

**DISCLAIMER – THE FOLLOWING ARE DRAFT MINUTES FROM THE PLAN COMMISSION AND ARE SUBJECT TO CHANGE UPON APPROVAL FROM THE PLAN COMMISSION**

**PLAN COMMISSION  
MEETING MINUTES  
Monday, January 7<sup>th</sup>, 2019**

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Meeting was called to order by President Palmer at 7:00p.m.

**1. Roll Call.**

Present: President Palmer, Mr. Reineke, Mr. Jodie, Mr. Michalski, Mr. Cashin, Mr. Long, Mr. Kujawa  
Absent: None

Also Present: Thomas Harrigan, Zoning and Planning Administrator, David De Angelis, Village Manager, Hector de la Mora, Village Attorney, and applicants.

**2. Review and act on meeting minutes dated 12/3/18.**

Mr. Michalski motioned and Mr. Long seconded to approve the meeting minutes dated 12/3/19.  
Motion carried 7-0.

**3. Review and act on a request for a demolition permit for a single family residential home located at 1820 Fairhaven Boulevard pursuant to §106-11 to §106-14.**

Mr. Jonathan Mulcahy, owner of 1820 Fairhaven Blvd., was present before the Commission.

President Palmer asked Mr. Mulcahy if anything has changed in the demolition application since it was submitted.

Mr. Mulcahy stated that nothing has changed.

President Palmer asked Mr. Harrigan if all required documents have been submitted to the Village, other than the demolition deposit and public way disturbance bond.

Mr. Harrigan confirmed all documents are in order.

Mr. Michalski motioned and Mr. Cashin seconded to approve the demolition permit application for 1820 Fairhaven Blvd. Motion carried 7-0.

**4. Review and act on a request by the Wisconsin Department of Health Services to complete a description of any specific hazards which may affect the health and safety of the residents of the community living arrangement located at 1820 Westmoor Terrace.**

President Palmer explained the Village previously had CBRF facilities in other locations in the past. It was also noted, this item is not a “yes” or “no” decision for the Commission to consider. Rather, this is a compliance procedure for the Wisconsin Department of Health Services. President Palmer highlighted that the Commission has received several testimonials from local residents who live on Westmoor Terrace along with Police reports from the Village Police Department. These all relate to past incidents at the CBRF facility

located at 1820 Westmoor Terrace. Based on the substance of these reports, it would be an indication there exists several hazards to the residents of the CBRF facility.

Attorney de la Mora commented that based on the documented reports, the primary concern is proper staffing of the facility. The numerous police reports include staff of the facility. Including the incident of the strong armed robbery which involved participation of a former disgruntled staff member. Attorney de la mora also commented there appears to be a lack of supporting documentation regarding inconsistencies of ownership and management with the facility. Attorney de la Mora recommended the Commission instruct Village Staff to provide the Wisconsin Department of Health Services the documented police reports as well as the testimonial letters from the adjacent property owners on Westmoor Terrace.

President Palmer noted that safety of the residents of the CBRF facility is the primary concern.

Rena Wagner, current applicant for the state CBRF license, was present before the Commission. Ms. Wagner stated she is the owner of the facility and she is the current applicant under review by the Wisconsin Department of Health Services. She has been in frequent contact with Alfred Johnson who is the head of assisted living for the state. She has owned the facility since 2017 and the previous operator of the facility was doing so under a contracted lease. Ms. Wagner stated she will be remodeling the facility. She stated that she was unaware of all the police calls except for the strong armed robbery as the back door of the home was damaged due to the break in. The facility will be remodeled for dementia and Alzheimer's patients and it will not be allowed to enter into a condition that it was before.

President Palmer asked Ms. Wagner if she is applying as an owner operator.

Ms. Wager stated she took the administrator facility course in 2017 and is fully trained.

Mr. De Angelis commented that all the previous property maintenance zoning violations were sent to Joel Banda, 16555 Hillside Drive, Brookfield WI.

Mr. Harrigan noted the property owner and mailing address listed for 1820 Westmoor Terrace is Varsity Properties, 16555 Hillside Drive, Brookfield WI. Ms. Wagner is the owner of Varsity Properties LLC. and 16555 Hillside Drive is the residence of Joel Banda, former operator of the CBRF facility at 1820 Westmoor Terrace.

Ms. Wagner stated she is was unaware that the owners name and mailing address for 1820 Westmoor Terrace is incorrectly registered in this manner at Waukesha County.

Attorney de la Mora asked Ms. Wagner if she is willing to meet with Village Staff in order to obtain copies of the police reports and testimonials from the Village residents on Westmoor Terrace. It should also be discussed as to how the CBRF operation will be operated so that the previous zoning violations may be avoided in the future.

Ms. Wagner agreed to meet with Village Staff.

President Palmer suggested Ms. Wagner and Village Staff meet as soon as possible.

Attorney de la Mora recommended the Commission render a recommendation to the Wisconsin Department of Health Services of non-support for licensing of the CBRF facility based on the past operating history of the facility. It should be noted the Village is willing to work with the proponent of the license but is not willing to support her operation unless it is seen a willingness on the applicants behalf to clean up the past incidents of the property.

Mr. Michalski commented that property ownership needs to be made clear.

President Palmer stated the response letter to the state should also include the past police record and comments from the local residents as well.

Mr. Cashin motioned approval of Attorney de la Mora's recommendation and Mr. Michalski seconded.

The Commission entertained comment from Village resident Tom Hanson, 1850 Westmoor Terrace. Mr. Hanson stated he did submit a testimonial letter for the Commissions consideration. Mr. Hanson is concerned with the association of Varsity Properties LLC and Banda Care. For transparency sake, it would be helpful to understand if there is any operating relationship between the two entities.

Motion Carried. 7-0.

**5. Review and act on a request to rezone 13040 W. Bluemound Road from B-3 Mid-Rise Office and Professional district to Rm-2 Multi-Family Residential district with a Residential Planned Development Overlay pursuant to §335-77 and §335-30G(2) and in accordance with Wisconsin State Statute 62.23(3)(b), amend the Village Comprehensive Plan.**

Philip Schultz and William Rutherford of Horizon Development were present before the Commission.

Mr. Schultz presented a PowerPoint presentation to Commission which detailed the independent senior living development proposal. The presentation summarized the proposed public improvement component of the project as well as a detailed parking analysis.

Mr. Reineke stated that he feels there is potential for seasonal variation for the demand on parking stalls.

Mr. Schultz commented that the concept of banked parking would be proposed if it was determined additional surface parking would be needed to serve the development.

President Palmer asked Ms. Schultz if Emerald Woods or Douglas Plaza residents decide to connect to municipal water, would they be required to share in the cost of the water main extension.

Mr. Schultz stated that typically, there would be some form of a cost sharing agreement in those types of situations.

Mr. De Angelis highlighted that the water main proposed to be located in front of the proposed development would need to be located in a permeant easement as the City of Brookfield would be the owner of that facility. Also, there are statutory provisions which allow for the recapturing of costs for water main installations.

Attorney de la Mora noted that if cost sharing came into play, it would arguably only include the line located on the eastern most boundary of 13040 W. Bluemound Road.

President Palmer commented that any detail of that would be included within the development agreement.

Mr. Schultz provided a conceptual timeline on the proposed development.

President Palmer explained this meeting is the initial review of the Plan Commission. The Commission may choose to make a recommendation to the Village Board, at which time a public hearing would take place. In order for the project to move forward, the Commission must place the development proposal under review with the requirements and guidelines found within the Code of Ordinances. President Palmer asked if any one of the Commissioners would like to begin the discussion.

Mr. Jodie stated that as a retired traffic engineer, he is very impressed with the presentation. The last time the development proposal was before the Commission for conceptual review, he asked Horizon Development to consider being creative with the ingress and egress access points for the development. To provide more than the singular access point located on Bluemound Road.

Mr. Schultz explained that alternative access points have been explored, however there are no viable options for this request. The residents of Emerald Woods condominiums do not wish to have a new access point on Wall Street serving their property and the proposed development as an alternative northerly access. Also, 500 Elm Grove Road is not configured in such a way to allow for an alternative access through their property.

President Palmer commented that independent senior living facilities are a very specific use which generate significantly low traffic volumes.

President Palmer noted the requirements needing to be met in order for enhanced density to be awarded need to be evaluated.

Mr. Kujawa stated the six points found on page three of the meeting memo seem to be adequately addressed.

President Palmer commented the Village's Comprehensive Plan Identifies senior housing as a future need for the Village.

Mr. Cashin stated he initially had concerns with the building scale and density, but believes his concerns have all been addressed through the presentation.

Attorney de la Mora stated the presentation and proposal is predicated on the assumption that people over the age of 62 will be living there. Conceivably Horizon Development could sell the property and building to a larger development group. That development group may potentially intend to lift the age restriction. Would Horizon Development be willing to engage in a deed restriction on the property where as the Village would have to be consulted in order to lift the deed restriction?

Mr. Shultz confirmed, Horizon Development would be willing to engage in a deed restriction. He said that is a very common mechanism to address that concern. Horizon would have no problem with the deed restriction as the data indicates there will always be a need for senior housing.

President Palmer asked if Horizon would have a problem with also including that language in the development agreement.

Mr. Schultz stated that would not be a problem.

Mr. De Angelis clarified that the development agreement will not be approved until the very last act of the review process. It will be important to have the draft development agreement available by February 25<sup>th</sup> in final draft format.

The Commission entrained comment from residents.

Ted Matcom was before the Commission speaking on behalf of his mother in-law, Beverly Thomas, who resides in the Emerald Woods condominiums. Mr. Matcom explained he is also a developer of senior living facilities and has worked with Horizon development in the past. His main concern with the Horizon development proposal is parking. The comparisons being presented to the Plan Commission are not "apples to apples". Mr. Matcom would prefer the parking requirements be placed at 1.5 parking stalls per dwelling unit. Also, Mr. Matcom asked if Horizon Development would consider creating a conservancy easement where the existing vegetation exists on 13040 W. Bluemound Road. Mr. Matcom asked if there is a standard that will be applied to the proposed development when considering enhanced density.

President Palmer stated the Watermark Condominiums will be used as a benchmark.

Mr. Matcom noted the proposed development plans indicate cement board siding would be used in construction. He suggests keeping an eye on the proposed construction materials for the project.

Mr. Todd Nichol, President of the Emerald Woods Condominium Association, was present before the Commission. Mr. Nichol noted if the banked parking is to be installed, vegetation would need to be removed from the north side of the property. Mr. Nichol also stated that he believes that parking data is inaccurate. Many of the Emerald Woods residents are over the age of 70 and have two vehicles.

Mr. Schultz stated the parking analysis includes data from both affordable housing facilities as well as market rate facilities.

Mr. Nichol commented that he could conceive a delivery driver pulling into the "turn around" on the north end of the development, but cannot conceive the driver being able to back out.

Ms. Laura Rosenbaum, resident of Emerald Woods, was present before the Commission. Ms. Rosenbaum stated that she has concerns regarding the proposed density. Emerald Woods has a density ratio of 14 units per acre. The Horizon development proposal would be close to 38 units per acre. The data used for the parking analysis is not analogous to Elm Grove. The development proposal includes a party room, so there is some expectation there will be visitors to the development. There is also a concern with the development being located on Bluemound Road, this could potentially be dangerous for those living in the development.

Mr. Kujawa motioned and Mr. Cashin seconded to for preliminary approval of the development proposal. Motion carried 7-0.

## **6. Other Business**

President Palmer commented that Emerald Woods may want to consider a future access connection to Wall Street from their northerly property boundary in the future.

**7. Adjournment**

Mr. Long motioned and Mr. Cashin seconded to adjourn the meeting. Motion carried 7-0.

Meeting adjourned at 9:42 p.m.

Respectfully Submitted,

Thomas Harrigan  
Zoning and Planning Administrator/  
Assistant to the Village Manager

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