



MINUTES OF AN OFFICIAL MEETING:

Regular Meeting: Plan Commission

Date and Time: Monday, January 9, 2023 at 6:30 pm

Location: City Hall Council Chambers, 2000 N. Calhoun Road, Brookfield WI 53005

Members Present: Mayor Steven Ponto (Chairman), Alderman Gary Mahkorn, Alderman Rick Owen, Citizen Commissioner Mike Franz, Citizen Commissioner Lisa Chang, Citizen Commissioner Austin Moore

Members Excused: N/A

Others Present: Director of Community Development Dan Ertl, Fire Chief Dave Mason, Director of Public Works Tom Grisa, Planning Administrator Richard VanDerWal, Alderman Chris Blackburn, Alderman Jerry Mellone, Alderwoman Kathryn Wilson

2. Roll Call

Mayor Steven Ponto noted a quorum present and called the Plan Commission to order at 6:31 pm

Announcements

The Next Regularly Scheduled meeting will be held on Monday, February 13, 2023 at 6:30 pm.

3. Meeting Minutes

- a. Minutes of the December 12, 2022 Plan Commission meeting.

Motion by Alderman Gary Mahkorn, second by Citizen Member Lisa Chang to approve the minutes of the December 12, 2022 Plan Commission meeting. Motion carried 7-0.

4. Unfinished Business

- a. Request of Noby West Capitol, LLC, 2360 N 124th Street, Suite 30, Wauwatosa, WI 53226 – c/o Ram Subedi, Member, for **approval of an ordinance to amend the zoning of 12660 W. Capitol Drive to B-2 General Business District. (SE ¼ of Section 1) – RV/CB **Requires Common Council Action****

Report:

1. Refer to the following links to review the previous staff reports, minutes, and meeting videos related to the request:
 - [November 7, 2022 Plan Commission Meeting Packet](#)
 - [November 7, 2022 Plan Commission Meeting Minutes](#)
 - [November 7, 2022 Plan Commission Meeting Video Recording](#)
 - [December 20, 2022 Public Hearing Meeting Packet](#)
 - [December 20, 2022 Public Hearing Meeting Minutes](#)
 - [December 20, 2022 Public Hearing Video Recording](#)

2. A neighborhood information meeting regarding the proposal was held on December 14, 2022, in the Council Chambers of City Hall. Representatives of the applicant and their development team professionals were in attendance alongside Community Development Department staff. Two (2) citizens recorded their attendance on the sign in sheet. No comment sheets were submitted at the meeting and no comments were received via email prior to the scheduled public hearing. A copy of the attendance sheet has been attached to this report.
3. Raising Cane’s Restaurants, LLC, has entered into a lease agreement with NOBY West Capitol LLC to occupy property at 12660 W. Capitol Drive to construct a fast food restaurant with drive-thru. Currently, the property is occupied by a vacant 14,000 SF office building with plans to demolish the existing structure.
4. A public hearing on the request was conducted at the December 20, 2022 Common Council meeting. No members of the public spoke, or submitted a speaking form. Members of the Common Council asked questions of clarification regarding potential future use of the property.
5. All pertinent facts and findings discussed by the Plan Commission at the November 7 meeting pertaining to the request remain unaltered.

Staff Recommendation: The Plan Commission recommends the Common Council approve an ordinance amending the zoning of lands encompassing 12660 W. Capitol Drive, property tax key BRC1012118, to “B-2” General Business District.

Refer to audio recording of this item [here](#) for the discussion.

Topics Discussed

- Plan Commission has reviewed and discussed the request previously, finding it acceptable
- Concerns regarding cut-through traffic movements and degree of access to adjacent rights-of-way from the site

Motion by Alderman Rick Owen, second by Alderman Mike Hallquist to approve staff recommendation to recommend the Common Council adopt an ordinance amending the zoning of 12660 W. Capitol Drive to B-2 General Business District. Motion carried 7-0.

b. Request withdrawn

- c. Request of Wisconsin Robinson Family LP, 2725 West Highland Boulevard, Milwaukee, WI 53208 – c/o Kevin McDonell and Kyle Brassler, Regional Project Partners & VPs, Lincoln Avenue Capital, for approval of a PDD Specific Plan, new plan and method of operation, certified survey map, development agreement, and temporary limited easement for street yard landscaping for a mixed-use building consisting of apartment units and live-work units providing business occupancy at ground floor in association with the Flats at Bishops Woods redevelopment at the southeast corner of Bishops Way and Bishops Lane. (SW ¼ of Section 25) – RV **Requires Common Council Action****

Report:

1. Refer to the following links to review the previous staff reports, minutes, and meeting videos related to the request:
 - [August 8, 2022 Plan Commission Meeting Packet](#)
 - [August 8, 2022 Plan Commission Meeting Minutes](#)
 - [August 8, 2022 Plan Commission Meeting Video Recording](#)
 - [October 18, 2022 Common Council Meeting Video Recording \(Public Hearing\)](#)
 - [November 7, 2022 Plan Commission Meeting Packet](#)
 - [November 7, 2022 Plan Commission Meeting Minutes](#)
 - [November 7, 2022 Plan Commission Meeting Video Recording](#)
2. The site consists of two lots located within the Bishop’s Woods Targeted Investment Area (TIA), one of eleven areas identified in the *City of Brookfield 2050 Comprehensive Plan* (Comp Plan) that foster community reinvestment by supporting new economic development and sustainable, mixed-use redevelopment with sensitivity to surrounding neighborhoods. The adopted neighborhood plan is the *Bishop’s Woods Neighborhood Plan – Amended 2022* (Neighborhood Plan). The recommended land use of the Neighborhood Plan for the site is “Mixed Use –

Office/Research/Local Business/Multi-Family.” The adopted land use of the Comp Plan is “Mixed Use – Higher Density.” The site is zoned “PDD” Planned Development District General Plan – Mixed Use No. 32 (PDD).

- 3. Submitted Certified Survey Map is consistent with the associated preliminary concept map approved by the Plan Commission and Common Council (Resolution #10515-22). Applicant has provided the necessary map, plan, and narrative indicating which water and sewer laterals shall remain active to service the project and which shall be abandoned through the submitted PDD Specific Plan documents.
- 4. PDD General Plan Zoning Characteristics:
 - A. **Permitted Uses:**
 - 1. Those uses permitted in the Office District in accordance with 17.76, except religious uses and preschool and child care centers;
 - 2. Those permitted in the Local Business District in accordance with 17.52, limited to photographer, tutoring, shop, which includes art, book/stationary, florist, gift, clothing/dry goods, interior decorator/furniture, jewelry, notion/variety, shoe/tailor/dressmaking, and electronic repair, and similar uses approved by the Plan Commission. Outdoor displays and sidewalk sales are not permitted.
 - 3. Residential dwelling units in a mixed-use building, limited to a maximum of two hundred five (205) units;
 - 4. Resident amenity spaces including community room, exercise facilities, playgrounds, and outdoor patio seating;
 - 5. Live-work units
 - B. **Dimensional Standards for the PDD:**
 - Building and Parking Locations:**
 - 1. Setbacks: eighteen (18) feet minimum for buildings, ten (10) feet minimum for parking.
 - 2. Offsets: fifteen (15) feet minimum for buildings, ten (10) feet minimum for parking.
 - Height Regulation:**
 - 1. Principal building: fifty (50) feet maximum
 - 2. Accessory buildings: thirty (30) feet maximum
 - Area Regulation:**
 - 1. Minimum required for residential uses: 600 square feet per dwelling unit.
 - 2. Maximum FAR permitted: 1.45 (145%)
 - 3. Lot coverage: sixty (60) percent maximum.
 - 4. Landscape Surface Ratio: forty (40) percent minimum
 - C. **Parking Ratios:**
 - 1. 1.3 per dwelling unit;
 - 2. 3 spaces for visitor parking are required per live-work unit

- 5. Proposed Specific Plan Site Development Characteristics:

Lot Area (Combined):	161,458 sq. ft. (3.6974 ac)
Building Setback:	22.5’ Bishops Lane 22.5’ Bishops Way
Pavement/Parking Setback:	40’ Bishops Lane 11’ Bishops Way
Building Offset:	19.7’ East 20.5’ South
Pavement/Parking Offset:	30’ East 108’ South
Building Height:	50’ (4 story building, 2 levels underground parking)
Building Size:	225,088 sq. ft. total
Parking Spaces:	246 underground, 62 surface, 308 total
Floor Area Ratio:	140.0%
Residential Dwelling Units:	203 Total (8 Live/Work Units, 195 Apartment Units)
Impervious Surface Area:	85,575 sq. ft.
Lot Coverage:	53.0%
Landscape Area Ratio:	47.0%

- 6. Site plan is consistent with previously submitted and reviewed plans by the Plan Commission. It contains four ingress/egress access points, two from Bishops Lane for underground parking and Fire Department access to the rear of the building, and two from Bishops Way for accessing front of building and surface parking. All existing access points are removed. Collective site trash and recycling pickup is internalized within the building, located in the underground parking structure. Outdoor playground and patio space is nestled along Bishops Way in the northwest corner of the site with the

principle building enclosing the space from the north and east, consistent with the direction from the Neighborhood plan for locating outdoor activity space along the street and for the building to hold the corner at Bishops Lane and Bishops Way. As part of the public benefit portion of the PDD identified and adopted as part of General Plan approval, **staff recommends all pedestrian paths indicated on the site plan, which includes those labeled “Conceptual – Future by Others,” shall be completed by the Developer in one phase, with City staff working with the Developer in perfecting the location of paths to be located within the public rights-of-way, secured and executed through the development agreement.** *Developer has submitted updated site plan, dated January 9, 2023, which indicates all pedestrian paths to be concrete pavement for construction as part of the immediate development.*

7. Proposed architecture and principal building materials have been modified by the project architect to address the Plan Commission’s comments at the November 7 meeting. The building features an additional brick palate solution in the central architectural bays of the project for two complimentary designs that break up the expanse of the building. Overall material palate is effectively used to orientate visitors of the site to the Live/Work businesses at ground floor, and the leasing/lobby spaces of the apartments. Application of materials produces an effective “base, middle, and top” strategy featuring architectural detailing that emphasizes human scale. Outdoor balconies are positioned throughout the project in a variety of solutions inset between vertical building massings, similar to other favored multifamily buildings in the City. Overall, the proposal achieves a cohesive design that is consistent with the *Site Development and Landscape Standards* (SDLS). Building materials used throughout are:
 - James Hardie composite fiber cement panels and trim in “smooth panel” and “cedar lap siding” solutions of “Magnolia Home – Slate Steps” (forest green), “Arctic White” (white), “Night Gray” (grey), “Midnight Soot” (dark grey), “Cobblestone” (light grey), and “Woodstock Brown” (coffee brown) colors
 - Rockcast cast stone base in horizontal stacked patterned in “Riesling” (ivory) and “Crystal White” (white) colors
 - Interstate Brick veneer bricks in “Park Rose”
 - Clear vision glass double hung and single pane composite windows in black and cobblestone color match, and storefront vision glass and door systems in black aluminum (vision glass exceeds minimum 20% requirement on public facing façades).
8. Applicant submitted a landscape plan for review and compliance with City standards. Additional tree and shrub plantings have been added along the eastern property line, improving the landscape screen for the neighboring properties to the east as recommended by staff and the Plan Commission, and as required in the PDD General Plan.
9. The applicant is in receipt of a missive dated December 20, 2022 by Deputy Chief Nick Rogne and Fire Chief David Mason identifying fire prevention, alarm, suppression, and life safety code compliance requirements.
10. Grading, drainage, erosion control, and SWMP application have been submitted to the Engineering Division.
11. A Planned Development District development agreement will secure necessary public improvements, access, grading, drainage, landscaping, and stormwater management in the project. Accompanying temporary limited easement for landscaping will secure necessary access by the City and/or its agents to install and maintain street yard landscaping in the project per City ordinances and standards.

Staff Recommendation: The Plan Commission recommends the Common Council approves the PDD Specific Plan, certified survey map, plan and method of operation and location permitting construction of a mixed-use building consisting of apartment units and live-work units providing business occupancy at ground floor, landscaping, site parking, and outdoor playground and patio improvements; and authorization for the Mayor to execute a temporary limited easement for street yard landscaping and a development agreement on behalf of the City, in association with the Flats at Bishops Woods redevelopment at the southeast corner of Bishops Way and Bishops Lane, subject to items 1-14 below, because it determines, as the Plan Commission has determined, that the proposed structure and use:

- A. Will not have substantial adverse effect on traffic safety because the City Engineer has reviewed the submitted traffic peak generation estimates and concluded a traffic analysis under §17.100.070.H is not warranted as expected traffic counts are consistent with existing conditions.
- B. Will be consistent with the Municipal Code because it meets the requirements therein, subject to the applicant executing the necessary items listed for complying with such requirements as directed to the applicant.
- C. Will be adequately served with present or planned municipal services based upon demand for such services in comparison to existing conditions for the subject property – parcel is adequately served by existing City sewer and City water.

D. Will be substantially in conformance with the Site Development and Landscape Standards, April 19, 2022, where applicable, because the proposed building architecture and site improvements fulfill the stated standards therein.

1. Statement of operations dated December 5, 2022 by Lincoln Avenue Capital, c/o Kevin McDonell, Regional Project Partner.
2. Certified survey map dated October 10, 2022 by Sigma, subject to Engineering Division review and approval of technical corrections.
 - A. Obtain City permits for abandonment or alterations required for water and sewer laterals per City requirements.
3. Site plan dated December 5, 2022 by Sigma, including design and construction of pedestrian path connecting the site to existing path along Elm Grove Road in one phase, including technical corrections reviewed and approved by the Brookfield Engineering Division.
4. Building plans, elevations, and material samples dated December 5, 2022 by Knothe Bruce Architects, LLC, including technical corrections. Roof top HVAC equipment screened by building architecture. All wall mounted meter boxes and cabinets are to be painted to match the building and are limited to the north, east, or south building elevations. If stainless steel meter boxes are used they will be etched and painted to match the building.
5. Compliance with requirements in a missive dated December 20, 2022 by Fire and Emergency Medical Services Department – Nicholas Rogne, Deputy Fire Chief and David Mason, Fire Chief.
6. Site utility, grading, drainage, and erosion control plans subject to final approval of the city of Brookfield Engineering Division prior to the issuance of building permits.
7. Payment of applicable fees to the Community Development Department prior to issuance of a building permit.
 - \$ 120.00 Remaining PDD – Specific Plan Fee
 - \$ TBD Engineering Review Fee
 - \$ TBD Development Agreement
8. Lighting in compliance with sections 15.16.080 and 17.120.070 of the City of Brookfield municipal code
9. All signage subject to separate review by Zoning and Building Administrator.
10. Landscape plan dated December 20, 2022 by Sigma, subject to City of Brookfield consultant review and technical corrections secured with a letter-of-credit (City forms available from the Department of Community Development) equal to \$58,221.60 (\$2,550 per 1,000 sq. ft. street yard) for installation, \$10,046.08 for four (4) years of maintenance (\$440 per 1,000 sq. ft. of street yard) and a four (4) year temporary landscape easement for street yard maintenance (using forms available from the Department of Community Development) all deposited with the Department of Community Development prior to issuance of a building permit (22,832 sq. ft. of street yard).
 - A. A recertification "as-built" survey must be performed by a licensed landscape architect indicating that all elements of the approved Streetyard Landscape Plan has been completed within tolerance as approved by staff per the approved plan. The recertification documents must be wet stamped and signed by said professional.
11. Planned Development District development agreement securing necessary public improvements, access, grading, drainage, landscaping, and stormwater management in the project, and accompanying temporary limited easement for landscaping securing necessary access by the City and/or its agents to install and maintain street yard landscaping in the project per City ordinances and standards, all subject to City Attorney review and approval prior to recording.
12. Conformance with adopted PDD General Plan zoning ordinance number 2815-22.
13. Once a building permit is issued by Inspection Services, the owner shall receive an occupancy permit within eighteen (18) months or the owner of the property may be subject to the penalty provisions of the Zoning Code, Section 17.100.130 or the owner shall remove construction equipment and debris from the site, fine grade and seed the site, and stabilize surface water drainage leaving the site to City Engineering Department specifications within four (4) months or the owner of the property may be subject to the penalty provisions of the Zoning Code – Section 17.100.130. (Ordinance #2134-08).

14. Plan and method of operation approval expires on January 17, 2025 unless a building permit is obtained prior thereto.

Refer to audio recording of this item [here](#) for the discussion.

Topics Discussed

- Success of the newly added building materials and design in visually breaking up the building
- Appreciation for the additional landscaping in the project and response from the development team in executing the direction from the Plan Commission and nearby neighbors
- Substantial improvement in the perceived scale of the building and clearly denoting the entrance through the application of materials

Motion by Alderman Mike Hallquist, second by Alderman Gary Mahkorn to approve staff recommendation to recommend the Common Council approves the PDD Specific Plan, certified survey map, plan and method of operation and location permitting construction of a mixed-use building consisting of apartment units and live-work units providing business occupancy at ground floor, landscaping, site parking, and outdoor playground and patio improvements; and authorization for the Mayor to execute a temporary limited easement for street yard landscaping and a development agreement on behalf of the City, in association with the Flats at Bishops Woods redevelopment at the southeast corner of Bishops Way and Bishops Lane. Motion carried 7-0.

d. Report and Plan Commission Discussion: League of Wisconsin Municipalities – Wisconsin-specific zoning guide for neighborhood affordability – (RV)

Report:

1. In order to receive funds under the Community Development Block Grant (CDBG) program through HUD, Waukesha County is required to complete a fair housing study, known as an Analysis of Impediments to Fair Housing Choice (Analysis of Impediments) to ensure that housing and urban development programs are being administered in a way that furthers fair housing for these protected classes. Waukesha County, Jefferson County, Ozaukee County, and Washington County participate together in a Consortium for the purpose of accessing federal affordable housing funds under HUD's Home Investment Partnerships Act (HOME) program.
2. As part of the City's ongoing participation in the HOME Consortium through Waukesha County, the City engages in annual Fair Housing Initiative action items identified by the Analysis of Impediments. One of these action items is to educate elected officials and local leaders of communities in the Collaborative region about the need for affordable and workforce housing to ensure continued economic growth. The Analysis of Impediments determined that the Collaborative region has a strong jobs-housing-transit mismatch that this educational action item could help to alleviate.
3. The Plan Commission regularly engages in discussions regarding these topics, and has provided the Common Council with recommendations on recent projects that assist in fulfilling the City's responsibilities with regard to the identified impediments in the Collaborative region. The City's 2050 Comprehensive Plan provides some guidance to address the strong jobs-housing-transit mismatch, and the Mayor has been a regional leader in bringing local governments together to work through transit solutions. Recent Plan Commission agenda items have highlighted the strong connection and role of zoning in addressing these impediments. The Director of Community Development serves on the advisory committee of the Waukesha County Workforce Housing Study update, recently underway.
4. A copy of the 2022 Wisconsin-specific Guide for Neighborhood Affordability is attached to this report as supplement to the Plan Commission's recent discussions regarding zoning. The guide was created through a partnership between the League of Wisconsin Municipalities and the Congress for the New Urbanism and is designed to help communities identify and adjust zoning codes to remove undesired obstacles in the creation of affordable housing.

Staff Recommendation: The Plan Commission reviews the provided material and provides comments as deemed necessary for City staff to utilize in completing the annual reports to Waukesha County.

Refer to audio recording of this item [here](#) for the discussion.

Topics Discussed

- Challenges facing the City in creating conditions for affordable housing

- Desire for housing that serves all stages of life and more variety of housing sizes and stock in the City
- Potential for more and better mixed-use housing solutions, particularly medium density housing in the commercial corridors
- Concerns regarding the prevalence and future utilization of PDD zoning in the City
- Desire for amending zoning in congruence with the direction of the City's Comprehensive Plan
- Forwarding the zoning guide for neighborhood affordability document to the Common Council

No Action

5. Adjournment

Motion by Alderman Gary Mahkorn, second by Citizen Member Lisa Chang to adjourn the meeting at 7:04 pm.

Motion carried unanimously.

Respectfully Submitted:

Daniel F. Ertl

Director of Community Development