

**PLAN COMMISSION
MEETING MINUTES
Monday, September 24, 2020**

Meeting was called to order at 6:00 p.m. by President Palmer

1. Roll Call.

Present: (In person) President Palmer, Mr. Long, Mr. Cashin, Trustee Michalski, Mr. Reineke (Virtual attendance), Mr. Jodie (Virtual attendance)

Absent: Mr. Kujawa

Also: David De Angelis, Village Manager, Thomas Harrigan, Zoning and Planning Administrator/Assistant to the Village Manager, Hector de la Mora, Village Attorney, Applicants and members of the public.

2. Review and act on meeting minutes dated 9/14/20.

Mr. Long motioned and Mr. Michalski seconded to approve the meeting minutes as submitted. Motion carried 6-0.

3. Review and act on a request by Elmbrook School District (Tonawanda Elemenary), 13605 Underwood River Parkway, for outdoor lighting pursuant to §335-65.

Joe Schumann, of CGSchmidt, was present before the Commission (via Zoom) representing the proposed lighting at Tonawanda.

It was noted the height of the proposed light poles would be 23' in height. The light ballasts would be "cut-off" in design and broadcast the light downward toward the ground.

Mr. Michalski inquired if light would spread onto the neighboring residential property to the south.

Mr. Harrigan stated the proposed photometric plan is compliant with Village ordinance §335-65 as the proposed foot-candle at the southern property line does not exceed an intensity one-half foot candle at any point.

Mr. Cashin agreed the plan appears to comply with Village Ordinance.

Mr. Long motioned to approve the plan as submitted. Mr. Jodie seconded.

Jeanette Kalupa, 1685 Legion Drive, was present before the Commission. She inquired if the proposed lighting will be shielded.

Mr. Schumann confirmed the lights will be shielded.

President Palmer called the question. Motion carried 6-0.

4. Review and act on a request for a Temporary Plan of Operation pursuant to §335-85B for the Sunset Playhouse, located at 700 Wall Street, to host outdoor concerts.

Nancy Visintainer-Armstrong, of the Sunset Playhouse, was present before the Commission (via Zoom).

President Palmer asked if anything in the Temporary Plan of Operation Application has changed since it was originally submitted.

Mrs. Visintainer-Armstrong confirmed that the proposed dates of the outdoor concerts has changed. The concerts would take place on October 11th and 18th, with a rain date of October 25th. She explained the stage would be located on the north side of the building, and the concerts would take place during the day on Sundays. Maximum attendance would allow for 40 people. During the proposed concert dates, there would be two shows during the day if the first show sells out of tickets.

Mr. Long asked if there will be any concessions or use of the indoor bathrooms allowed.

Mrs. Visintainer-Armstrong stated none will be allowed.

Mr. Michalski motioned to approve the Temporary Plan of Operation for two outdoor concerts to take place on October 11th and 18th, with a rain date of October 25th. Mr. Long seconded. Motion carried 6-0.

5. Review and act on a request for a Temporary Plan of Operation pursuant to §335-85B for Pure Barre Fitness, located at 12894 W. Bluemound Road, to host outdoor fitness classes.

Alicia Starr, of Pure Barre, was present before the Commission (via zoom).

Ms. Starr stated that after receiving noise complaints from the neighboring condominium owners, she trouble-shot the sound system in order to bring it into an acceptable volume level. One of the neighbors, Ann Rector, had verified the noise level was now acceptable.

President Palmer noted the outdoor location where the classes are currently being held is very small. President Palmer asked if there is a way for the instructors to use a radio transmitter, Bluetooth or the Zoom platform to conduct the classes. So that amplified audio does not need to be used.

Ms. Starr noted there is a strong musical element to the fitness classes.

Mr. De Angelis stated that he struggles to understand why the Mic system needs to be used for the outdoor classes.

Mr. Long agreed with Mr. De Angelis.

Ms. Starr commented that she is not proposing to hold classes outdoors past the end of September.

President Palmer motioned to approve the Temporary Plan of Operation in order to allow for the fitness classes to be held outdoors only if it is done without the amplification of voice or music. Mr. Michalski sectioned. Motion carried 6-0.

6. Review and act on a request by Chris Miller, of Miller Marriott Construction Company, for consideration of a residential land division for the property located at 14265 Juneau Boulevard, pursuant to §305-7 and §335-14.

Mr. Miller, of Miller Marriott Construction, was present before the Commission (in person).

President Palmer asked Mr. Miller if anything has changed in his application specifically related to the August 26th engineering review letter from Ruekert and Mielke.

Mr. Miller stated that the plans as submitted have not been amended to address the comments found with the engineering review letter. His intention is to bring the draft Certified Survey Map (CSM) before the Commission to determine if the Commission is comfortable with the direction the site layout and road configuration is moving towards.

President Palmer noted that any action taken would be done with the assumption that there are multiple outstanding items within the review letter that need to be resolved. Additionally, if moved forward, the revised documents would need to return to the Plan Commission for final review prior to action by the Village Board of Trustees.

President Palmer noted that on page three of the engineering review letter, item 3I(ii):
“For this site, the Village will need to determine which houses will be used to calculate the average setback. Regardless, the proposed front yard setback for the home on Lot 2 is likely to be more than 30 feet beyond the calculated average. If this is true, then a variance will need to be requested from the Board of Appeals.”

Mr. De Angelis highlighted §305-15E:

“Access to public street. Every lot shall front or abut on a public street. Lots with an access only to private drives or streets shall be permitted only with Plan Commission approval.”

As lots 1 and 2 will need to comply with Village Ordinance as it related to street yard setback in relation to Juneau Boulevard, as Juneau Boulevard is a public Street. The proposed drive into the subject property is private. Therefore, setbacks for lots 3 and 4 may be permitted only with Plan Commission approval.

President Palmer asked how Mr. Miller is going to assure the impervious surface responsibilities are honored for the individual lots, especially during the transfer of properties.

Mr. Miller stated that he intends to incorporate maintenance agreements within the CSM which would be levied against the property owners.

President Palmer asked if the maintenance agreement would also be incorporated into the Development Agreement.

Mr. Miller confirmed.

President Palmer stated the Plan Commission will need to review those documents.

Mr. Miller agreed. The final CSM and proposed Development Agreement would be brought back to the Plan Commission prior to moving to the Board of Trustees for consideration. This would include the maintenance agreement, the CSM and the Development Agreement.

President Palmer asked Attorney de la Mora if the Commission is able to make a recommendation.

Attorney de la Mora stated if the Commission is to make a recommendation for approval by the Village Board of Trustees for final determination, the Commission may conditionally approve the proposal to move forward. The applicant should then provide the Commission with a Development Agreement and a recorded Home Owners Association (HOA) documentation, so that the proposed easements can be transferred to the HOA, so that the HOA is the enforcement entity once Mr. Miller has sold all the properties.

President Palmer noted that when this proposal comes back to the Plan Commission, all outstanding items need to be resolved prior to a final recommendation being made. President Palmer noted, that if items and details are going to be shown on the concept plans that better be an indication that the intention is for those items to be constructed or installed.

Mr. Clement Grum, 14405 W. Juneau Boulevard, asked to speak before the Commission. Mr. Grum stated the previous property owner of 14265 Juneau Boulevard held the property for 15 years. Every time the property has gone on the market, it has sold in less than two years. The most recent owner, when placing the property on the market for less than one year on the market, has presented the Plan Commission with a proposed CSM. This owner has no intention of developing the lot for a single-family home. The developer also has no intention of living in the neighborhood. The current homeowners in the neighborhood have been invested in becoming part of the community. Mr. Grum suggested there can be a “win-win-win-win” for the owner, developer, the Village and the neighborhood. Allow for two, rather than four, homes to be built on the property.

President Palmer asked the Commissioners if anyone is prepared to make a recommendation for the proposal to continue.

Mr. Reineke stated that lots 1 and 2 should have street yard setbacks in uniform with Juneau Blvd. Mr. Reineke will email Mr. Harrigan requesting what the average setback from Juneau Boulevard is, utilizing the two houses to the east and one house to the west.

Mr. Cashin stated that he feels the proposed lot sizes is uniform with many of the properties in the surrounding neighborhoods.

Mr. Long stated that he agrees with the comments made by Mr. Grum, and motion to deny the request for a residential land division for the property located at 14265 Juneau Boulevard, pursuant to §305-7 and §335-14. The motion failed for lack of a second.

President Palmer motioned to move the land division for up to four lots as generally described in the concept plans to the Village Board of Trustees, excepts the final documents must return to the Plan Commission prior to Board of Trustee review. The final documents must include the final Development Agreement, an executed Home Owners Association documentation and the finalized CSM which addresses all the comments contained within the August 26th, 2020 Ruekert and Mielke review letter and any subsequent questions that result. Mr. Cashin seconded.

Attorney de la Mora asked Mr. Miller if he has given any consideration for additional landscaping on the west side of the property.

Mr. Miller indicated the existing tree line, composed of mature pine trees, would remain untouched.

President Palmer stated there needs to be a tree plan included which clearly identifies which trees will remain, and which trees will be removed.

President Palmer called the question. Motion carried 5-1 (Mr. Long voting nay).

7. Other Business

None.

8. May convene into closed session pursuant to Wis. Stat. §19.85(1)(g) to confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved, more specifically an appeal filed by Attorney Joseph R. Cincotta with the Village Board of Appeals.

President Palmer motioned to go into closed session, Mr. Jodie seconded.

Roll Call: President Palmer, Mr. Jodie, Mr. Long, Trustee Michalski, Mr. Cashin, Mr. Reineke.

The Commission entered into closed session at 7:58 P.M.

9. May reconvene into open session to take action on any closed session items.

The Commission reconvened into open session at 8:22 P.M.

No action was taken

10. Adjournment

Mr. Long motioned to adjourn, seconded by Mr. Michalski, Motion carried 6-0.

Meeting adjourned at 8:23 P.M.

Respectfully Submitted,

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