



MINUTES OF AN OFFICIAL MEETING:

Regular / Special Meeting: Plan Commission

Date and Time: Monday, July 13, 2020 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 Mark Nelson, Alderman Rick Owen, Commissioner Steve Petitt

Members Excused: Commissioner Lisa Chang, Commissioner Mike Smith

Others Present: Director of Community Development Dan Ertl, Planning Administrator Mike Theis, City Engineer Jeffrey M. Chase, Fire Chief Charlie Myers, Neighborhood Planning Coordinator Richard VanDerWal, Zoning and Building Administrator Larry Goudy, Alderman Chris Blackburn

1. Roll Call

Mayor Steven Ponto noted a quorum present and called the Plan Commission to order at 6:30 pm

2. Announcements

Item 5e will be acted on first as requested by Director Ertl.

The Next Regularly Scheduled meeting will be held on Monday, August 10, 2020 at 6:30 pm

3. Meeting Minutes

- a. Minutes of the June 8, 2020 meeting.

Motion by Alderman Mark, second by Alderman Gary to approve the minutes of the June 8, 2020 Plan Commission meeting. Motion carried 5-0.

- b. Plan Review Board meeting- cancelled

4. Unfinished Business

5. New Business

- e. Legislative referral – Alderman Owen: Proposed amendments to Chapter 15 and 17 of the Municipal Code authorizing saunas as a permitted use in single-family residential zoning districts. Request for public hearing. – LG ****Requires Common Council Approval****

REPORT:

1. Alderman Owen has made a legislative referral in regard to permitting outside saunas on residentially zoned properties.
2. Photos of typical sauna styles have been included in the packet

3. Staff has created a potential code amendment to section 15.04.420 which will allow saunas in rear yard areas of residential properties. Changes to the existing code have been highlighted.
4. Saunas have been added to the permitted residential accessory building section of the building code. This section previously included yard maintenance buildings, gazebos, cabanas, greenhouses, pergolas and pavilions. The proposed regulations related to saunas are consistent with size, height and location regulations for the other residential accessory buildings, although these units are usually smaller than 100 square feet.
5. The code restricts a property owner to no more than two residential accessory buildings on their lot. This was placed in the code at the time of the greenhouse amendment in an attempt to control the number of exterior structures on a residential lot. The property owner must also comply with maximum lot coverage regulations for their residential zoning district.
6. As part of this amendment, section 17.28.010 must also be amended. This section lists permitted uses in the R-1 (single family residential) zoning district. The present code lists all the allowed residential accessory buildings; gazebo, cabana, greenhouse, pavilion, pergola. Saunas would be added to that list

RECOMMENDATION: Staff recommends that the Plan Commission authorize the scheduling of a public hearing.

Attachments: Revisions to 15.04.420 Residential Accessory Buildings
 Images of Saunas

Topics Discussed:

- *Rationale for the legislative referral and the proposed code amendments.*
- *Appearance and design of sauna buildings.*
- *Consideration for addressing architecture in the proposed amendments.*
- *Consideration for any safety, hazard, or nuisance concerns related to electrical powering, wood burning, and levels of smoke associated with the operation of saunas.*

Refer to audio recording of this item at

<https://cityofbrookfield.viebit.com/player.php?hash=pRQB1blqirBn#> for the discussion.

Motion by Citizen Member Steve Petitt, second by Alderman Rick Owen to approve staff recommendation for approval to schedule a public hearing regarding proposed amendments to Chapter 15 and 17 of the Municipal Code authorizing saunas as a permitted use in single-family residential zoning districts. Motion carried 5-0.

- a. Request of Congregational Home Residence and Rehabilitation, 13900 West Burleigh Road, Brookfield, WI 53005 – Kris Sprtel, BS, NHA, President/Chief Executive Officer for approval to schedule a public hearing to amend Map 3 of the City of Brookfield 2050 Comprehensive Plan changing the land use recommendation of 3220 and 3230 Lilly Road from Housing Focused – Lower Density to Nature, Recreation and Community Facility – Community Facility and rezone 13900 West Burleigh Road from “R-2” Residence District to “PDD-M” Planned Development District – Mixed Use General Plan in association with a 21 bed (21,044 sq. ft.) CBRF (Community

Based Residential Facility) addition and wellness center at 13900 West Burleigh Road. (SW ¼ of Sec. 12) - MT ****Requires Common Council Approval****

Report:

1. Congregational Home, located at 13900 West Burleigh Road has a base zoning of “R-2” Single-family Residence District. Conditional Use Ordinances No. 446, 542, 543, 1064, 1105, 1503 and 2328-13 approved and adopted from 1968 thru 2013 allow for operation of a nursing home, a subsequent 26 unit apartment addition, a 32% Floor Area Ratio, CBRF, assisted living, chapel, multi-purpose room and parking lot expansions. At the time of the conditional use ordinances passage, the terms hospital, sanitarium, nursing home, rest home and facility for senior citizens were listed as conditional uses in Chapter 17.108.050 of the municipal code. The site is not located in a Targeted Investment Area (TIA) one of eleven areas identified in the *City of Brookfield 2050 Comprehensive 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 existing Congregational Home site per the 2050 City of Brookfield Comprehensive Plan is Nature, Recreation and Community Facilities - “Community Facility”.

2. The applicant is requesting approval to schedule a public hearing to amend Map 3 of the City of Brookfield 2050 Comprehensive Plan changing the land use recommendation of 3220 and 3230 Lilly Road from Housing Focused – Lower Density to Nature, Recreation and Community Facility – Community Facility and rezone 13900 West Burleigh Road from “R-2” Residence District to “PDD-M” Planned Development District – Mixed Use General Plan. Congregational Home owns 13900 West Burleigh Road, 3230 Lilly Road and is negotiating purchase of 3220 Lilly Road.

3. PDD Ordinance Characteristics:

Permitted Uses:	Continuing Care Retirement Community (CCRC) with independent living apartments, assisted living apartments/suites registered as a Residential Care Apartment Complex (RCAC), Community Based Residential Facility - memory care (CBRF) and wellness center offering goods, entertainment, fitness and personal service delivery to residents of the CCRC
Building Setback:	50’ Fiebrantz Drive - Same as 17.32.020 A. (“R-2” Residence District) 50’ Burleigh Road 50’ Lilly Road
Building Offset:	25’ Minimum – 20’ for lots created by CSM in 17.32.020 B. (“R-2” Residence District)
Pavement Setback (Paths):	10’ Fiebrantz Drive – 25’ for Cond. Use in 17.32 (“R-2” Residence District) 10’ Burleigh Road 10’ Lilly Road
Pavement Setback (Parking):	25’ Fiebrantz Drive - 25’ for Cond. Use in 17.32 (“R-2” Residence District) 25’ Burleigh Road 25’ Lilly Road

Pavement Setback (Service Area):	15' Lilly Road – 25' for Cond. Use in 17.32 ("R-2" Residence District)
Pavement Offset (All)	25' Minimum - Same as Cond. Use in 17.32 ("R-2" Residence District)
Building Height (Principal):	35' – 45' Max. - Same as 17.32.030 ("R-2" Residence District) and 17.136.030C.
	Building Height (Accessory): 15' Max. - Same as 17.32.030 ("R-2" Residence District)
	Floor Area Ratio: 32% Max. - Same as Ordinance No. 1064
Landscape Surface Ratio:	50% Min. - Same as Cond. Use in 17.32 ("R-2" Residence District)

4. Site Development Characteristics:

Building Setback:	160' Fiebrantz Drive 53' Burleigh Road 70' Lilly Road
Building Offset:	45'
Pavement Setback (Paths):	60' Fiebrantz Drive 10' Burleigh Road 20' Lilly Road
Pavement Setback (Parking):	80' Fiebrantz Drive 30' Burleigh Road 105' Lilly Road
Pavement Setback (Service Area):	15' Lilly Road
Pavement Offset (All)	45'
Building Height (Principal):	27'
Building Height (Accessory):	12'
Floor Area Ratio:	29.9 %
Landscape Surface Ratio:	60.8%
Parking:	93 Stalls

5. Per 17.41.050 The standards for PDD Mixed- Use are:

- All PDD districts shall be related to nearby uses different from the dominant uses in the PDD district, through planning unit analysis.
- Particular attention shall be placed upon careful and creative interrelationship of uses mixed within a PDD-M district.

The site is situated at the intersection of two major streets bounded by existing PDD-Residential, Conditional Use-Institutional and Commercial zoning. Like the subject site, the PDD and Conditional Use sites are in excess of 4.0 acres in area as is one of the commercially zoned sites on the south side of Burleigh Road. The proposed development will create a life-cycle facility on a proportionally sized lot that is not duplicative of adjacent land uses.

6. Building architecture matches the existing building as do building materials in composition, color, texture and application resulting in a seamless building expansion.

7. The Engineering Division is in receipt of preliminary grading drainage, erosion control and stormwater management plans.
8. The applicant is in receipt of a missive dated June 23, 2020 by Fire Chief Charlie Myers identifying Fire Code compliance requirements.
9. Site landscaping of the streetyard, north property line and stormwater basins will be performed in compliance with city development standards in the areas affected by the building addition.

Recommendation: The land uses that have located at the intersection of Lilly and Burleigh Roads are typical of the land uses attracted to the intersection of major streets. The applicant's existing development, especially in the context of the building addition no longer fits the city's contemporary conditional use definition. Staff recommends the Plan Commission approve scheduling a Comp Plan amendment/Planned Development District rezoning public hearing subject to conducting a neighborhood information meeting prior to the hearing.

Attachments: 2020-06-08_AREA STUDY MAP
 Plan of Operation CBRF5.27.2020 and 6.22.2020
 Lighting Plan EG221
 Exterior Renderings 1, 2 and 3
 Landscape Plan Congregational Home Brookfield SD Binder_200608
 North - West Colored Elevation
 South - East Colored Elevation

Topics Discussed:

- *Landscaping, specifically at the perimeter of the property related to screening vehicles from neighboring residences.*
- *Architecture matching existing.*
- *Rationale for application of PDD rezoning rather than conditional use.*
- *Rationale for the difference in lands recommended for land use amendment and lands within the PDD rezoning.*

Refer to audio recording of this item at

<https://cityofbrookfield.viebit.com/player.php?hash=pRQB1blqirBn#> for the discussion.

Motion by Citizen Member Steve Petitt, second by Alderman Gary Mahkorn to approve staff recommendation for approval. Motion carried 5-0.

- b. Legislative referral - Alderman Owen: (referred to the Board of Public Works) To consider creating an ordinance to administer standards for placing, constructing or altering driveways to City streets. – JM/JC/MT

Report:

1. Managing site access attributable to non-residential development/redevelopment has been an objective of the City of Brookfield since incorporation of "plan and method of operation" in the municipal code and with respect to residential development, Title 16

Subdivisions. Effective access management, preserves transportation facility capacity, minimizes the frequency and severity of vehicular conflicts, maintains effective and reliable mobility for the traveling public, reduces or eliminates opportunities for traffic delays and congestion, protects the substantial public investment in the existing transportation system and reduces the need for expensive remedial measures.¹

2. The challenges of new suburban development and redevelopment and the attendant demands upon the transportation system associated with growth and increased competition for space, warrant access management regulation that is predictable, enforceable but also accommodates safe and reasonable efficiencies in land use. An access management ordinance deemed by staff to be the minimum required to address Brookfield's access management needs is attached for Plan Commission consideration.
3. The draft ordinance will include a provision for applicants to file for variances in the case of unique or unanticipated circumstances. Ultimately, the variance will be decided by the Common Council with a public hearing in front of the Board of Public Works preceded by a report from the Plan Commission.
4. If the draft ordinance is still a "work in progress" on Monday night we may ask for it to be postponed.

Recommendation: Staff recommends the Plan Commission endorse adoption of an access management ordinance and share comments with the Board of Public Works.

Attachments: Draft Ordinance Creating Driveway Access Management

1CLAY COUNTY, MINNESOTA, ORDINANCE NO. 2012-4, AN ORDINANCE OF THE COUNTY OF CLAY, MINNESOTA REPEALING AND READOPTING CERTAIN SECTIONS WITHIN TITLE 8 PERTAINING TO DEVELOPMENT CODE CHAPTERS 1,3, 5,7 AIND 8; AND FURTHER ESTABLISHING SITE ACCESS CONTROL/MANAGEMENT PROVISIONS WITHIN CHAPTER 3, SECTION 8.3.6

Topics Discussed:

- *Potential impacts of the proposed ordinance on the Village Area, industrial parks, and other properties located in the City's Targeted Investment Areas.*
- *History and rationale for the legislative referral.*
- *Affinity for circular driveway access as a normal condition throughout the City.*
- *Questions related to terminology and definitions with respect to development and redevelopment.*
- *Appropriate distance of separation between driveway openings onto the public right-of-way.*
- *Process for reviewing and commenting on the proposed ordinance.*
- *Need for consistency in applying standards and variances.*
- *Whether two driveway openings onto the public right-of-way should be permitted.*
- *Process for managing applications.*
- *Aesthetic rationale for limiting the number of driveway openings onto the public right-of-way.*
- *Requesting comment and guidance from the Board of Public Works*

Refer to audio recording of this item at

<https://cityofbrookfield.viebit.com/player.php?hash=pRQB1blqirBn#> for the discussion.

Motion by Alderman Gary Mahkorn, second by Alderman Mark Nelson to approve staff recommendation, with the provision that the Board of Public Works comment on the draft ordinance and refer it back to the Plan Commission prior to it proceeding to Common Council for action. Motion carried 5-0.

- c. Request for public hearing amending Section 17.98.050 of the Brookfield Municipal Code creating the Civic Center Area Overlay District and the respective regulations and design standards.

Report:

1. In 2001, the city enacted Ordinance 1778 that established a Modified Suburban Overlay (MSO) zoning district upon the properties located within a portion of the “Ruby Isle Civic Center Neighborhood Plan” or planning unit.
2. Various buildings and improvements have been built or are being built under this zoning application.
3. City staff request that the Plan Commission and Common Council authorize a public hearing so that certain amendments to the MSO applying to this area be adopted, including dimensional and design standards and a planning unit area map within the zoning text applying to this portion of the planning unit.
4. Please see a draft of the zoning text amendments and map that would be added to the Zoning Code.

Recommendation: Approve the scheduling of a public hearing to amend Section 17.98 and related sections of the Zoning Code to provide details for the Modified Suburban Overly (MSO) that applies to the Civic Center Area.

Topics Discussed:

- Clarification on lands located within the proposed MSO.
- Edit requested by Fire Chief.
- Consequences and degree of changes of the proposed MSO with regard to neighborhood character.

Refer to audio recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=pRQB1blqirBn#> for the discussion.

Motion by Alderman Mark Nelson, second by Alderman Rick Owen to approve staff recommendation for approval to schedule a public hearing to amend Section 17.98 and related sections of the Zoning Code to provide details for the Modified Suburban Overly (MSO) that applies to the Civic Center Area. Motion carried 5-0.

- d. Request for public hearing amending Section 17.98.050 of the Brookfield Municipal Code creating the South Gateway Area Overlay District and the respective regulations and design standards.

Report:

1. In 2001, the city enacted Ordinance 1778 that established a Modified Suburban Overlay (MSO) zoning district upon the properties located within a portion of the “South gateway Neighborhood Plan” or planning unit.
2. Various buildings and improvements have been built or are being built under this zoning application.
3. City staff request that the Plan Commission and Common Council authorize a public hearing so that certain amendments to the MSO applying to this area be adopted, including dimensional and design standards and a planning unit area map within the zoning text applying to this portion of the planning unit.
4. Please see a draft of the zoning text amendments and map that would be added to the Zoning Code.

Recommendation: Approve the scheduling of a public hearing to amend Section 17.98 and related sections of the Zoning Code to provide details for the Modified Suburban Overly (MSO) that applies to the South Gateway Area.

Topics Discussed:

- Clarification on lands located within the proposed MSO.
- Edit requested by Fire Chief.
- Consequences and degree of changes of the proposed MSO with regard to neighborhood character.

Refer to audio recording of this item at

<https://cityofbrookfield.viebit.com/player.php?hash=pRQB1blqirBn#> for the discussion.

Motion by Alderman Gary Mahkorn, second by Alderman Rick Owen to approve staff recommendation for approval to schedule a public hearing to amend Section 17.98 and related sections of the Zoning Code to provide details for the Modified Suburban Overly (MSO) that applies to the South Gateway Area. Motion carried 5-0.

- f. Plan Commission description of specific hazards affecting the health and safety of residents of a Community Based Residential Facility located at 18535 Bonnie Lane. - (SE ¼ of Sec. 21) - MT

Report:

1. In a missive dated July 2, 2020 The State of Wisconsin Department of Health Services – Division of Quality Assurance – Bureau of Assisted Living invited the Plan Commission to describe any specific hazards which may affect the health and safety of residents in a community living arrangement located at 18535 Bonnie Lane. The address is the location of a proposed Community Based Residential Facility (CBRF) for eight developmentally disabled residents. Per Wis. Stat. Sec. 62.23(7)(i)(3), CBRFs containing 8 or fewer people that are more than 2500 feet away from another facility and do not exceed the 25% population provision and are licensed/permitted by the DHS or DCF may locate in any residential zone without being required to obtain special zoning permission. The proposed CBRF is compliant with Wis. Stat. Sec. 62.23(7)(i)(3).
2. Examples of potential hazards are listed on Page 2 of Division of Quality Assurance Form OQA-290. City staff is unaware of the presence of any of the listed hazards.

Recommendation: Staff recommends the Plan Commission instruct staff to check-off “B. NO Hazards Identified” on Form OQA-290 and return same to the State of Wisconsin Department of Health Services – Division of Quality Assurance – Bureau of Assisted Living.

Attachments: State of Wisconsin Department of Health Services – Division of Quality Assurance – Bureau of Assisted Living missive dated July 2, 2020

Form OQA-290 - Division of Quality Assurance

Topics Discussed:

- State statute limitations for the City to review Community Based Residential Facilities.
- Commissioner Pettitt noting for the record that, if the proposed CBRF came before the Plan Commission for approval, he would not support it.

Refer to audio recording of this item at

<https://cityofbrookfield.viebit.com/player.php?hash=pRQB1blqirBn#> for the discussion.

Motion by Alderman Gary Mahkorn, second by Alderman Mark Nelson to approve staff recommendation for the Plan Commission to instruct staff to check-off “B. NO Hazards Identified” on Form OQA-290 and return same to the State of Wisconsin Department of Health Services – Division of Quality Assurance – Bureau of Assisted Living. Motion carried 5-0.

- g. Request of Ruth E. Dugan Appointment Trust for extraterritorial approval of certified survey map (CSM) combining lands to create a new one lot CSM located at 18795 West Bluemound Road, Town of Brookfield. (SW¼ of Sec. 28) – RV ****Requires Common Council Approval****

Report:

1. Ruth E. Dugan Appointment Trust acquired a parcel of land from the Wisconsin Department of Transportation through quit claim deed located at the southeast corner of the intersection of West Bluemound Road and North Brookfield Road. The metes and bounds of the quit claimed parcel have been incorporated into the original CSM of the property at 18795 West Bluemound Road, creating a new one lot CSM.
2. For subdivisions located in towns, neighboring cities and villages may have extraterritorial plat approval jurisdiction if the plat is three miles from the municipal boundaries of a first, second, or third class city; or one and one-half miles from the municipal boundaries of a fourth class city or an incorporated village. They can review for compliance with municipal ordinances, local comprehensive plans, and official maps. They cannot require public improvements within the subdivision.
3. A municipality may not deny approval of a plat or CSM within its extraterritorial jurisdiction based upon the proposed use of the land within the plat or CSM, unless such use conflicts with plans or regulations adopted by the municipality under s. 62.23 (7a) (c), Wis. Stats, related to extraterritorial zoning.
4. City staff has reviewed the proposed CSM and found no objections to its approval.

Recommendation: There are no grounds to deny the extraterritorial approval of the CSM. Staff recommends the Plan Commission approve and recommend the Common Council authorize the Mayor to sign the extraterritorial plat approval certificate.

Attachments:

1. Dugan CSM 04-17-2020.pdf
2. Dugan-DJ2670 Dugan.pdf

Refer to audio recording of this item at

<https://cityofbrookfield.viebit.com/player.php?hash=pRQB1blqirBn#> for the discussion.

Motion by Alderman Gary Mahkorn, second by Citizen Member Steve Petitt to approve staff recommendation for extraterritorial approval of the Certified Survey Map by the Plan Commission with recommendation that the Common Council authorize the Mayor to sign the extraterritorial plat approval certificate. Motion carried 5-0.

6. Adjournment

Motion by Citizen Member Steve Petitt, second by Alderman Mark Nelson to adjourn the meeting at 7:44pm. Motion carried unanimously.

Respectfully Submitted:

Daniel F. Ertl

Director of Community Development