

Meeting Minutes

City Plan Commission Minutes

Monday, December 1, 2003 - 4:00 P.M. PRESENT: Ch. Mayor Wescott; Mike Phillips; Bud Flood; Karen Aldinger; Ann Shannon; Fred Steffen (Lois Feldman, Excused)

ALSO PRESENT: Comm. Dev. Dir. John Gardner; City Clerk Victoria Zdroik; Ald. Molski, Sevenich, Barr, Moore, Sowieja, Stroik, Moore, & Markham; Police Chief Carpenter; Capt. McCulley; Mayors Assis. Jami Gebert; John Hartman; Matt Angerhoser; Paul Pepliski; Steve Lewis; Norman & Margaret Myhra; Mary Marco; Tina Smart; Bob Woehr; Jodi Chapey; Dave Bannach; Tom Bannach; Jackson Case; Dan Retzki; Troy Hojnacki; Jeff Zabel; Gene Kemmeter, Po. Co. Gazette; Kate Garsombke, Journal

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1. APPROVAL OF THE MINUTES OF THE NOVEMBER 3, 2003 PLAN COMMISSION MEETING

Mike Phillips moved, seconded by Ann Shannon, to approve the minutes of the November 3, 2003 Plan Commission meeting. Ayes all; Nays none; Motion carried.

2. REQUEST TO PURCHASE AND SELL THE FOLLOWING PROPERTIES:

- VACANT LOT IN THE 100 BLOCK OF FOREST ST. NORTH
- 555 FRANKLIN ST.
- 2101 WELSBY AVE.

Chairman Wescott reviewed the attached memo and noted two of the properties are rentals and the current tenants have expressed interest in purchasing the homes. The city would sell the properties to the tenants if private financing can be arranged by the end of 2003. With regard to the vacant lot, the city could purchase the lot and then deed it to Habitat to build a home and ask for a deferred payment which would be due upon sale of the home by the first owner. These purchases have been approved by the City Finance Committee.

John Gardner stated in response to questions, the cost of the vacant lot would be deferred until the house is sold by the first owners. The County hired the appraiser to appraise the value of the homes and it is a fair figure.

Ann Shannon noted sometimes when we apply for CDBG funding, we look for projects. Could any of these be used as projects in an upcoming application.

John Gardner responded we will apply again next year and felt the two houses likely would be applicants for rehab loans. The Habitat house would be built entirely with private funds with the exception of the money used to acquire the property. CDBG funds would be used for acquisition of the property but the Habitat owner would reimburse the city.

Karen Aldinger moved, seconded by Mike Phillips, to recommend approval of purchasing the vacant lot in the 100 Block of Forest Street North, deed it to Habitat for Humanity with a deferred payment which would be payable upon such time as the first owner sells the property, and also purchase the properties at 555 Franklin St. and 2101 Welsby Ave. and sell them to the current tenants if private financing is approved. Ayes all; Nays none; Motion carried.

3. CONDITIONAL USE :

- 100 GREEN AVE. NORTH - OPERATE A 16-UNIT ALZHEIMER'S REST HOME
- 824 FREMONT ST. - OPERATE A HOME FOR UNWED TEENAGE MOTHERS

Chairman Wescott reviewed the memo and noted the Police Dept. has indicated there have been no problems with either property. Staff recommends approval.

John Gardner suggested both conditional uses expire on December 31, 2005.

Bud Flood moved, seconded by Fred Steffen, to recommend approval of the conditional uses for 100 Green Ave. N. to operate a 16-unit Alzheimer's Rest Home, and 824 Fremont St. to Operate a Home for Unwed Teenage Mothers. Both requests to expire December 31, 2005. Ayes all; Nays none; Motion carried.

4. NAME TWO STREETS IN PORTAGE COUNTY BUSINESS PARK - WORTH DRIVE AND WEEKS STREET

Chairman Wescott reviewed the history behind the proposed street names. He noted the John Week name was submitted to his office a few weeks ago by a local historian. Mr. Week was a very successful lumberman. Staff recommends approval.

Bud Flood wondered whether Worth Drive should be Worth Court because it is a cul-de-sac.

Chairman Wescott moved, seconded by Mike Phillips, to recommend Worth Court and Week Street as the names for two streets in the Portage County Business Park. Ayes all; Nays none; Motion carried.

5. TEMPORARY VARIANCE FROM HEIGHT RESTRICTION ORDINANCE - CONSTRUCTION CRANES FOR UWSP

Chairman Wescott noted the attached memo and stated the ordinance allows the Common Council to grant variances for government structures. City engineering and airport staff have recommend approval.

Fred Steffen moved, seconded by Karen Aldinger, to recommend approval of the request for a temporary variance from the Height Restriction Ordinance for the construction cranes for UWSP. Ayes all; Nays none; Motion carried.

6. VARIANCE FROM SIGN ORDINANCE - 3116 JEFFERSON ST.. - ARMY NATIONAL GUARD

John Gardner stated the proposal is to have a 60 sq. ft. sign that is standardized across the State of Wisconsin. The Sign Ordinance allows a 32 sq. ft. sign. He reviewed the criteria considered for variances and noted it is not routine to grant a variance. The last time we reviewed a variance request was for SPASH. We actually changed the ordinance at that time rather than grant a variance. He recommends denial of the request because it does not result in an unnecessary hardship.

Steve Lewis, Deputy Director for Army National Guard facilities across the State, reviewed the proposal. They received a grant for excellence and chose to use some of that money for state-wide signs. He indicated there are 69 armories State-wide and we would like one sign design for all locations. There has never been a sign at this location. They would provide landscaping and would have a floodlight. The proposed double-sided sign could be single sided.

Bud Flood questioned whether we are the only city that has a 32 sq. ft. limitation. He noted he would be more comfortable with a one-sided sign placed closer to the flag pole.

Steve Lewis responded of the 63 locations, we have had no objections. We have had to go to some public hearings. We have only had 4 locations that have recommended denial.

Karen Aldinger questioned whether other sites in the state are located in residential neighborhoods. She suggested that the neighbors should be notified.

Steve Lewis responded approximately 50% of the sites are residential and 50% are on the outskirts of town or in business parks.

Fred Steffen felt we should change the ordinance for military installations.

Fred Steffen moved, seconded by Bud Flood, to recommend approval of the request for a variance from the Sign Ordinance to 1) erect a 60 sq. ft. sign parallel to the building and Jefferson Street, 2) the sign be placed closer to the flag pole, and 3) a military exemption be created in the Sign Ordinance. Ayes all; Nays none; Motion carried.

7. CONDITIONAL USE - 2525 DIXON ST.. - EXPANSION OF TAVERN OR NIGHTCLUB

Chairman Wescott reviewed the attached memo and noted staff recommends approval of the request with the same conditions that were required in the original conditional use permit with construction to begin no later than December 31, 2004.

Margaret Myhra, 2317 Welsby Ave., noted the parking lot was full on Saturday night and she is concerned about what will happen with the new addition and the parking lot is filled and overflows onto the streets. Once it is done, it will be too late.

John Houtman, 2408 Dixon St., stated last year the police recommended against it, the immediate neighborhood recommended against it, and the alderpersons voted for it, except one. It is not a good idea, they have not begun construction, can we stop the addition now.

Louis Molepske, City Attorney, noted if circumstances have not changed and the plan is the same as when it was approved 10-1, the alderpersons would probably vote for it again.

Tina Smart, 2517 Center St., stated the issues remain the same - parking overflow, safety. It is becoming more of a hangout for children. Do we have any control. She appreciates that the owners made us aware of what they are doing.

Chairman Wescott responded if there are problems or concerns regarding noise, suspicious characters, call the police. The request is exactly the same as previously approved.

Mike Phillips suggested moving the construction time up to July or August.

Tom Bannach noted they plan to start on May 1, so an August 1 construction start deadline should not be a problem.

Ann Shannon moved, seconded by Fred Steffen, to recommend approval of the conditional use request for expansion of a tavern or nightclub at 2525 Dixon Street with the following conditions: 1) Install a material in the wall called SheetBlok Sound Barrier. This material is 1/8 inch thick and is used to help block sound from transferring through the wall. SheetBlok shall be installed in the east and west wall of the existing bowling alley as well as the walls of the addition. 2) Address the music from the existing bowling alley by adding more speakers close to the bowlers. The speakers are now located at the bowling-pin end of the bowling alley. The owner shall add speakers closer to the bowlers and reduce the volume to achieve the same effect for the listeners. 3) Add baffles to vents that penetrate the ceiling to prevent sound from escaping the building. 4) Construct a double set of doors on the west side of the building to create an airlock to control noise. 5) Not allow windows in the addition in order to prevent music noise from leaving the building. 6) Require construction techniques to prevent electric outlets and any other utilities from penetrating the noise insulation in the exterior walls. 7) An ongoing requirement that if music noise, including lower octave sound, is heard after 10 p.m. on Sunday - Thursday, and after 11 p.m. on Friday or Saturday, that the owners will reduce the sound level as needed. 8) Require a 6 foot solid fence on the west property line. 9) Any exterior lighting use cut-off fixtures to prevent light from shining on neighboring properties 10) The owners take adequate steps to prevent groups from congregating in the parking lot or on neighboring properties. 11) The licensee shall meet with the Police Department to develop security plans which may address health, safety and welfare concerns including, but not limited to: - Exterior lighting adjacent to the building or parking lot Control of parking area - Cleanup of physical premises and surrounding neighborhood extending one block from the subject property - Maintain order and peace in and around the licensed premises 12) If construction has not begun by August 1, 2004, this Conditional Use shall expire.

13) This Conditional Use shall expire on June 1, 2007.

Ayes all; Nays none; Motion carried.

8. CONDITIONAL USE - 912 MAIN ST.. - OPERATE A TAVERN

John Gardner stated the only difference from the previous request is the estimated cost of improvements has changed to \$276,000 instead of the original \$125,000. He and Capt. McCulley talked with Mr. Hojnacki on the phone and discussed some of the applicants objections as outlined in his attached memo. He and the Police Dept. recommend a new Conditional Use Permit with the same conditions of September of 2002.

Dan Retzki, applicant, expressed concern with the number of conditions. With the subsets, there are not 21 conditions, but 49 conditions. I know

we didn't talk about 49 conditions at the previous meetings and were surprised when those conditions were approved by the council. We are not opposed to all of the conditions, we are opposed to the general idea that there are 49 of them. He is hoping we can have some dialogue.

Troy Hojnacki, applicant, when this went to the council last year, we thought there would be two separate votes - one for the liquor license and one for the conditional use - but they were handled together. He would like to review all 21 conditions.

Chairman Wescott stated items 1-4 are building code issues and were what you stated you were going to do. He asked if items listed are a standard building code, is it necessary to have these built in. It is his understanding that if the code should change, it would not affect you because you would have complied with the rules that were in effect at the time it was approved.

John Gardner stated items 1-4 are not standard building codes, they are items that the applicants said they were going to build and are over and above minimum code requirements. Items 1-4 are holding them to the standard to renovate the building and make a restaurant. There is an addition of the security and tapes.

Chairman Wescott asked whether the applicants are now telling the Plan Commission that these items reflected in the resolution, which Mr. Gardner is reporting to the alderpersons, were things that you had proposed. Are you now refuting and saying that you did not propose them.

Dan Retzki stated they are refuting that they proposed to do Items 1-4.

Troy Hojnacki stated it is not about whether we will do what we said we are going to do. The building is going to be renovated to a sports club with everything that it takes to make this into what it has to be - upgrade the HVAC, restrooms, kitchen, and cooler.

Item #2.g. - surveillance - the equipment is very expensive, and maintenance of the equipment, and he doesn't feel it is part of normal business practice to provide electronic video for the exterior sidewalks and service areas.

Item #3 - exterior lighting - we have two street lights directly in front of us, four street lights on the side of us, and two street lights in the alley facing the Journal side.

The area is basically daylight at all hours of the evening. He doesn't feel they should have to provide additional lighting. They do propose to put decorative facade lights on their building.

Item #5 - definition of gambling or gambling devices.

Louis Molepske, City Attorney, stated a gambling device is defined in State Statute.

Chairman Wescott noted we could say the licensee shall not permit gambling devices upon the licensed premise as defined in State Statute.

Dan Retzki stated his concern is 10 years down the road, when two people are betting \$1 on something, and someone wants to get rid of this tavern and pick out one item and have our license revoked.

Louis Molepske noted the word is "permit". If you know about gambling and allow it to happen. The word "suffer" would be a higher standard and that word is not used here.

John Gardner noted with regard to exterior cleanliness, the issue in the resolution came from neighboring business owners.

Troy Hojnacki stated they pick up garbage outside their place when they see it. What bothers him is the wording in print that if there were a bottle or something outside their business, they could lose their license.

Dan Retzki - #7 & #8 - some of these are redundant. Why are we going to be responsible for exterior cleanliness and security when other business owners don't have to.

Louis Molepske responded that #7 needs to be included with #8.

Chief Carpenter stated that under the law, any citizen can be designated by the Police Chief or constable to assist. It has never been done. We don't need search warrants.

Dan Retzki stated he has a big problem with #9. The word "warrant" brings in a whole different avenue. The wording is very ambiguous. We need a list of things indicating lack of cooperation.

Chairman Wescott noted it is his opinion that #9 is not needed. Police officers already have authority to be in there at any time.

Louis Molepske agreed that it is not necessary. As an example, if there were too many people in there and they refused to cooperate or interfered with the Police Dept., at that point, they don't need a warrant.

Troy Hojnacki noted #11 - not serving beverages in glass bottles dictates the kind of business we have and our clientele. Some people won't drink out of plastic and cited several examples. The wording "knowingly allow glass bottles outside the building" is an explanation that we could live with. Other establishments in the city serve alcohol in glass bottles.

Louis Molepske stated the reason for the wording is to protect the area. We don't have any other areas in the city that have 10 bars within a few feet of each other and a shopping area adjacent to it. Glass bottles full of liquid can be concealed, but a plastic cup with liquid would not be as easy.

John Gardner noted during our discussion, Mr. Hojnacki indicated he has control of glass or plastic leaving the bar in the summer when people don't have coats on. However, when they have coats on, he has no way, short of searching them, to know whether they are taking containers outside. The Police Dept., in developing these conditions, are concerned that glass bottles become missiles that break windows and hurt people, or they smash on the sidewalk and become a problem of broken glass on the sidewalk.

Dan Retzki asked if these conditions will be attached to all liquor licenses.

Chairman Wescott responded that is irrelevant at this time. We are talking about your conditional use, not any other liquor licenses.

Dan Retzki noted #12 - he doesn't know how you encourage binge drinking and he doesn't want to be in a position that he is accused of

encouraging binge drinking.

Troy Hojnacki stated you can't run a business and give away free product.

Chief Carpenter stated a local businessman told him that a local gentlemen used to go into a certain tavern and the manager or owner was there, they would fee him booze and they would get him snaked up and when he left there, he would go around downtown and get into all kinds of trouble. That would be an example of allowing binge drinking.

Dan Retzki questioned if we will be coming to some conclusion on these items.

Chairman Wescott noted we are not negotiating, we are listening to you. We will take other public input and then return the discussion to the Plan Commission, at which time we will discuss it. We are going through these points as a courtesy to you and Mr. Hojnacki. If you are making points the commission will agree with, later this evening we will incorporate them in.

Dan Retzki requested that we slow down so we make sure we get through these. We are at the sunset clause.

Chairman Wescott noted we could table this. We granted permission for you to do this in September of 2002. You had until December 31, 2003 to do something. With the 14-month clock ticking, why did you wait until one week ago to revisit this. His office has never received any communication to revisit this or to open dialogue on the resolution points. If your telling me we need to get this all done by December 31st, you should have been in the planning office or his office months ago requesting to get back on the agenda.

Dan Retzki noted #14 a. is a law and they cannot be legally drunk (.08) anyway. They would like to change the age of the security staff to 18. 14c. is another business expense - tell us what you want. 14f. We won't be having our people allowing underage people in and would cooperate with the city on this. #15 - what is considered a clear line of vision? #17 - that is a given, why is that in there?

Louis Molepske responded with regard to #15, the statute provides that an officer must be able to look in and see what is going on. With regard to #17, if a liquor license law is violated, it is easier to revoke your conditional use permit than it is the liquor license. Remember, the conditional use permit is granted to the premises, not the owners.

Chairman Wescott noted the expiration date for the conditional use is December 31, 2004?

Dan Retzki requested a change in the expiration date to coincide with the liquor license - how about June 30, 2005.

Ald. Markham suggested wording for #12 - "Licensee shall not have one fee for unlimited drinks and shall not provide free intoxicating beverages as promotional matter."

Ald. Molski noted when this item came up the last time, it was mentioned that none of the other bars have to meet these conditions, but we could look forward to doing that with the renewal of their licenses. The licenses were renewed last June, were any of these conditions placed on anyone else downtown?

Chairman Wescott responded they were not. When this item came up in September of 2002, there were two very close votes. The liquor license was awarded on a 3-2 vote by the Public Protection Committee, and went to the Common Council, with 11 alderpersons present, and the vote on the issuance of the conditional use permit was 6-5 even with all of these conditions.

Ald. Stroik felt the addition of a sports bar could do the city some good. It appears it is going to be a more upscale place, but yet we are not placing all these restrictions that we are not willing to put on other bars. The entertainment district sounds like a great avenue given the confined space of all the bars.

Chairman Wescott responded there was a mixed reaction to this proposal. There were those who welcomed the investment in the downtown and were pleased that they were proposing to convert the second stories to good quality apartment use. There were also those that were uncomfortable with the concept of one more bar downtown. The 21 conditions led the community to a compromise that would allow this to proceed, but at the same time, address many of the concerns.

Police Chief Carpenter stated the Police Department is a strong advocate of any business. Without business, you don't have a community, tax base, revenues, services and everything that we enjoy. Right now, the number of licensed liquor establishments downtown is less than it used to be and is finally becoming under control. The applicants' letter talks about the increased presence of police patrols and the effectiveness. Is it reasonable to have a minimum of 5 officers downtown which costs the taxpayer about \$850/night. We probably do 40-55 days in one year at \$850, for an incurred cost to the taxpayers of around \$50,000/year. In the last 9 years, licensed liquor establishments have enjoyed a good, fair-minded working relationship with the police department where we have documented our visits and not over-exercised our police authority in doing so. We have worked extensively with the Downtown Business Association. The police department's mission was to bring the downtown businesses and the licensed liquor establishments together, and that effort failed. This business will add to the number of people drinking downtown. He noted he detects an attitude that the applicants are going to dictate to this community what they are going to permit. He suggested that the applicants look at their attitude and look at the conditions and work with the city. He recommends denial of the permit and move forward to create an entertainment district with conditions that the elected officials can exercise to govern that area downtown. The people of this community have as much right to the \$50,000 worth of public service as the people downtown.

Ald. Sevenich stated she stands by her remarks from one year ago and feels the conditions are not out of line.

Bob Woehr felt this is a good concept, but he empathizes with the police department and feels the city should hold fast to the conditions.

John Gardner stated he agrees with things that the police chief said and also agrees with their applicants concerns with the wording. All we are asking is that they, and their successors in ownership, follow through and do what they say they going to do. That is what the conditions are designed to do.

Fred Steffen recommends that a group of the police department, city planner, city attorney; and the applicants sit down and hammer out the wording.

Mike Phillips stated he is strictly against another tavern downtown. It is adding fuel to the fire. There are enough taverns down there.

Bud Flood stated he cannot address all of these resolutions and feels uncomfortable trying to do so. He agrees with Fred and noted he is not prepared to vote either for or against this

Ann Shannon feels this is a tremendous amount of money being invested and with that, she is also sympathetic to the downtown as a whole. She is confused with how one particular business is supposed to be shouldering all these responsibilities. She likes the idea of a committee to work out some of these issues.

Chairman Wescott stated he has attended all of the meetings and watched this progress at every level. He feels the conditions were created to enable, not dissuade, this business to move forward downtown. None of these conditions are unfair, they are realistic. They reflect current codes, statutes and ordinances. He apologizes to the police chief and has tremendous respect for him, but he supports maintaining the conditions. He favors relaxing the expiration date to June 30, 2005. He asks that the city attorney, John Gardner and the applicants work to pull the language out that carries some redundancy and review the codes, statutes and ordinances. He asks that the police department revisit the electronic surveillance issue and provide input. We will define sober as being under .08. Security staff could be 18 years of age if the law allows it. He recommends approving the conditional use permit with the conditions, extend it until June 30, 2005, and that the city attorney and staff make the appropriate editorial corrections when it comes to redundancies.

Karen Aldinger moved, seconded by Fred Steffen to recommend approval of the conditional use to operate a tavern at 912 Main Street, include the previous conditions, extend the expiration date to June 30, 2005, and that the city attorney and staff make editorial corrections when it comes to redundancies without weakening the original resolution.

Ayes, Aldinger, Steffen, Shannon, Flood, and Ch. Wescott; Nays, Phillips;
Motion carried.

Ald. Phillips stated by allowing another tavern downtown, you are adding fuel to the fire. If you want to get rid of some of the problems downtown, you don't add more people downtown.

Meeting adjourned at 6:00 p.m.

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