. All exterior doors shall be clearly marked with reflective 5" or larger letters/numbers to aid emergency personnel access as required by the Police Department.**
- 5. State approved plans and a \$20,000 occupancy bond are required by the Building Inspection Department as part of the building permit application.**
- 6. All technical corrections and issues raised in the Engineering Department's January 24, 2014 memo shall be addressed and reflected in a revised plan set submitted to the Village Engineer for review/approval prior to issuance of a building permit. Additional comments and/or technical corrections resulting from the Village Engineer's review of the revised plan set dated March 5, 2014 and the revised storm water management report shall also be addressed prior to issuance of a building permit.**
- 7. Zoning Permit Compliance/Occupancy permits are required for all tenants occupying space in the office building.**
- 8. Sign permits are required for all permanent and temporary exterior signage. A consistent type and style of wall signage shall be required for all tenants (example: internally or back-lit individual lettering that is surface or race-mounted). Sign "cabinets" w/ plastic & vinyl covered faces or flush-mounted lettering simply hung from the building shall not be permitted.**

MOTION to Amend Baum second Peck to add Condition #9 that the 2 building canopy's discussed be re-evaluated to tie in more with the architecture of the building. The revisions should be reviewed and approved by staff. (modify the EIFS, tie into the horizontal banding of the EIFS, extend canopy brick to brick)

MOTION to Amend carried unanimously.

MOTION to Approve as Amended carried unanimously.

Engineer Bischke left the meeting at 7:05 p.m.

Richard Rogers and AT&T Wisconsin for David Mitchell – W124 N13185 Wasaukee Road.

Conditional Use Permit and site plan for the installation of a 150' monopole wireless communication tower on a 25.35 acre parcel. Planner Retzlaff summarized the proposal. He said this proposal had come before Plan Commission in March 2013. At that time, Plan Commission recommended approval of the conditional use permit subject to a number of conditions. After a lengthy public hearing at Village Board in April 2013, the Board postponed action on the proposal with the direction that AT&T consider and analyze other alternatives, including tower height, co-location alternatives and camouflage options. He further explained a new Wis. Stat. 660404 went into effect on July 1, 2013 that preempts all local regulation and control of wireless communication facilities and cell towers. The new statute rendered the Village's zoning regulations of wireless facilities unenforceable after July 2, 2013. AT&T withdrew their original CUP application and

resubmitted in late January 2014 in order to be reviewed under the new statute.

Dean Hoss, Dexter Hadnot and Richard Rogers spoke on behalf of AT&T. Commissioner Gray questioned who determined that the available tower on cedar lane is not adequate. Planner Retzlaff said AT&T provided an affidavit, as was required, stating that there are no viable alternative co-location sites within the search area. Commissioner Peck said property values would go down and questioned why AT&T did not go back to Mequon to locate the tower. Dean Hoss, Engineer with AT&T, said changes were already made and put into place that now make this location better. Commissioner Stauffacher was appalled at the new statute and said there is nothing in the statute that would limit the Village from denying the proposal because of declining property values. Planner Retzlaff said the language specifies under what condition a municipality can deny or disapprove an application and can't regulate outside the scope of what's in the legislation. Commissioner Stauffacher said he recommends postponing to see what type of documentation can be put together in order to substantiate the drop in property values. He said this is a legitimate concern and it is not listed as a reason for denial. Planner Retzlaff cautioned that the Village is under a tight 90 day time frame for approval. Chairman Wolter explained the conditional use permit application needs to continue to follow the application process for approval. Commissioner Gray questioned what would happen if Village Board denied the proposal. Chairman Wolter said the Village may end up in court if the proposal is denied because of wanting to deny and not taking the proper steps in the approval process. He added that AT&T could have proposed a 200 foot tower but stayed with the original proposal.

MOTION Baum second Warren to Approve a issuance of a conditional use permit to AT&T Wisconsin, lessee and operator, and David Mitchell, property owner, to allow the installation and operation of a wireless communication facility as proposed on the property located at W124 N13185 Wasauke Road, and approval of the associated site plan subject to the following conditions:

- 1. This permit authorizes the installation of a 150' monopole tower and equipment building compound as set forth in site development and building plan set having a "final drawing" date of January 9, 2014, and in the supporting documents and plans made part of said application. All of 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 minimum planted size for all evergreen trees shall be 8'. A revised landscape plan sheet shall be prepared and submitted to the Village Planner for review/approval prior to issuance of a building permit.***
- 5. Final selection of the color for the chain-link fence privacy slats shall be submitted to the Village Planner for review prior to issuance of a building permit. The color of said privacy slats should be a dark, earth-tone color.***

MOTION to Amend Baum second Peck to add Condition #6 that public hearing notifications go out to property owners 2 miles in each direction.

MOTION to Amend carried 6-1 (Warren)

MOTION to Amend Gray second Baum to add Condition #7 that every arborvitae be changed to spruce or pine trees and be planted in a staggered, offset pattern along the property line with 12 to 15 foot centers.

MOTION to Amend carried unanimously.

MOTION to Amend Peck to propose 4 evergreens be planted within 50' of tower at 100 feet tall.
MOTION Fails – No Second.

Planner Retzlaff said at the last review, the Village Board directed the applicant to look at alternative heights and co-location alternatives. He said the analysis concluded that a 125 foot tower necessitated 2 additional facilities elsewhere in the search area to provide the same level of service. Mr. Rogers confirmed the analysis was correct adding that they also looked at a 199 foot tower but determined that height was not needed as well as looking at all other existing towers for co-location. Chairman Wolter said these types of services are being requested by more people who are using data everyday and AT&T is trying to satisfy that request. He said It doesn't mean he is in favor of or taking a positive position but it's a fact how many people want and rely on this type of technology. Mr. Rogers said he understands the impact on the neighbors but the coverage is needed. Chairman Wolter said what we need to do as a community is look how our state government is removing some of our power and that is where we need to focus so we don't continue to lose control over these types of issues in the future.

MOTION to Approve as Amended carried 4-3 (Stauffacher, Peck, Gray).

Chad Gettelman for James Purvis – W172 N13461 Division Road. Request to approve a 2-lot Certified Survey Map and Rezoning in order to create two residential parcels from a 14.28 acre parcel. Planner Retzlaff summarized the proposal.

MOTION Baum second Peck to Approve rezoning the entire 14.28 acre property from A-2 Agricultural to Rs-1 Single-family and

Approve the 2-lot Certified Survey Map land division for the 14.28-acre Purvis property located on Division Road subject to the following conditions:

- 1. The access easement agreement shall be reviewed and approved by the Village Attorney prior to recording the CSM.***
- 2. No development shall occur within the 25' wetland setback shown on Lot 1 and Lot 2.***

MOTION carried unanimously.

Scott Bence for Wexford Heights, L.P. – Lot 9 Hillside View – Fond du Lac Avenue.

Proposal for a Land Use Plan Amendment (Low Density Residential to High Density Residential) and Rezoning Application (B-1:Neighborhood Business District to Rm-1:Multi-Family Residential) for a 3 acre parcel. Planner Retzlaff summarized the proposal. Scott Bence said the units would be high end with rent at \$1200 to \$1600 a month.

MOTION Baum second Warren to Approve the proposed 2020 Land Use Plan Map Amendment to reclassify the 3.05 acre parcel from “Low Density Residential” to “High Density Residential” as proposed.

Commissioner Gray said she received a call from a resident abutting the project who was concerned the rental units won't be maintained. Commissioner Peck said the site plan appears to have a lot of paving. Mr. Bence said the amount of paving met the State requirement to accommodate the Fire Department and to allow better traffic flow. He said there is more parking than what is required, but he doesn't want to be short on spaces because there is no off street parking available. Commissioner Stauffacher said Mr. Bence did a nice job with the concept plan and although he has voted against multi-family development in the past, he would support this project. Mr. Bence said there is a market for this type of higher end units.

MOTION carried unanimously.

MOTION Baum second Warren to Approve the proposed rezoning of the 3.05 acre parcel from B-1:Neighborhood Business to Rm-1:Multi-Family Residential and concept plan for an 18 unit multi-family development subject to approval of the 2020 Land Use Plan Map amendment.

MOTION carried unanimously.

Mr. Bence said he contacted the abutting property owners to address any concerns and keep them informed. He did not receive any comments after abutting owners received the revised development plan.

Wisconsin Department of Transportation STH 167 Corridor Planning Study – Review and Recommendation on Urban/Rural Section & Median Alternatives. Planner Retzlaff said Village staff is requesting feedback regarding the WisDOT's road expansion and other corridor improvements being planned for the 5 mile segment of the STH 167 (Mequon Road) Corridor from Pilgrim Road east to Wauwatosa Road in Mequon. He said DOT consultants are looking for a recommendation to construct either an urban or rural cross section from Fond du Lac Avenue to Country Aire Drive and a 25' median or 10' median from Pilgrim Road to Fond du Lac Avenue. He said the Public Works Committee is recommending the urban section.

Commissioner Warren said the rural section would not be business friendly because it would require 5 businesses to relocate. Planner Retzlaff said the Public Works Committee is suggesting the two way left turn lane feature, the TWLTL, in place of the median for the entire stretch. The road will have four lanes with a TWLTL to replace the median. Commissioner Warren said speed may be too high to use a twtl. Planner Retzlaff said the TWLTL option makes sense in terms of preserving the accessibility for adjacent property owners, if it's an option the DOT will consider.

Discussion continued regarding the median alternative for Pilgrim Road west to Fond du Lac Avenue on the east. Retzlaff said what's been presented are two median features with an urban cross section because of the amount of development. Chairman Wolter said one alternative has no access and the other has access to everyone.

Plan Commission gave the following recommendations:

For Fond du Lac Avenue to Country Aire Drive – urban cross section with TWLTL and a recommendation for a lower speed.

For Pilgrim Road to Fond du Lac Avenue – rural width with a TWLTL.

ANNOUNCEMENTS: None

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:53 p.m.

Respectfully submitted,

Lori Johnson
Planning Assistant