



MINUTES OF AN OFFICIAL MEETING:

Regular: Plan Commission

Date and Time: Monday, November 9, 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 Rick Owen, Commissioner Lisa Chang (via teleconference), Commissioner Steve Pettitt

Members Excused: Commissioner Mike Smith, Alderman Mark Nelson

Others Present: Director of Community Development Dan Ertl, City Engineer Jeffrey M. Chase, Fire Chief Charlie Myers, Neighborhood Planning Coordinator Richard VanDerWal

2. Roll Call

Mayor Steven Ponto noted a quorum present and called the Plan Commission to order at 6:34 pm

Announcements

The Next Regularly Scheduled meeting will be held on Monday, December 7, 2020 at 6:30 pm

3. Meeting Minutes

- a. Minutes of the October 12, 2020 meeting.

Motion by Alderman Rick Owen, second by Alderman Gary Mahkorn to approve the minutes of the October 12, 2020 Plan Commission meeting. Motion carried 5-0.

- b. Minutes of the October 22, 2020 Plan Review Board meeting

Motion by Alderman Gary Mahkorn, second by Citizen Member Steve Pettitt to approve the minutes of the October 22, 2020 Plan Commission meeting. Motion carried 5-0.

4. Unfinished Business

- c. Request of Congregational Home Residence and Rehabilitation, 13900 W. Burleigh Rd. Brookfield, WI 53005, c/o Kris Sprtel, BS, NHA, President/Chief Executive Officer to approve a PDD Specific Plan, development agreement and utility easements in association with the Congregational Home PDD and the construction of a 21 bed, 21,044 sq. ft. CBRF (Community Based Residential Facility) addition and wellness center located at 13900 W. Burleigh Road.

Report:

Refer to the following links to review the previous staff report and minutes related to the request:

- [September 14, 2020 Plan Commission Packet](#)
- [September 14, 2020 Plan Commission Minutes](#)

2. ORDINANCE # 2615- 20 was adopted on October 6, 2020 establishing a PDD General Plan zoning for the subject property. The current action is to approve a PDD Specific Plan, authorize the execution

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of an associated Development Agreement and approve public utility easements needed for the project.

3. The PDD Specific Plan would establish the following standards for the project:

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

4. Building architecture matches the existing building as do building materials in composition, color, texture and application resulting in a seamless building expansion.
5. The Engineering Division is in receipt of grading drainage, erosion control and stormwater management plans.
6. The applicant is in receipt of a missive dated June 23, 2020 by Fire Chief Charlie Myers identifying Fire Code compliance requirements.
7. 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.
8. A Planned Development District development agreement will secure necessary public improvements, access, grading, drainage, landscaping, and stormwater management in the project.

Recommendation: The requested Specific Plan is consistent with the General Plan and meets the standards of the City's design guidelines. Staff recommends the Plan Commission approve the PDD Specific Plan and authorize the Mayor to execute a development agreement and utility easements on behalf of the City subject to:

1. Statement of operations dated June 22, 2020 by Congregational Home.
2. Site plan dated November 2, 2020 by Trio Engineering including technical corrections.
3. Building plans, elevations, and material samples dated November 3, 2020 by AG Architects including technical corrections. Roof top HVAC equipment screened by building architecture. All wall mounted meter boxes are to be painted to match the building. If stainless steel meter boxes are used they will be etched and painted to match the building.
4. Compliance with site access, fire suppression, and alarm requirements specified in a missive dated June 23, 2020 by Fire Chief Myers.
5. 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. The developer of the project will be required to submit Items A, B, and C below before the issuance of a building permit:
 - A. A copy of the approved Grading and Drainage Plan, as approved by the city of Brookfield Engineering Division.

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- B. The bid from a contractor reflecting the cost of executing the work required on the Grading and Drainage Plan.
 - C. A letter-of-credit in compliance with the City letter-of-credit format deposited with the Department of Community Development. The monetary amount of the letter-of-credit shall be equal to 110% of the submitted bid. (City form available from the Department of Community Development)
 - D. A recertification "as-built" survey must be performed by a licensed, professional engineer or surveyor indicating that all elements of the approved Grading and Drainage Plan have been completed within tolerances as approved by Staff per the approved plan. The recertification documents must be wet stamped and signed by the professional.
 - E. The letter-of-credit will be released by the Department of Community Development after the recertification documents are submitted to the city of Brookfield Engineering Division and approved.
6. Payment of applicable fees to the Community Development Department prior to issuance of a building permit.
 - \$ TBD Engineering Review Fee
 - \$ _____ Development Agreement Review Fee by City Attorney
 - \$ 327.00 Wetland Preservation Impact Fee(21,044/0.27/1,000 x \$4.19)
 7. Lighting in compliance with sections 15.16.080 and 17.120.070 of the City of Brookfield municipal code.
 8. All signage subject to separate review by the Plan Review Board.
 9. Provisions of Ordinance #2615-20 for Congregational Home PDD General Plan and the approved General Plan document on file with the Department of Community Development.
 10. Landscape plan dated October 30, 2020 by InSite Design subject to secured with a letter-of-credit (City forms available from the Department of Community Development) equal to \$18,125.00 (\$2,550 per 1,000 sq. ft. street yard) for installation, \$3,190.00 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 (7,250 sq. ft. of street yard). Applicant to work with City staff on necessary revisions prior to City of Brookfield consultant review.
 - 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. Execution of a Development Agreement and Utility easements subject to final approval by the City Attorney prior to execution.
 12. 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).
 13. PDD Specific Plan shall revert to General Plan approval status on November 17, 2022 unless a building permit is obtained prior thereto.

Topics Discussed:

- Concerns of storm water impacts that were made at the public hearing.

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- Findings of review and analysis of proposed storm water management solutions.
- Matters related to the request have previously been reviewed by the Plan Commission.

Refer to 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 PDD Specific Plan and authorizing the Mayor to execute a development agreement and utility easements on behalf of the City in association with the Congregational Home PDD and the construction of a 21 bed, 21,044 sq. ft. CBRF (Community Based Residential Facility) addition and wellness center located at 13900 W. Burleigh Road. Motion carried 5-0.

- b. Legislative referral – Alderman Owen: (referred to the Board of Public Works) Creation of an access management ordinance to administer standards for placing, constructing or altering driveway connections to City streets. – JM/JC/RV ****Requires Common Council Approval****

Report:

1. Refer to the following links to review the previous meeting packets, staff reports, meeting minutes, and meeting video related to the request:
 - 🔗 [July 13, 2020 Plan Commission Packet](#)
 - 🔗 [July 13, 2020 Plan Commission Minutes](#)
 - 🔗 [July 13, 2020 Plan Commission Meeting Video](#)
 - 🔗 [July 14, 2020 Board of Public Works Packet](#)
 - 🔗 [July 14, 2020 Board of Public Works Minutes](#)
2. At its meeting on July 13, 2020, the Plan Commission discussed at length the proposed regulations pertaining to driveway connections, site access management, and overall impacts on site design in development and redevelopment of properties in the City. Some of the Commissioners focused on commercial applications and potential scenarios of administering the proposed ordinance. The Plan Commission concluded by requesting the matter be brought back to the Plan Commission after the Board of Public Works weighed in on the referral but before a proposed ordinance was acted on by the common council.
3. At its recent meeting, the Board of Public Works affirmed the continuance of two connection point circular driveways throughout the community. The majority of the other concerns addressed by the Plan Commission have been incorporated into the proposed ordinance endorsed by the board of public works with the exception of identifying that circumstances located within the City's Targeted Investment Areas (TIAs) need special consideration under the variance process. The City's *2050 Comprehensive Plan* identifies multiple development and redevelopment objectives that could potentially be curtailed with a strict interpretation of the access management ordinance without the availability for reasonable consideration of the circumstances in the City's TIAs through the variance process. More specifically Section 12.09.060(B) of the draft ordinance should be amended to include:

“Consideration of reasonable access may account for exceptional site conditions including, but not limited to, topography, road network, right of way, lot dimension, and lot configuration.”
4. Department of Community Development staff have identified further suggested refinements to the proposed ordinance with regard to the remaining concerns identified by the Plan Commission, including the above referenced sensitivity to the review of variance requests. A copy of the suggested revisions is attached to this report.

Recommendation: The access management ordinance is deemed by staff to be the minimum required to address Brookfield's access management needs in a manner that is predictable, enforceable, and

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accommodates safe and reasonable efficiencies in land use. A variance process is included within the draft ordinance. Planning staff believes the text needs to be broadened recognizing the need for careful consideration of applications for variances when the application is located within the City's Targeted Investment Areas. Staff recommends the Plan Commission discuss and address desired revisions of the proposed ordinance, including the TIA recognition, and endorse the creation of such access management ordinance upon conclusion, as amended at the meeting. Ultimately, the full Common Council will weigh the input from the Plan Commission and Board of Public Works.

Topics Discussed:

- ☐ *Summary of the discussion made at the various committee meetings on the matter.*
- ☐ *Endorsement of the definitions and language of the proposed ordinance.*

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

Motion by Alderman Rick Owen, second by Citizen Member Steve Petitt to approve staff recommendation . Motion carried 5-0.

- c. Code Amendment Saunas in Residential Districts.

Report:

A public hearing on this item was held on October 20, 2020. One public comment was made regarding the desire to install a freestanding sauna in a manner that is tasteful and compliant with codes. One council member asked would this additional permission not lead to further code enforcement problems within single-family neighborhoods through neglect. Staff responded that City Code Enforcement staff should be contacted when problems are seen and that many subdivisions have homeowners associations that should do some self-policing of their neighbors.

Recommendation: Approve ordinance.

Topics Discussed:

The matters of the legislative referral have previously been reviewed and vetted by the Plan Commission.

Refer to 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 an ordinance amending Section 15.04.420 and Section 17.28.010 to allow saunas as a permitted use in single-family residential zoning districts. Motion carried 5-0.

5. New Business

- a. Request of Storage Master, LLC, 2601 South Moorland Road, New Berlin, WI 53151 – Alex Semic, Chief Executive Officer, for *approval of a new plan and method of operation and development agreement* in association with the redevelopment construction of a self-storage facility including approximate 43,000 square foot climate controlled building with interior drive through loading area and conversion of an existing building for self storage use at 16900 Pheasant Drive. (NW 1/4 & SW 1/4 of Sec. 15) – RV ****Requires Common Council Approval****

Report:

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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 “Employment Focused – Higher Density”. The site is zoned “I” Industrial District with adopted conditional use ordinance 1369. Ordinance 1369 permits the cellular communication tower on the site. The proposed redevelopment in association with the construction of self storage facilities and conversion of an existing building for self storage is a permitted use.
2. Proposed Site Development Characteristics:

Lot Area:	437,255 sq. ft. (10.04 ac)
Building Setback:	52.8’ Pheasant Drive
Pavement Setback:	21’ Pheasant Drive
Building Offset:	53’ North (10’ min.) 28’ East (10’ min.) 21’ West (10’ min.)
Pavement Offset:	21’ West (10’ min.) 16’ East (10’ min.) 20.4 North (10’ min.)
Building Heights:	9.8’ to 22’ (60’ max., 40’ max accessory buildings)
Building Size:	104,525 sq. ft. total (94,685 sq. ft. New Buildings, 9,840 sq. ft. Existing Building)
Parking Spaces:	16 surface, 58 storage lot, 74 total (55 req.)
Floor Area Ratio:	24.5% (60% max)
Lot Coverage:	61.7% (85% max)
Landscape Area Ratio:	38.3% (15% min)
3. Submitted site plan indicates two ingress/egress access points from Pheasant Drive. The northwesterly existing access has its accompanying existing non-conforming parking removed. Trash and recycling receptacles to be stored within a storage unit building and fully screened from view.
4. Proposed architecture and building materials are consistent with the City’s *Site Development Standards for Non-Residential Uses*. Shed roof, increased building height, and extruded building masses are used on the primary building to identify the main entrance and break up wall expanses along the front elevation. Vision glass in the project is framed by pilasters establishing a strong architectural motif that emphasizes human scale and creates visual interest on the west, east, and south facades of the primary building. Principal building materials used throughout new building construction are: Nichiha fiber cement panels of brick veneer, in “Alexandria Buff” (sienna red brick) and “White Wash” (distressed earthtones) with light beige grout color, and of stone finish in “Sandstone Desert Beige” (beige); steel roll-up doors in “desert sand” (dark beige); and clear vision glass window systems with light beige trim. Accent materials are prefinished metal trim in “Light Stone” (beige). Existing brick building shown unchanged regarding building materials, architecture, and fenestration. Repairs, renovations, and painting match new building colors for cohesive site design. Cell tower of existing building to remain.
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 submitted a landscape plan for review and compliance with City standards.

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The applicant is in receipt of a missive dated October 12, 2020 by Fire Chief Charlie Myers identifying fire alarm, suppression, and code compliance requirements.

7. Grading, drainage, erosion control, and SWMP have been submitted to the Engineering Division.
8. A standard form City of Brookfield commercial development agreement will secure necessary public improvements, access, grading, drainage, landscaping, and stormwater management in the project.

Recommendation: The project is consistent with the land use recommendations of the 2050 Comprehensive Plan and the applicable zoning regulations for the site. Proposed building architecture conforms to City design standards. Staff recommends the Plan Commission approve the new plan and method of operation in association with the redevelopment construction of a self-storage facility and conversion of an existing building for self storage use at 16900 Pheasant Drive and authorize the Mayor to execute a development agreement on behalf of the City subject to:

1. Statement of operations dated October 2, 2020 by Alex Simic, CEO, Storage Master, LLC.
2. Site plan dated October 2, 2020 by Nielsen Madsen + Barber including technical corrections.
3. Building plans, elevations, and material samples dated October 20, 2020 by Thrive Architects including technical corrections. Roof top HVAC equipment screened by building architecture. Ground mounted HVAC equipment and transformers screened by landscaping. All wall mounted meter boxes and cabinets are to be painted to match the building and are limited to the north, east, or west building elevations. If stainless steel meter boxes are used they will be etched and painted to match the building.
4. Compliance with site access, fire suppression, and alarm requirements specified in a missive dated October 12, 2020 by Fire Chief Charlie Myers. *Building #12, as identified on site plan, revised as needed to meet Fire Department requirements.*
5. 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. The developer of the project will be required to submit Items A, B, and C below before the issuance of a building permit:
 - A. A copy of the approved Grading and Drainage Plan, as approved by the city of Brookfield Engineering Division.
 - B. The bid from a contractor reflecting the cost of executing the work required on the Grading and Drainage Plan.
 - C. A letter-of-credit in compliance with the City letter-of-credit format deposited with the Department of Community Development. The monetary amount of the letter-of-credit shall be equal to 110% of the submitted bid. (City form available from the Department of Community Development)
 - D. A recertification "as-built" survey must be performed by a licensed, professional engineer or surveyor indicating that all elements of the approved Grading and Drainage Plan have been completed within tolerances as approved by Staff per the approved plan. The recertification documents must be wet stamped and signed by the professional.
 - E. The letter-of-credit will be released by the Department of Community Development after the recertification documents are submitted to the city of Brookfield Engineering Division and approved.
6. Payment of applicable fees to the Community Development Department prior to issuance of a building permit.
 - \$ TBD Engineering Review Fee
 - \$893.93 Wetland Fee (\$4.19 per 1,000 sq. ft. lot area of development)
 - \$ TBD Development Agreement
7. Lighting in compliance with sections 15.16.080 and 17.120.070 of the City of Brookfield municipal code.
8. All signage subject to separate review by the Plan Review Board.

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9. Landscape plan dated October 2, 2020 by InSite Landscape Design 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 \$48,613.00 (\$2,550 per 1,000 sq. ft. street yard) for installation, \$8,388.00 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 (19,064 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.
10. Execution of a Development Agreement subject to final approval by the City Attorney prior to execution.
11. 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).
12. Compliance with provisions of adopted conditional use ordinance 1369.
13. Plan and method of operation approval expires on November 17, 2022 unless a building permit is obtained prior thereto.

Topics Discussed:

- Satisfaction with the proposed architecture and overall design in the project.
- Quality of the business operation and experience.
- Compliance with the fire code requirements identified by Fire Chief Charlie Myers.
- Grading, drainage, and storm water management.
- Traffic impacts of the project.
- Alderman Scott Berg spoke on behalf of his constituents.
- Relationship of the request to any future plans for significant redevelopment in the area.

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

Motion by Alderman Gary Mahkorn, second by Citizen Member Lisa Change to approve staff recommendation for approval of a new plan and method of operation and authorizing the Mayor to execute a development agreement on behalf of the City in association with the redevelopment construction of a self-storage facility and conversion of an existing building for self storage use at 16900 Pheasant Drive. Motion carried 5-0.

- b. Sixth Amendment to The Corridor Master Development Agreement and removal of a Plan Commission condition

Report:

1. The original Master Development was amended to require Irgens to install a bridge to cross the Deer Creek for the Greenway Trail. For a variety of reasons that can be explained at the meeting as needed, this bridge will not be installed and Irgens will deposit a payment in lieu of

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construction. The sixth amendment to the Master Agreement removes the requirement to install the bridge and substitutes payment in lieu.

2. A prior Plan Commission condition for the construction of the office buildings at The Corridor, currently under construction, needs to be removed as a condition of building occupancy, as the bridge is no longer contemplated. The following Plan Commission condition was applied during the February 10, 2020 approval of the office buildings and should be removed:

.....13. Compliance with the installation of the segment of Greenway Trail requirements including a bridge prior to certificates of occupancy per the previous project Development Agreement, as amended.....

Recommendation: Approve Sixth Amendment to the Master Development Agreement for The Corridor and remove condition 13 established for The Corridor office parcel by the Plan Commission on February 10, 2020, as the condition has been met and no bridge element of the trail is being pursued under this project. Applicant to pay Development Agreement Amendment fee of \$125 and City Attorney fees.

Topics Discussed:

- Request is straightforward.

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

Motion by Alderman Gary Mahkorn, second by Citizen Member Steve Petitt to approve staff recommendation for approval of Sixth Amendment to The Corridor Master Development Agreement and to remove condition 13 established for The Corridor office parcel by the Plan Commission on February 10, 2020, accepting fee in lieu of construction of the bridge element. Motion carried 5-0.

- c. Request of Shecterle Commercial Properties, Inc. for a Temporary Use permit to locate one (1) secondary drive-thru structure at 21300 W. Capitol Drive & 3705 N. 124th Street.
Requires Common Council Approval

Report:

1. Shecterle Commercial Properties, Inc. is looking to place one (1) temporary structure at 21300 W. Capitol Drive and 3705 N. 124th Street. The purpose of the temporary structure is to allow for better management of drive-thru operations and/or curbside pickup (ATTACHMENT 1). The COVID-19 pandemic has restricted the availability of dine-in options at each location, but the volume of drive through traffic serviced by each has significantly increased.
2. Currently each location is using 10' x 10' pop up tents as a solution to handle the increase in traffic volume. With Wisconsin's winter weather approaching, Shecterle Commercial Properties, Inc. is seeking a more durable and viable lasting solution for its employees' health and safety. The City typically requires a permit for the use of pop up tents on commercial properties, but as a result of the COVID-19 pandemic there has been a relaxed approach by staff to support the City's business community.
3. The structure to be placed at each property is made of quality materials that will be able to withstand the harsh weather elements that is typically expected (ATTACHMENT 2). Each structure will be bolted affixed to the ground on all four (4) sides to ensure that they remain in the location identified on the site plan (ATTACHMENT 3 & 4). Each unit will be supplied electricity to allow for electrical heat, lighting, and the processing of transactions (ATTACHMENT 5). This will require that an electrical permit be taken out with the City's Inspection Services Department. Specifications for the building, materials, lighting and heating have been supplied for review.
4. Each location has adequate parking and drive-thru staging during normal operating conditions. With the use of the dining room not available, use of dine-in parking spots can be substituted

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for customer staging for drive-thru and/or curbside pickup operations. Each structure will take up only one parking spot.

5. Shecterle Commercial Properties, Inc. is requesting the ability to allow for the structure to remain in place through May of 2022. The reason for the lengthy request is the uncertainty that the business community is facing on capacity restrictions that continue to fluctuate regularly. In an effort to save time, money and effort to change protocols for dine-in options regularly, this will allow for business operations to continue regardless of any restrictions in place at any given time.

Recommendation: Staff recommends the Plan Commission approve the Temporary Use Permit for the placement of one (1) secondary drive-thru structure at 21300 W. Capitol Drive and 3705 N. 124th Street each until June 1, 2022 or full service dine-in options become available, as determined by the Zoning Administrator, whichever is sooner. The Temporary Use Permit would be subject to:

1. An electrical Permit issued and inspected by the City Inspection Services Department.
2. A plan is submitted to the Inspection Services Department regarding removal of the electric provided to the structure when it is to be removed.
3. Review and approval by the Fire Department on the electrical heater within the structure on any life safety issues, and on emergency access plan regarding location of structure and clearing of vehicles in queue.
4. Securing encroachment agreement that expires with temporary use for installation of any underground electric to the temporary structure impacting City easement(s).

Topics Discussed:

- Conditions of the request as they pertain to the longevity and effects of the pandemic.
- Clarity on the specific details of the request.
- Impacts and impetus for the request.
- Precedent for similar requests that may come forward from other businesses in the City.
- Flexibilities given with regard to temporary measures by business owners for maintaining business operations during the pandemic.
- Temporary nature of the request.
- Time period of the temporary use permit and process for extension/re-approval.
- Fire code and state building code requirements limiting the use and time period of temporary structures.

Refer to 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 Temporary Use Permit for the placement of one (1) secondary drive-thru structure at 21300 W. Capitol Drive and 3705 N. 124th Street each, with amendment to a time period of six months with consultation of City staff to advise the Common Council on the specific dates of the time period at the November 17 Council meeting. Motion carried 5-0.

- d. Approval of a public hearing to amend Chapter 17 of the Municipal Code regarding definition of “institutional”, the Conditional Use and Plan and Method of Operation administrative sections, Village Area Business District regulations and setback provisions for gas canopies in several zoning districts, and dumpster enclosure setbacks and offsets located in a Modified Urban Overlay District.

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Previously the Plan Commission recommended that a public hearing be scheduled to amend the Zoning Code regarding gas canopy setbacks and endorsed the Planning Staff to craft some amendments to the Village Area Business (VAB) District regarding permitting parking in certain building setbacks within the Village. Since the drafting of those concepts, the Planning and Legal Departments have found the need to amend additional sections of the Zoning Code as follows:

- Define “institutional” so as to guide where institutional uses are permitted.
- Update the Conditional Use section to add Site Development Standards as a regulation in reviewing all conditional uses.
- Remove Conditional Uses, selected Prohibited Uses (i.e. permit a few) and remove private parking lots without a principal building located thereon as a permitted use in the VAB District.
- Amend the Plan and Method of Operation procedures to clarify that the only land uses that do not require a review of plan and method are single-family homes and certain Community Based Residential Facilities.
- Identify dumpster enclosure setbacks in MSO Districts.
- See attached draft Ordinance.

Staff can answer questions at the meeting.

Recommendation: Approve public hearing.

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

Motion by Citizen Member Lisa Chang, second by Alderman Rick Owen to approve staff recommendation for approval to schedule a public hearing to amend Chapter 17 of the Municipal Code regarding definition of “institutional”, the Conditional Use and Plan and Method of Operation administrative sections, Village Area Business District regulations and setback provisions for gas canopies in several zoning districts, and dumpster enclosure setbacks and offsets located in a Modified Urban Overlay District. Motion carried 5-0.

- e. Request of Waukesha County for approval to schedule a conditional use public hearing permitting recreational trail in the Floodway District and Floodfringe District. (SW 1/4 of Sec. 17) – RV ****Requires Common Council Approval****

Report:

1. Waukesha County and the City of Brookfield have partnered to complete the Pewaukee to Brookfield Connector Trail. This multi-use recreational trail has been identified in both the City and County’s adopted long-range transportation, park, recreation, and environmental planning efforts, alongside other regional plans, including:
 - ❑ Park and Open Space Plan for the City of Brookfield: 2035
 - ❑ City of Brookfield 2050 Comprehensive Plan
 - ❑ Waukesha County Comprehensive Bicycle/Pedestrian Plan
 - ❑ City of Waukesha Bicycle/Pedestrian Plan
 - ❑ City of Brookfield Greenway Trail System
 - ❑ City of Pewaukee Bike Plan
 - ❑ Waukesha County Park & Open Space Plan
 - Proposed Waukesha County Bicycle Plan – adopted 2012
 - ❑ Regional Bicycle Facilities System Plan for Southeastern Wisconsin: 2010 by SEWRPC
2. The proposed trail will reach from the City of Pewaukee to Brookfield’s Village Area utilizing the abandoned railroad corridor along the Fox River which is owned by Waukesha County. The northern end of the trail will conclude at the trail head site previously identified along North

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Brookfield Road between North Hills Drive and Riverview Drive as part of the historic train depot relocation project.

3. Work within the abandoned railroad property will involve removal of the existing railroad track ties and rail, removing residual topsoil that has accumulated over the ballast, placing stone and asphalt over the ballast, and seeding the trail shoulders. This work is intended to result in final elevations of asphalt to match the current existing railroad track surface as much as possible.
4. A portion of this work falls in the City's floodway district and floodfringed district within the overall floodplain. The County is applying for a conditional use permit for work within the floodway.
5. Title 17 of the municipal code (zoning code) permits recreational trail use in the Floodway District (ref. §17.88.120 Permitted uses. 3. Nonstructural recreational uses) and in the Floodfringe District (ref. §17.88.160 Permitted uses. A. Permitted Uses. Transportation and pedestrian connections and recreational trails which are consistent with the goals and objectives of the city master plan or elements thereof in order to permit the trail system's construction in all base zoning and overlay zoning districts.)
6. The requirements of the City's zoning code regarding development within the Floodplain District relevant to the request are:
 - 17.88.070 Hydraulic and hydrologic analyses.
 - A. No floodplain development shall:
 1. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
 2. Cause any increase in the regional flood height due to floodplain storage area lost.
 - B. The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of Article VIII, Amendments, are met. (Ord. [2345-13](#) § 1(2.1), 2013)
7. Submitted plans, attached to this report, indicate that flow will not be obstructed by the project and will not cause any increase in the regional flood height, whether through blocking conveyance of floodwaters or through floodplain storage area lost. Per code, the floodplain district is not being amended and the provisions of Article VIII do not apply with regard to the proposed project.
8. The requirements of the City's zoning code regarding development within the Floodway District relevant to the request are:
 - 17.88.130 Standards for developments in the floodway.
 - A. General.
 1. Any development in the floodway shall comply with Article II and have a low flood damage potential.
 2. Applicants shall provide the following data to determine the effects of the proposal according to Section [17.88.070](#):
 - a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 - b. An analysis calculating the effects of this proposal on regional flood height.
 3. The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subsection (A)(2) of this section.
 - C. Public Utilities, Streets and Bridges. Public utilities, streets and bridges may be allowed by permit, if:
 1. Adequate floodproofing measures are provided to the flood protection elevation; and
 2. Construction meets the development standards of Section [17.88.070](#).

5. New Business

D. Fills or Deposition of Materials. Fills or deposition of materials may be allowed by permit, if:

1. The requirements of Section [17.88.070](#) are met;
2. No material is deposited in navigable waters unless a permit is issued by the Department pursuant to Chapter [30](#), Wisconsin Statutes, and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, [33](#) U.S.C. [1344](#) has been issued, if applicable, and all other requirements have been met;
3. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
4. The fill is not classified as a solid or hazardous material. (Ord. [2345-13](#) § 1(3.3), 2013)

9. Submitted plans intend to meet the requirements of 17.88.130(A), indicating the limits of the floodway and the impact of the project's activities. Over the 3.5 mile project, eighty-four (84) cubic yards of cut are proposed in the floodway district and eighty-one (81) cubic yards of fill are proposed for a net three (3) cubic yards of removal in the floodway. As previously stated, the project does not propose any obstruction to flow of the watercourse. The requested conditional use process ensures the development activities, completed infrastructure, and perpetual use and maintenance within the floodway and floodfringe districts meets all applicable local, state, and federal requisites.

10. The requirements of the City's zoning code regarding development within the Floodfringe District relevant to the request are:

17.88.170 Standards for development in the floodfringe.

Section [17.88.070](#) shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of Article VI, Nonconforming Uses.

J. Deposition of Materials. Any deposited material must meet all the provisions of this chapter.

11. All work applicable to the requirements for §17.88.170(J) would accompany the similar work proposed and resulting requirements in the floodway district (§17.88.130(D)).

12. The multi-use, non-motorized trail is a public facility that will allow access from Pewaukee to Brookfield for pedestrians, bicyclists, and other recreation users. The various regional planning efforts establish justification that the specific proposal and its location has no practicable alternative outside of being located in the floodway and floodfringe districts of the floodplain. (ref. §17.88.030(I) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.)

Recommendation: The project fulfills the goals of long-range regional planning efforts, including the *City of Brookfield 2050 Comprehensive Plan*, *Park and Open Space Plan for the City of Brookfield: 2035*, and *Greenway Trail System*. Proposed development and use are permitted in the zoning code. Staff recommends the Plan Commission authorize scheduling a conditional use public hearing for completion of a recreational trail in the floodway and floodfringe districts subject to:

1. Plans reviewed by the City of Brookfield Engineering Division confirming project complies with the requirements of §17.88 of the municipal code. Submittal of any information, analysis, and/or documentation required by §17.88 determined to be incomplete by City of Brookfield staff which is/are necessary prior to scheduling the hearing.
2. Submittal of documentation outlining and affirming, with stamp of Professional Engineer having qualified experience working within floodplains, that proposed plans and development has been engineered to meet the requirements of §17.88.070(A):

A. No floodplain development shall:

5. New Business

1. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
2. Cause any increase in the regional flood height due to floodplain storage area lost and that proposed development has been engineered to comply with §17.88 of the municipal code.
3. Coordination of trail access and construction with the City's Fire and Police Departments.
4. Holding a neighborhood information meeting inviting the neighboring property owners to be informed of the project, per code, prior to the public hearing.

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

Motion by Alderman Gary Mahkorn, second by Citizen Member Lisa Chang to approve staff recommendation for approval to schedule a conditional use public hearing permitting recreational trail in the Floodway District and Floodfringe District in association with the Waukesha County Pewaukee to Brookfield Connector Trail project. Motion carried 5-0.

6. Adjournment

Motion by Alderman Gary Mahkorn, second by Citizen Member Steve Petitt to adjourn the meeting at 8:32pm. Motion carried unanimously.

Respectfully Submitted:

Daniel F. Ertl

Director of Community Development