



MINUTES OF AN OFFICIAL MEETING:

Regular Meeting: Plan Commission

Date and Time: Monday, February 8, 2021 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, Alderman Mark Nelson, Commissioner Mike Smith, Commissioner Lisa Chang (via teleconference), Commissioner Steve Petitt

Members Excused: N/A

Others Present: Director of Community Development Dan Ertl, City Attorney Jenna Merten, City Engineer Jeffrey M. Chase, Fire Chief Charlie Myers, Associate Planner Richard VanDerWal, Alderman Chris Blackburn, Alderman David Christianson, Alderman Jerry Mellone

2. Roll Call

Mayor Steven Ponto noted a quorum present and called the Plan Commission to order at 6:32 pm

Announcements

The Next Regularly Scheduled meeting will be held on Monday, February 8, 2021 at 6:30 pm

3. Meeting Minutes

a. Minutes of the January 11, 2021 Plan Commission meeting.

Motion by Alderman Rick Owen, second by Alderman Gary Mahkorn to approve the minutes of the January 11, 2021 Plan Commission meeting. Motion carried 7-0.

b. Actions and recommendations of the Plan Review Board meeting of January 21, 2021.

Motion by Citizen Member Lisa Chang, second by Citizen Member Steve Petitt to approve the minutes of the January 11, 2021 Plan Commission meeting. Motion carried 7-0.

4. Unfinished Business

- a. **Plan Commission Recommendation:** An ordinance to create the annual list for notification of zoning and comprehensive plan changes and to update the process for initiating zoning changes under §17.08.070 – DE **Requires Common Council Approval**

Report: This item was the subject of a public hearing January 19. No public comments were made. Several alderman asked technical questions.

Recommendation: Approve ordinance.

Topics Discussed

- Specifics of the proposed ordinance regarding notifications and the notification list

4. Unfinished Business (continued)

- State Statute updates related to the proposed ordinance

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

Motion by Alderman Mark Nelson, second by Citizen Member Mike Smith to approve staff recommendation for approval of an ordinance to create the annual list for notification of zoning and comprehensive plan changes and to update the process for initiating zoning changes under §17.08.070. Motion carried 7-0.

5. New Business

- a. **Request of Peter Faraciano, Owner, 16755 West Lisbon Road, Brookfield, WI 53005, for approval of a minor revision to plan and method of operation, amending a special exception ordinance, and approval of a deed restriction in association with expansion of outdoor seating and exterior building modifications of Pistol Pete’s Neighborhood Grill at said address. (NW 1/4 of Sec. 3) – RV **Requires Common Council Approval****

Report:

1. The site is not located in a 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 land use of the Comp Plan is “Shopping/Services Focused – Lower Density”. The site is zoned “B-2” General Business District with adopted special exception ordinances 438 and 717. Ordinances 438 and 717 permitted building expansions and site improvements on the site and are attached to this report for reference. The proposed outdoor seating expansion is a permitted use.

2. Site Characteristics:

Lot Area:	87,294 sq. ft. (2.00 ac) (unchanged)
Building Setback:	19’ (unchanged)
Pavement Setback:	10’ Pheasant Drive (unchanged)
Building Offset:	74’ West (unchanged) 28’ East (unchanged) 113’ South (unchanged)
Pavement Offset:	0’ West (unchanged) 21’ East (unchanged) 50’ South (unchanged)
Building Heights:	29’ (unchanged)
Building Size:	9,610 sq. ft. (unchanged)
Parking Spaces:	101 surface (7 removed), 34 adjacent lot 135 total (127 req.)
Floor Area Ratio:	11.0% (unchanged)
Lot Coverage:	57.73% (unchanged)
Landscape Area Ratio:	42.27% (unchanged)

3. Submitted site plan indicates no changes to existing ingress/egress access points from Lisbon Road. Expansion of outdoor seating does not affect vehicular and emergency drive access throughout the site. Zoning code permits expansion of the outdoor seating within the setback area:

C. Accessory structures with foundations in association with the creation of “third places” within the building setback include pergolas, permanent seating, band shells, decks, gazebos or similar structure as determined by the plan commission.

Seven (7) parking spaces are eliminated by the expansion of outdoor seating. Statement of operations lists seventy-five (75) outdoor seats are added with the expanded patio space. Zoning district and

5. New Business (continued)

parking regulations limit the total outdoor seats for the site to seventy (70). Additional seating shall be limited to twenty-six (26) and portions of existing outdoor seating, consisting of forty-four (44) seats, can be relocated to distribute outdoor seating for utilization of the expanded patio space accordingly. Location of trash and recycling storage is unchanged from current approved operations.

4. Proposed exterior building modifications are consistent with the City's *Site Development Standards for Non-Residential Uses*. Vision glass and spandrel panel roll-up garage doors create increased visual interest on the west facade while improving "third-space" indoor-outdoor activation. A proposed heavy timber framed entry canopy is depicted for Plan Commission consideration but may not be constructed by the applicant. Review and administrative approval of detailed plans for the entry canopy by the Fire Department is required prior to issuance of a building permit for said structure. Principal building materials used in building modifications are: LP SmartSide "RusticSeries" fiber cement panels of wood grain lap siding in "Old Cherry" (dark brown) color; steel roll-up doors in black anodized aluminum with clear vision glass windows and matching black spandrel panels; and heavy timber canopy frame, in matching stain, with prefinished "terracotta" corrugated metal roof. Accent materials are prefinished metal trim in black. Outdoor patio expansion utilizes same materials, colors, and detail solutions as existing patio. All new materials have been selected to match and complement existing colors and materials of the principal building.
5. Applicant has been informed that: **All vision glass is to remain vision glass and cannot be obstructed or modified with window film or other opaque techniques or substances except that operable window blinds, or shades are permitted.** All plans specifying the location and installation of vision glass shall memorialize this language into the associated plan set prior to Planning signing off to Inspection Services.
6. The applicant is in receipt of a missive dated January 28, 2021 by Assistant Fire Chief David Mason identifying fire alarm, suppression, and code compliance requirements.
7. Site plan has been submitted to the Engineering Division. Review of plan resulted in no Engineering comments.
8. A shared parking agreement and easement/deed restriction, subject to approval from the City Attorney, will secure perpetual reciprocal parking and access with the westerly adjacent lot for meeting parking requirements and maintaining the obligations of special exception ordinance 717. The shared parking agreement and easement/deed restriction will contain language that the agreement and easement/deed restriction may not be revoked without Plan Commission and Common Council approval and must be recorded with the Waukesha County Register of Deeds.
9. A proposed findings of fact for basis of approval, conclusions of law, recommendation, and conditions of approval for amending special exception ordinance 717 have been attached to this report for potential inclusion in the written record and acting motion by the Plan Commission.

Recommendation: Request is consistent with the land use recommendations of the comprehensive plan, the applicable zoning regulations, and special exception ordinances for the site. Proposed exterior building modifications conform to City design standards. Staff recommends the Plan Commission approve the minor revision to plan and method of operation and an amendment to special exception ordinance 717 in association with expansion of outdoor seating and exterior building modifications of a restaurant located at 16755 Lisbon Road and require a parking agreement and easement/deed restriction for the additional parking and authorize the Mayor to execute approval of the parking agreement and easement/deed restriction on behalf of the City subject to:

5. New Business (continued)

1. Statement of operations dated January 20, 2021 by Peter Faraciano, Owner, Pistol Pete's Neighborhood Grill with amendment stating outdoor seating count is limited to 70 total for the property.
2. Site plan dated January 20, 2021 by Norman Architects & Design Studio including technical corrections.
3. Building elevations and material samples dated January 20, 2021 by Norman Architects & Design Studio including technical corrections. Detailed plans of the heavy timber entry canopy structure shall be reviewed by the Fire Department for administrative approval prior to issuance of building permits for the structure (per missive dated January 28, 2021, fire suppression requirements have not been determined for this covering). Applicant is aware that additional fire suppression (sprinkler systems) may be required based on review of the detailed plans for the entry canopy.
4. Compliance with site access, fire suppression, and alarm requirements specified in a missive dated January 28, 2021 by Assistant Fire Chief David Mason.
5. Completing work and closing out of open permits for the property, including open fire sprinkler permit, permit #201304377, for the addition of sprinkler heads, based on state approved plans, for previously approved building addition.
6. Lighting in compliance with sections 15.16.080 and 17.120.070 of the City of Brookfield municipal code.
7. All signage subject to separate review by Inspections Services.
8. Execution of a parking agreement and easement/deed restriction securing perpetual reciprocal parking and access with the westerly adjacent lot for meeting parking requirements and maintaining the obligations of special exception ordinance 717 and recording of the parking agreement and easement/deed restriction by the Waukesha County Register of Deeds subject to final approval by the City Attorney prior to execution.
9. 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).
10. Compliance with provisions of adopted special exception ordinances 438 and 717.
11. Minor revision to plan and method of operation approval expires on February 16, 2023 unless a building permit is obtained prior thereto.

Peter Faraciano, Owner, represented the request.

Topics Discussed

- Hours of operation and use of patio space
- Building code restroom requirements related to proposed increased capacity
- Noise concerns regarding indoor entertainment and the size of the roll-up garage door openings
- Flexibility for restaurants regarding current conditions

5. New Business (continued)

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

Motion by Alderman Gary Mahkorn, second by Alderman Rick Owen to approve staff recommendation for approval of a minor revision to plan and method of operation and an amendment to special exception ordinance 717 in association with expansion of outdoor seating and exterior building modifications of a restaurant located at 16755 West Lisbon Road including requirement for a parking agreement and easement/deed restriction for securing perpetual reciprocal parking and access with the westerly adjacent lot for the additional parking and authorize the Mayor to execute approval of the parking agreement and easement/deed restriction on behalf of the City. Upon deliberation and consideration of the request of Peter Faraciano for amending a special exception to permit expansion of outdoor seating in association with exterior building modifications of a restaurant, the Committee finds:

FINDINGS OF FACT:

- 1. The site that is the subject of this special exception amendment request is one lot, tax key BRC1018947, having property address 16755 West Lisbon Road, which is zoned "B-2" General Business District.*
- 2. The proposed use for the site is a restaurant with entertainment hall and outdoor seating.*
- 3. Restaurants with outdoor seating and entertainment halls are permitted uses in the B-2 zoning district, pursuant to Sections 17.60.010.A.2.a and 17.60.010.A.2.g of the Municipal Code ("Code").*
- 4. Outdoor seating is permitted in the setback area of the lot pursuant to Section 17.60.020.C of the Code.*
- 5. The uses comply with the recommendations in the City of Brookfield 2050 Comprehensive Plan.*
- 6. Indoor seating capacity is currently two hundred eighty-three (283) seats and outdoor seating capacity is currently forty-four (44) seats. Section 17.60.010.A.2.g permits outdoor seating not exceeding twenty-five (25) percent of the indoor seating which limits the current building, having 283 seats, to a maximum of seventy (70) outdoor seats.*
- 7. Proposed expansion of outdoor seating will increase dining capacity of the restaurant use by twenty-six (26) seats, requiring nine (9) parking spaces to accommodate the new capacity pursuant to Section 17.120.010 of the Code, and eliminate seven (7) existing parking spaces for a deficit of sixteen (16) parking spaces.*
- 8. Peter Faraciano is the owner of the adjacent westerly lot, tax key BRC1018970001, having property address 16825 West Lisbon Road, which currently provides thirty-four (34) additional parking spaces in excess of the subject site to accommodate overspill parking, although through no officially recorded document establishing such condition or perpetual use.*
- 9. Special exception ordinance 717 requires the parking lot area be laid out and maintained in accordance with the plans approved by the Plan Commission on October 20, 1975 and the Common Council on December 16, 1975. An amendment is sought to revise this condition to be current with the proposed plans for expansion of outdoor seating and resultant parking configuration.*
- 10. As a condition of the approval, execution of a parking agreement/ easement or deed restriction securing perpetual parking and access for thirty-four (34) spaces with the adjacent westerly lot, tax key BRC1018970001, having property address 16825 West Lisbon Road, for meeting and maintaining the parking requirements of 17.120 of the Code, subject to final approval by the City Attorney prior to execution, is necessary.*
- 11. All other conditions of the prior special exception ordinances are hereby reaffirmed as necessary, by substantial evidence, as being necessary for the property as the parking lot is located in the setback and offset area and surrounded by a residential area.*
- 12. Establishment of the special exception amendment will not violate the spirit or general intent of Title 17 of the Code; be hazardous, harmful, noxious, offensive, or a nuisance by reason of noise, dust, smoke, odor, or other similar factor; cause a substantial adverse effect on the property values and general desirability of the neighborhood; or violate the building location, height, and area regulations of the district except as expressly provided by the existing adopted special exception ordinances.*

CONCLUSIONS OF LAW:

- 1. Peter Faraciano's request complies with the criteria of the special exception ordinance of the Code and*

5. New Business (continued)

2. *is not contrary to the public health, safety, or general welfare.*
3. *In order to fulfill the obligations of the adopted special exception ordinance 717, for which this request seeks to amend, it is necessary to place a parking agreement and easement/deed restriction on the adjacent westerly lot, tax key BRC1018970001, having property address 16825 West Lisbon Road, subject to approval by the City Attorney, for meeting and maintaining the parking requirements of 17.120 of the Code.*

RECOMMENDATION:

The Plan Commission recommends approval of Peter Faraciano's application for amending a special exception to permit expansion of outdoor seating in association with exterior building modifications of a restaurant, subject to the conditions set forth herein.

Motion carried 7-0.

b. Plan Commission discussion regarding updates to the Site Development Standards for Non-Residential Uses. – RV

Report:

1. The Department of Community Development, with the aid of the hired Planning Consultant, Peter Bratt, has drafted preliminary edits to the City's Site Development Standards for Non-Residential Uses (SDS) that serve to address perceived and voiced concerns of stakeholders, which include City staff, elected and appointed City officials, developers, property owners, business owners, and residents, as well as updating portions of the document for incorporating the guiding principles of the 2050 Comprehensive Plan and, incorporated within, the specific objectives of the City's community and neighborhood plans for Targeted Investment Areas.
2. The existing SDS were adopted by the Plan Commission in October 1997 and have been updated over the past twenty years. Please refer to the following link to review the currently adopted version of the City's design standards for commercial development:
 - A. [Site Development Standards for Non-Residential Uses](#)
3. Members of the Plan Commission gathered to discuss the technical aspects, language, and preferred outcomes of the recommendations and requirements in the document. The discussion revealed that the overall goal in revising the SDS involves maintaining the general level of flexibility in design that the standards currently permit while eliminating vagueness and potential misinterpretation of language in recommendations and requirements. Additionally, the SDS should identify conditions or solutions in design that will be grounds for denying an application. The Members provided staff initial direction for updating the document to address ongoing progressions in architecture, market preferences, and construction in development alongside edits for improved usability by applicants and their professionals.
4. Staff will provide alternatives for potential procedural changes regarding development review and the application of the SDS at the Plan Commission meeting.

Recommendation: Plan Commission discussion is sought regarding the preferences for appropriately regulating architecture, site design, landscaping, and other related aspects of the built environment in applications for development and redevelopment that are necessary to continue to achieve a deliberate, corresponding aesthetic for Brookfield. Following discussion, staff recommends the Plan Commission convene another meeting to further review and discuss revisions to the Site Development Standards for Non-Residential Uses and instruct staff to perform any corresponding efforts needed to accomplish productive progression.

Topics Discussed

5. New Business (continued)

- Objectives for revising the document
- Preferences for the development review process regarding Plan Commission and staff engagement with applicants
- Comments for revision given by Commissioners
- Allowing for flexibility in the standards while maintaining legal defensibility of requirements

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

No Action.

c. Plan Commission discussion regarding the Residential Development Landscape Standards. – RV

Report:

1. The adopted Residential Development Landscape Standards credit existing healthy landscape vegetation in the street yard of lots toward meeting the listed planting requirements in the document. In circumstances where a land split is sought by a property owner along an arterial road in which the full extent of the right of way (ROW) has not been acquired by the City, the existing vegetation of the current street yard may shift to being located within the City's ROW after dedication. These plants would no longer reside on the private lot(s) and, therefore, do not count toward the credit for meeting the street yard landscaping requirements. The adopted standards would require the subdivider to install new plants that meet the listed quantity and coverage requirements for street yard landscaping.
2. The timing of the land split and future expansion, construction, or reconstruction of ROW improvements may be distant, potentially many years apart, and in some cases may never occur if the inciting need for the project is never realized. The Plan Commission could consider amending the standards to permit crediting property owners the existing landscaping that would be located in the ROW after ultimate width dedication, and potentially those plantings currently located in the ROW, for successfully meeting landscaping requirements. Such amendment would need to include a provision that if any permitted work or public project within the ROW impacts the credited landscaping, the property still maintains conforming status and is exempt from correcting the resulting condition with new plantings on the private lot.
3. Staff will provide further oral report to the Plan Commission at the meeting.

Recommendation: Staff seeks guidance from the Plan Commission on any desired revisions to the Residential Development Landscape Standards resulting from the discussion.

Topics Discussed

- Desired revisions for the *Residential Development Landscape Standards*
- Requirements for crediting existing landscaping

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

No Action.

d. "2020 Housing Affordability Report" presentation to the Plan Commission. – RV

Report:

1. Section 66.10013 of Wisconsin Statutes requires the City of Brookfield to post an annual report of the municipality's implementation of the housing element of its comprehensive plan. A copy of the 2020 Housing Affordability Report is attached to this report for review and reference.
2. Staff will provide further oral report to the Plan Commission at the meeting and answer questions of Members.

Recommendation: The Plan Commission should discuss any matters it desires to address from the report.

Topics Discussed

- [Presentation of the 2020 Housing Affordability Report to the Plan Commission](#)

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

No Action.

6. Adjournment

Motion by Citizen Member Steve Pettit, second by Citizen Member Mike Smith to adjourn the meeting at 7:53pm. Motion carried unanimously.

Respectfully Submitted:

Daniel F. Ertl

Director of Community Development