

PLAN COMMISSION MINUTES

April 11, 2011

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

ROLL CALL: Trustee Representative Baum, Commissioners Stauffacher, Jex and Peck. Chairman Wolter and Commissioner Warren were absent and excused. Commissioner Mazurek was absent. Staff members in attendance included Village Planner Jeff Retzlaff and Planning Assistant Lori Johnson.

MOTION Stauffacher second Jex to appoint Trustee Representative Baum as Chairman Pro-Tem until Chairman Wolter arrives.

MOTION carried unanimously.

PUBLIC INPUT: None

PREVIOUS MINUTES: ***MOTION Stauffacher second Peck to Approve the Minutes from March 14, 2011.***

MOTION carried unanimously.

MOTION Stauffacher second Peck to move to Item F on the agenda.

MOTION carried unanimously.

Daniel Aiken – W148 N12168 Pleasant View Drive. Daniel Aiken, property owner of a 22.9 acre parcel located on Pleasant View Drive is seeking approval of a 2 lot Certified Survey Map and Rezoning from A-1:Agrucultural to Rs-1: Residential in order to create a 5 acre residential parcel. Planner Retzlaff summarized the proposal.

MOTION Stauffacher second Jex to Approve rezoning the 5.02 acre Lot 1 from A-1: Agricultural to Rs-1: Residential and Approve the 2 lot Certified Survey Map “minor” land division for the 22.9 acre Daniel Aiken property located on Pleasant View Drive subject to the following conditions:

- 1. All technical corrections identified by the Village Surveyor in the April 6, 2011 memo shall be made prior to recording the CSM by the Village Board.***

MOTION carried unanimously.

Washington County Planning and Parks Department – Farmland Preservation

Presentation. Planner Retzlaff introduced members from the Washington County Planning & Parks Department who gave a presentation on the status of the County's updates to the Farmland Preservation Plan. The presentation and discussion included the following information:

- County staff met with area towns and villages to present an overview of the Working Lands Initiative plan
- The Village of Germantown was de-certified from the FP program as of 2/21/11
- The County conducted a survey of landowners in Washington County who owned 20 acres or more of land asking for their opinions regarding Farmland Preservation.

- The survey showed a high level of uncertainty regarding future participation in the FP Program
- The Advisory Committee created Comprehensive Plan Goals
- Land must be located within a farmland preservation area identified in a certified County Farmland Preservation Plan to claim farmland preservation tax credits.
- The County determined what land would be included in the Farmland Preservation areas
- The Village needs to decide whether to participate in the Working Lands Initiative Program
- The Village needs to determine which programs to participate in:
 1. Agricultural Enterprise Areas (AEA)
 2. Preservation of Agricultural Conservation Easements (PACE)
 3. Farmland Preservation Zoning
- All land chosen to be included in the program must be located in the FPA and identified in a certified FPA plan.
- The Village will need to incorporate FP land into an adopted comprehensive plan
- The Village needs to decide if the proposed FPA's are acceptable or propose modifications to the areas based on reasonable rationale. Land chosen to be included in the FPA must qualify by meeting certain criteria as outlined by the County, Advisory Committee, and WI Statutes 91.44 & 91.46.
- Senate Bill (SB-24) was introduced in February 2011 to repeal the conversion fees for rezoning and eliminate the PACE program.
- The Village has until December 31, 2012 to adopt an ordinance to establish a Farmland Preservation Zoning Ordinance.
- The County is requesting the Village provide a Resolution of Intent to participate by July 31st.

Chairman Baum called a 5 minute recess 7:47 p.m.
Meeting called to order 7:55 p.m.

Walmart – W190 N9855 Appleton Avenue. BRR Architecture, Inc., agent for Walmart, is requesting site plan approval for an exterior color scheme change and replacement signs for the Walmart property. Planner Retzlaff summarized the proposal.

John Rowland, BRR Architecture, said any additional tenants would need to seek approval for more signage.

MOTION Jex second Peck to Approve the exterior color scheme change and replacement signs for the Walmart property located at W190 N9855 Appleton Avenue subject to the following conditions:

- 1. If electrical equipment/components need to be replaced, electrical permits shall be obtained from the Building Inspection Department prior to installation.***
- 2. All electronic components shall be inspected and labeled by a licensed lab.***
- 3. The color scheme revision set forth in the color rendering dated February 23, 2011 is approved except for the two (2) tenant sign “place holders” on the front/east elevation.***

MOTION carried unanimously.

Enviro-Safe Consulting – Germantown Business Park, Washington Drive, Lot 33

MSI General, agent for JDV Real Estate Holdings, property owner is seeking approval of a conditional use permit and site development and building plans for the construction and operation of a 15,000 sqft office/industrial warehouse building and tank farm to be used for the transportation, bulk storage, dispensing and recycling of flammable, combustible, hazardous and non-hazardous liquid and solid waste materials on a 3.0 acre lot on Washington Drive in the Germantown Business Park. Planner Retzlaff summarized the proposal.

Mr. Vilione asked why the Village was requiring screen walls to shield the tank farm since his neighbor doesn't have full screen walls shielding their tanks. He said the tank farm will be surrounded with a landscape berm comprised of trees. Planner Retzlaff said the screen wall requirement is consistent with what was recommended by staff last fall with the previous submittal and also what was recommended for the development across the street. He said ultimately what was approved and developed does not include the extent of the screen walls that are currently recommended by staff. Retzlaff also indicated that the landscape plan and rendering have some inconsistencies. The rendering shows 30 or more trees at a height of up to 16 feet but the plan only shows 6 trees at 6 feet high.

MOTION Stauffacher second Jex to Approve a conditional use permit for the development and operation of a 15,000 sqft office/industrial warehouse building and tank farm to be used for the transportation, bulk storage, dispensing and recycling of flammable, combustible, hazardous and non-hazardous liquid and solid waste materials on a 3.0 acre lot located on Washington Drive (Lot No. 33 of CSM #6396) in the Germantown Business Park subject to the following conditions:

- 1. This permit authorizes the uses, activities and facilities set forth in the conditional use permit application dated March 14, 2011 and the supporting documents and plans made part of the application including: Responses to the requirements of Section 11.071 (dated 3-14-2011); MSI letter and attached Plan of Operation (dated March 14, 2011); the draft SPCC (dated March 2011); Enviro-Safe Consulting LLC "CUP Application Review" letter (dated March 30, 2010); Letter of Intent (dated March 11, 2011); and the site development and building plan set (dated 3-14-2011, unless otherwise revised by a subsequent plan set approved by the Village Planner pursuant to revisions required herein). All of the commitments made by the Applicant in the application and supporting documents cited herein are deemed conditions of approval. This approval includes the same uses and activities conducted in/as part of the proposed 12,573 sqft building expansion shown in the site development and building plans.***
- 2. 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 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 ameliorate or eliminate harmful effects associated with the use but are 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. All business operations and activities conducted on the property and by Enviro-Safe while in the Village shall meet and continuously comply with the performance standards set forth in Zoning Code section 17.47, including, but not limited to odor, fire and explosive hazards, and water quality protection. In the event of a complaint substantiated by Village staff to the extent that a potential violation of or***

determination of non-compliance with one or more of the performance standards in Section 17.47 may have occurred or is occurring, the applicant shall be responsible for all costs for and resulting from the Village retaining a third party environmental expert capable of investigating and/or monitoring the site and operation. Said expert shall report its findings to the Village for subsequent use in investigating and enforcing said complaint or potential violation of the "performance standards" found in Section 17.47 of the Zoning Code.

- 4. The type and amount of material to be stored shall be limited to that which is proposed in the application materials including the documents referenced in Condition #1 herein. Any changes to the type, amount, location, and containers from that presented in the application materials and/or site development and building plans, or, any changes to the methods of storage, dispensing, mixing, or transportation activities shall be reported to the Village Planning Department. Modifications to the approved CUP and/or site and building plans or conditions of said approvals may be required by the Village at that time.*
- 5. Enviro-Safe shall develop a closure plan the same as that which required for solid waste storage facilities under WDNR NR 502.04 and submit said plan to the Village Engineer for review and approval, including the submittal of a letter of credit or other financial guarantee acceptable to the Village that ensures removal and/or clean-up of remaining inventory can be accomplished by a third party environmental firm (if necessary) in the unanticipated event the business relocates from or ceases to exist in the Village.*
- 6. The applicant is responsible for obtaining all applicable state, federal or other agency permits and approvals and continuously operating within the requirements and restrictions of said permits and approvals. Copies of all state and federal agency permits issued shall be provided to the Village Fire and Planning Department.*

Approve the site development and building plans (plan set dated 3-14-11) for the 15,000 sqft. office/industrial warehouse building and tank farm to be used for the transportation, bulk storage, dispensing and recycling of flammable combustible, hazardous and non-hazardous liquid and solid waste materials on a 3.0 acre lot located on Washington Drive (Lot No. 33 of CSM #6396) in the Germantown Business Park subject to the following conditions:

- 1. Approval is for the site development and building plan set dated 3-14-2011 (unless otherwise revised by a subsequent plan set approved by the Village Planner pursuant to revisions required herein. Architectural, building and landscaping plan review/approval is required by the Plan Commission for the proposed 12,573 sqft building expansion.*
- 2. Subject to approval of the conditional use permit, if the tank farm (storage tanks and associated piping system) is approved, full-length screen walls shall be installed around the west, north and east sides of the tank farm installation. Said walls to be constructed of and/or faced with the same exterior materials as the main building. Further, additional and more substantial (i.e. denser, taller and more opaque) landscaping shall be installed along the north and west sides of the building and around the tank installation to better shield the view of the tanks from the adjacent properties to the north and west and public roads. Photo simulations (and a revised landscaping plan as required below) showing the screen walls and additional landscaping required herein shall be submitted to the Village for Plan Commission review and approval prior to issuance of an occupancy permit.*
- 3. Additional landscaping is required at: (1) the main driveway entrance (covenants require a prominent landscaped feature); (2) in the northwest corner of the site and along the north elevation (in both the yard space and foundation plantings); and (3) along the south side and wrapped around the western edge of the parking lot. A*

revised landscaping plan shall be prepared and submitted to the Village Planner for review and approval prior to issuance of an occupancy permit.

- 4. Additional curb & gutter shall be extended at the driveway entrances and further into the parking stall area and around the median curves within the parking lot and be used to define the edge between the sidewalk and parking stalls on the south side of the building.*
- 5. All landscaping, screening, grading, and paving 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.*
- 6. In addition to the requirements and commitments in the SPCC, the sprinkler systems shall be monitored systems reviewed and approved by the Village and a Knox Box shall be installed in the building as required by the Fire Department.*
- 7. 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.*
- 8. State approved plans and a \$20,000 occupancy bond are required by the Building Inspection Department as part of the building permit application (in addition to the bonding requirements of Section 11.071).*
- 9. All technical corrections and issues raised in the Engineering Department's March 22, 2011 memo shall be addressed and reflected in a revised plan set submitted to the Village Engineer for review and approval prior to issuance of a building permit.*
- 10. All external lighting fixtures shall utilize cut-off fixtures and all pole-mounted fixtures shall match the prescribed fixtures for the Business Park.*

Approve the proposed monument ground sign (see plan set dated 3-14-11) for the proposed Enviro-Safe facility located on Washington Drive (Lot No. 33 of CSM #6396) in the Germantown Business Park subject to the following conditions:

- 1. If the ground sign is ever proposed to be illuminated, all electrical components need to be inspected and labeled by a licensed lab prior to obtaining an electrical permit.*
- 2. A lighting plan shall be submitted to the Village Planner for review and approval. All exposed fixtures need to be cut-off or fully shielded and hidden from view with landscaping or other features.*

Eric Neumann asked for clarification of Condition #3. He said the monument sign could be moved to the driveway entrance to satisfy the requirement for a prominent landscape feature. He also asked for the quantity of trees required to fulfill condition #2 for the North, West and South elevations and what kind of architectural feature should be added.

Planner Retzlaff said trees should wrap around the corner on the southerly side of the parking lot and the northwest corner of the building should include an architectural feature and landscaping. The minimum planting size should be 8 feet and not the 6 feet as shown. Trustee Baum suggested adding 10 inch block around the corner to break up the building. Mr. Vilione said the tanks could be completely blocked with the landscaping berm and eliminate the need for the screen walls. Commissioner Stauffacher said he would prefer to see 12-15 foot arborvitae or black hill spruce trees spaced 15 feet apart.

Commissioner Peck was concerned that materials could be stored in a tractor trailer parked outside in an unprotected area. Mr. Vilione said he didn't see that happening because all deliveries are scheduled.

MOTION to Amend Peck second Stauffacher to prohibit the overnight storage of hazardous and non-hazardous materials that are not in a protected controlled environment.

MOTION to Amend carried unanimously.

Commissioner Peck said he would like to see the tanks screened with walls because it will take awhile for trees to shield the tanks. Commissioner Jex thought the screen walls were not necessary and landscape screening would be sufficient.

MOTION to Amend Stauffacher second Jex to eliminate the requirement for full length screen walls from condition #2 in the Site Plan Conditions and replace with 12' high Black Hill Spruce trees planted every 12' along the North and West side of the tanks.

MOTION to Amend carried 3-1 (Peck)

MOTION to Amend Stauffacher second Jex that landscaping follows the continuation of the requirements for screening the tanks.

MOTION Withdrawn.

Discussion continued regarding the requirements for landscaping. Eric said a revised landscape plan would be submitted to Planning for review and approval.

MOTION to Approve as Amended carried unanimously.

Associated Bank – N112 W16330 Mequon Road. Poblocki Sign Co., agent for Associated Bank, is requesting approval for replacement signs for the bank building and property. Planner Retzlaff summarized the proposal.

MOTION Peck second Stauffacher to Approve the replacement signs for the Associated Bank building located at N112 W16330 Mequon Road as proposed and subject to the following conditions:

- 1. If electrical equipment/components need to be replaced, electrical permits shall be obtained from the Building Inspection Department prior to installation.***
- 2. All electronic components shall be inspected and labeled by a licensed lab.***

Chairman Baum said the lettering on the directional signs looks too small to read. Planner Retzlaff said directional signs are limited to 3 sqft.

MOTION carried 3-1 (Baum)

Great Lakes Dental – W188 N11927 Maple Road. Robert Grzybowski, agent for Great Lakes Dental LLC, is requesting a Conditional Use Permit in order to operate a dental clinic from tenant space in the existing office building. Planner Retzlaff summarized the request.

MOTION Stauffacher second Peck to Approve a Conditional Use Permit for the operation of a dental clinic from tenant space in the existing Alpine Business Center building located at W188 N11927 Maple Road subject to the following conditions:

- 1. The type and extent of dental clinic activities allowed shall be limited as described in the application information. Any change in the type or amount of services, shall be reported to the Planning Department and may result in the need to revise this conditional use permit.**
- 2. 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 extend 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 ameliorate or eliminate harmful effects associated with the use but are 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.**

MOTION carried unanimously.

Planning Department – Zoning Code Amendments: Village Planner/Zoning Administrator is proposing the following text amendments to the Zoning Code:

Amendment #1 – Text Amendment to Section 17.46 (Signs) of the Zoning Code proposes to expand the type of organizations that are able to display off-premise advertising signs to include those outside the Village of Germantown and exempts such organizations from paying permit fees. This amendment is proposed given complaints received from organizations that have their properties located outside the Village of Germantown but feel that because their membership is comprised of some Germantown residents; they are effectively a Village of Germantown organization.

Staff is opposed to this amendment because it weakens the Village's long standing policy of prohibiting off-premise advertising by expanding the list of exceptions. It will create further enforcement problems with respect to "for profit" businesses located in and outside the Village that want to display off-premise advertising signs. Staff is also opposed to waiving fees for non-profits located outside the Village of Germantown.

MOTION Stauffacher second Peck to Approve the Amendment as proposed.

Commissioner Peck said temporary signs are unsightly. Stauffacher commented the change would be difficult to control and agreed with the Planner that the code remain as previously written allowing only off premise signs for non-profit organizations located in the Village of Germantown.

Trustee's Ewert and Wing spoke in favor of the amendment as a gesture to get along with our neighbors.

MOTION to Amend Baum to change the stricken language as proposed from "Located in the Village of Germantown" to "Associated with the Village of Germantown".

No Second

Planner Retzlaff said the sign ordinance was recently revised because there was a time when the use and number of temporary signs was out of hand and a decision was made to

change the temporary sign code. Notices were sent to the Chamber and advertised in the paper looking for feedback from local businesses to help with revisions. That feedback and discussion eventually went into what became the current temporary sign code regulations that we have today. As part of those revisions was the prohibition of off-premise signs for non profits located outside the Village of Germantown.

MOTION to Amend Baum second Jex to send the Amendment back to Planning to revise.

MOTION to Amend Failed 2-2 (Stauffacher, Jex)

MOTION to Amend Stauffacher second Peck to keep the wording "located in the Village of Germantown".

MOTION to Amend Failed 2-2 (Baum, Jex)

Motion to Approve Fails unanimously.

MOTION Stauffacher second Peck to send the Amendment to the Village Board with no recommendation.

MOTION carried 3-1 (Jex)

Amendment #2 –Text Amendment to Section 17.46 (Signs) of the Zoning Code proposes to expand the type of sign that can be installed on property that is located in an agricultural district, but used or developed with a non-agricultural use. The Amendment is intended to allow uses that are non-agricultural in character, such as the FC Milwaukee Soccer Facility, the ability to install ground signs like other non-agricultural uses.

Peck asked if the amendment was geared specifically for the Soccer club. Stauffacher suggested amending the current CUP for the soccer club by adding an allowance for a sign. He agreed with Planner Retzlaff that a Park and Recreation Zoning District could be created to help deal with this type of situation. Planner Retzlaff asked to withdraw this amendment.

MOTION Stauffacher second Peck to Withdraw Amendment #2.

MOTION carried unanimously.

Amendment #3 – Text amendment to Section 17.28 (B-1: Neighborhood Business District) of the Zoning Code. The amendment eliminates the prohibition of drive-through establishments in the B-1: Neighborhood Business District leaving the conditional use permitting and review process to determine if/when the circumstances are such that would permit a business with a drive-through window.

MOTION Peck second Stauffacher to Approve Amendment #3 as proposed.

MOTION carried unanimously.

Amendment #4 – Text amendment to Section 17.42 (Conditional Uses) of the Zoning Code was recommended by the Village Attorney. The Amendment creates the legal basis for making changes or adding additional conditions to an existing CUP given changes in the character or intensity or any unanticipated impacts or effects associated with a given use once that use has started or has been occurring over time.

***MOTION Peck second Stauffacher to Approve Amendment #4 as proposed.
MOTION carried unanimously.***

ANNOUNCEMENTS OF FORTHCOMING EVENTS OF PUBLIC INTEREST: None

ADJOURNMENT: There being no further business the meeting was adjourned at 10:05 p.m.

Respectfully submitted,

Lori Johnson
Planning Assistant