

**CITY PLAN COMMISSION
MONDAY, DECEMBER 20, 2010 - 6:30 PM
COUNCIL CHAMBERS, CITY HALL**

Meeting called to order by Mayor Connors at 6:30pm.

Roll Call: Commissioner Poetzinger, Alderman Hartz, and Commissioners Olson, Skates and Flower. Also Present: Mayor Connors, City Attorney Draper, Building/Zoning Administrator Brugger, Administrator Jordan and Administrative Assistant Special. City Planner Slavney was excused.

Flower/Skates motion to approve minutes of November 15th, 2010 Plan Commission meeting. Motion carried.

Comments from the public as allowed by Wis. Stats. §19.84(2), limited to items on this agenda, except for public hearing items. Comments will be limited to five (5) minutes. Applicants will be allowed when their item is discussed.

None.

Correspondence.

A packet of information was received and distributed to the Commissioners from Cass Kordecki in favor of allowing Commercial Indoor Lodging in Residential areas.

A packet of information was received and distributed to the Commissioners from Debi Nelson-Maney in favor of keeping Commercial Indoor Lodging in Commercially zoned areas.

A letter was received from Joan Jaros in favor of keeping Commercial Indoor Lodging in Commercially zoned areas.

Correspondence received by the mayor via email from Laura Woolard, Mary King and Marla Walsh.

(All pieces of correspondence will be on file in the Clerk's office)

Continued Public Hearing on a Conditional Use Application filed by Michael Raymond Custom Homes, 2000 W. Main Street E., St. Charles, IL 60174 for construction of a new single-family residence in the ER-1 District using the setback requirements of the SR-4 District at 1641 N. Lake Shore Drive, Lake Geneva, WI 53147 Tax Key Number ZLM 00019. The applicant requested that this item be tabled until January. Skates/Olson motion to continue this item until the next Plan Commission (January 2011). Motion carried.

Public Hearing on a petition for Direct Annexation by Unanimous Consent of Electors and Property Owners of territory located in the Town of Linn, Walworth County, Wisconsin, to the City of Lake Geneva, Walworth County, Wisconsin, pursuant to Section 66.0217(2), Wisconsin Statutes, and Temporary Zoning (SR-4 Single Family Residential) filed by William and Patricia Palicka, Trustees of the William and Patricia Palicka Trust, 8825 - 123rd Way No., Seminole, FL 33772-3326, as the sole and only owners of record of all the real property in the territory sought to be annexed, such territory being more particularly described as LOT 3, THE WEST 33 FEET OF LOT 2 AND THE WEST 73 FEET OF LOT 7 OF PARADISE VISTA SUBDIVISION, LOCATED IN SECTION 1, TOWN 1 NORTH, RANGE 17 EAST, TOWN OF LINN, WALWORTH COUTY, WISCONSIN, TAX KEY NUMBER IPV 00001A. Attorney John Olson approached the podium and explained the proposal. Attorney Olson stated that there is one change that was required from the State and that was a change in the legal description that included metes and bounds and that was included on the map that was in the packets. Hartz asked about the exhibits that were listed in the formal letter. Mr. Olson stated that all the exhibits are on one map that was attached. Flower/Hartz motion to close the

public hearing. Motion carried. Hartz/Skates motion to recommend approval of the annexation as submitted including Staff recommendations. Motion carried unanimously.

Public Hearing on a Conditional Use Application filed by Scott Timm/Colortech of Wisconsin, 1011 Ashwaubenon Street, Green Bay, WI 54304 on behalf of Tom Kaczmarek, 605 Williams Street, Lake Geneva, Wisconsin 53147, to modify an existing non-conforming pole sign by replacing the faces with new signage at 605 Williams Street, TAX KEY NO. ZF 00046. Tom Kaczmarek approached the podium and explained the project as proposed. He is also looking to remove the sign below the gas brand insignia. That sign advertises hot dogs. That sign has deteriorated and they have waited to make that change until the larger sign is changed. They plan to put a planter box at the base of the sign as well. Flower asked if this sign has ever been hit by vehicles. Mr. Kaczmarek stated not by vehicles however, it had been hit by garbage trucks lifting up the dumpsters but that situation has been rectified by having dumpsters with wheels on it. Hartz asked if the overhangs of the canopy encroaches the sidewalk and if that is legal. Flower asks about the drive entrance right behind the sign, is that to the gas station property or the one next door. Mr. Kaczmarek says both. Flower also asks if he has had any complaints or if there has ever been an issue with the difficulty to enter it. Mr. Kaczmarek stated no, it is usually occupied by the occupant of the neighboring building. Hartz asked if the signage on the canopy is legal. It was determined that it is and the applicant also stated that there may be less signage with the new proposed signage. The new look will also have LED lighting. Skates/Flower motion to close the public hearing. Motion carried. Hartz/ Flower motion to approve the Conditional Use Application filed by Scott Timm/Colortech of Wisconsin, 1011 Ashwaubenon Street, Green Bay, WI 54304 on behalf of Tom Kaczmarek, 605 Williams Street, Lake Geneva, Wisconsin 53147, to modify an existing non-conforming pole sign by replacing the faces with new signage at 605 Williams Street, TAX KEY NO. ZF 00046 including all Staff recommendations, a planter box below the sign, the removal of the smaller sign (hotdog) and allowing the Zoning Administrator to determine the type of material used for the planter box. Motion carried.

Public Hearing on a Conditional Use Application filed by Fairwyn Ltd., 875 Townline Road, Ste. 103, Lake Geneva, WI 53147 on behalf of Frank Sottrel 2955 N. Manneheim Road, Franklin Park, IL 60131 for construction of a new single-family residence in the ER-1 District using the setback requirements of the SR-4 District at 1084 La Grange Drive, Tax Key No. ZLE 00003. Lynn Langraf on behalf of Fairwyn and Mr. Sottrel. She explained the proposed project. Flower reiterates that it is within the buildable area of the footprint and the shoreland setback. The new home will not be any closer to the lake than the existing one is. Attorney Draper explained 98-307 of the Zoning Code, all homes that were in existence prior to the adoption of the zoning code overlay district is "grandfathered" as far as setbacks are concerned and it was a variance and that lasts forever - as long as it doesn't exceed the current setbacks. It currently exceeds the thirty foot setbacks as required with ER-1 therefore they are utilizing the SR-4 for relief from the 30' setbacks. The new homes can be built as long as it doesn't go any further in the lakeshore setback than the existing home due to the variance that was placed on existing homes years ago. The distance from the lake is roughly 82' to the screened in porch. Poetzingler asks about the screened in porch as the Staff recommendations say it is for the dwelling only and asked if Brugger could explain what that means. Brugger explains the screened in porch is a change in the permitted use within the lakeshore and as long as they were doing a Conditional Use for the house, he wanted to make sure that the Commissioners knew that they could approve the porch in regards to the setbacks but they will have to come back with a Conditional Use for the things between the house and the lake for passive recreations ie: the walking path, the screened in porch, the landscaping. Brugger stated that he just wanted to make sure everyone was aware that there were two different approvals that need to be done. Flower/Olson motion to close the public hearing. Motion carried. Skates/Olson motion to approve a Conditional Use Application filed by Fairwyn Ltd., 875 Townline Road, Ste. 103, Lake Geneva, WI 53147 on behalf of Frank Sottrel 2955 N. Manneheim Road, Franklin Park, IL 60131 for construction of a new single-family residence in the ER-1 District using the setback requirements of the SR-4 District at 1084 La Grange Drive, Tax Key No. ZLE 00003 including Staff recommendations. Discussion followed on the Lakeshore Overlay setback and the height of the structure. Hartz/Skates motion to suspend the rules and allow the applicant to respond to the question of the current fence that surrounds the property and whether or not that will be removed. Motion carried. The applicant replied that the fence will be removed. Motion carried.

Public Hearing on a Zoning Text Amendment filed by the City of Lake Geneva for an amendment to the Zoning Ordinance clarify the regulation of commercial indoor lodging uses.

Mary Jaros 927 W. Main Street, Lake Geneva would like to speak in support of the language clarification in the proposed zoning text amendment.

Joe Railton 930 Geneva Street, Lake Geneva agrees with Ms. Jaros but also would like to state that this ordinance change has no teeth and how will it be enforced especially over the weekend. He also believes that there are contracts that are for 40-50 days and still only get weekend renters as people back out/walk out of the contracts. There are also issues with the multiple cars/maximum people in these structures He wants to see more specifics on the enforcement of Commercial Indoor Lodging.

Debi Nelson-Maney 1310 Dodge Street. She and her husband own 705 Wisconsin, 416 Center Street and 412 Wells. They are commercially zoned and licensed establishments. She is opposed to the zoning change but is in favor of the language clarification. She has received three Conditional Uses for these properties.

Cass Kordecki 715 North Street (property owner). She is as upset as the homeowners that spoke are on the behavior of some transients as she strives to comply and make her rentals as legal as possible and wants her neighbors not to suffer any consequences from short term rentals. She shared her information that was included in the packets with the state regulations that she is expected to comply with.

Laura Woolard, N3066 Uranus, Lake Como. She owns a small cleaning business. She expresses how renting short term has not been detrimental for her and that her long term rental was worse for her. She doesn't want to see the short term rental option be taken away.

Gary Duffy, 4086 Lake Shore Drive, Lake Como. Wants to comment that the previous speaker and to the best of his knowledge the last three writers of letters mentioned in the correspondence are property owners in the township and have no direct result from the decision that will be made tonight. He doesn't mind seeing some restriction and as a business owner he wants to explain how he is hurting from the economy too but he provides jobs whereas some others do not. He is in support of the changes and hope the Town of Geneva follows the City's lead.

Flower/Olson motion to close the public hearing. Motion carried. Hartz/ Skates motion to recommend the Zoning Change as presented to the Council. Hartz asked Brugger how this ordinance has "teeth" in it to make the necessary enforcements. Brugger states that currently our best enforcement method is to get the State regulatory agencies involved. They have the clout that is necessary to make things happen (such as giving fines on the spot). That has been fairly effective. He has also heard that someone can ban advertising for such uses and he suggests that the City may want to take a look at banning advertising for short term rentals. Brugger states that we do check the internet to see if anyone pops up that is advertising rentals in the city. Attorney Draper states that first we need to pass the text amendment and then we can pass the ordinance that enforces it as to what kind of fines we want to have, associated with it. The hardest part of putting this together was finding a concept that was enforceable and once it was enforceable then we can pass the regulations as far as what the penalties can be. Hartz asked who is going to enforce this ordinance. Brugger states that the police are there to document the situation, (i.e. weekend offenders) and then we can involve the department of health, possible the department of revenue and the legal system. This ordinance will apply only to the City of Lake Geneva. This ordinance (now using the definition of transient or tourist) will determine if the rental is allowed. Discussion followed. This will also bring our ordinance in line with what the State's has for transient rental. Commissioner Flower states that she thinks that this is not necessary at this time and is more of an

enforcement issue. She doesn't want to deter people from coming to Lake Geneva and enjoying themselves and spending money. Commissioner Skates wants to ensure consistencies and know who the neighbors are. He thinks the ordinance is inline with what we need here in the City. This ordinance helps to keep the business of renting to a commercial district, not in a residential district. More discussion followed on enforcement.

Motion carried 5-1 with Flower voting nay.

Review and Recommendation on a Petition for Discontinuance of a Public Way Pursuant to Sec. 66.1003, Wis. Stats. submitted by James Davis, 615 South Lake Shore Drive, Lake Geneva, WI 53147. Attorney Richard Torhorst approached the podium and explained the proposed project. He also explains how this goes hand in hand with the next item on the agenda. Mr. Torhorst explains that Staff had some concerns with the Certified Survey Map. He addressed one of the concerns which regarded the property north of the Stone Manor that is on the East side of Lake Shore Drive, if there are four houses, there is now a private road, in the past the private road was dedicated to the city and an agreement to the City that although it was dedicated, was not accepting the street, and all the responsibilities for that street was up to the property owners. There are four lots and there have been some land divisions, and what has resulted is that there are lots that do not have the required frontage on a public way, or other way, so what is attempting to be done here is to have a new certified survey map which is creating the four parcels. Through the ordinances, the public way can be 22' in width; the old one was 35' in width so it is now situated where the lots will come into conformance with the current zoning ordinance and be conforming lots. In order to do this, the old road must be vacated and a new road maintenance agreement has been drawn up. There is an easement on the face of the new Certified Survey Map so that there are right of ways for access and it complies with the City ordinance. All of the owners have signed it so you know that they are all in agreements with this new arrangement. One concern of the Sewer/Water Department was that there are existing lines which serve the four residences which are kind of a private system as opposed to a public system as they have smaller diameter sewer lines and smaller diameter water lines. By reducing the width of the roadway, things may not actually be within the easement. The Water Department is asking that they have an easement for access to the water/sewer lines in the even that there needs to be some maintenance. It would appear to Mr. Torhorst that the lines are probably private but the Sewer/Water Department, Dan Winkler, has requested an easement over the entire platted area and he (Mr. Torhorst) doesn't know that it is necessary but there would be no objection to having an easement on the face of the parcel that says that there are easements to the City to allow access to the existing lines for the purposes of maintenance. Mr. Torhorst doesn't know if it is necessary to have an easement under and through the residences, north and south of the residences, where there are no lines, but there has been a discussion with the property owners and Mr. Davis and Mr. Winkler so the Water Department is aware of the lines are and what they are. Mr. Torhorst asks that the Plan Commission recommend the Discontinuance of the public way with the understanding that the enactment/approval of the Certified Survey Map, the private way, which meets the code along with the road maintenance agreement is in place. HE also asks that the one comment of the Staff of having an easement over the entire parcel for access by the City for sewer/water line be an easement over the parcels to get to the existing water/sewer lines where they exist now, not the entire parcel. Attorney Draper asks if this would be an ingress and egress easement. Attorney Torhorst stated yes and also to maintain them. Attorney Draper then asked if it would be a maintenance and replacement easement. Torhorst stated that it could be but because of the diameter and in some instances the depth, the City doesn't want to be responsible necessarily for private lines but because there are multiple owners and users they want to make sure that there is service to them so if there is a problem, they can go in and provide the service to make sure the lines are adequate. Draper stated that he remembered a similar instance where they had an easement and the question came to as whether the City just maintained it or if they could also replace it. Hartz asked why we wouldn't recommend that the utilities from the front

property line become owned by the private homeowners so they don't need the commission at all. Brugger stated that the main reason for the valves being accessible is if someone doesn't pay the bill, the City goes and shuts the valve off. So the City needs access to the valves. Torhorst says he doesn't have a problem allowing access to the valves, but he doesn't think that an access over the entire parcel needs to happen. Brugger states that if they don't want to have an easement over the entire parcel, he would recommend that this be continued or conditioned in order to document the exact location of the area to be accessed. The City attorney can then review it and see if it works. Discussion followed and Brugger explained how procedures have changed to allow for private streets. This street is already maintained by the homeowners and has been for sometime. Hartz/Poetzinger motion to recommend approval on the petition for discontinuance of a public way pursuant to Sec. 66.1003, Wisconsin Statutes submitted by James Davis, 615 S. Lake Shore Drive, Lake Geneva, WI 53147, to the City Council. Discussion followed on what was approved with the prior Fence Conditional Use approval for Mr. Davis. Building/Zoning Administrative Assistant Special read the minutes from the Plan Commission meeting, October 19th, 2009. The gate was determined to be part of the fence and did not need to be re-filed for. Discussion also followed on the Fire access with the gates and the heights of the gates. Brugger stated that the stone pillars that are already there will not be moving. Mr. Torhorst stated that on the roadway agreement an easement is granted to several city services including fire and rescue services. Commissioner Olson left at 8:41pm. Motion carried 5-0.

Review and Action on a Certified Survey Map submitted by James Davis, 615 South Lake Shore Drive, Lake Geneva, WI 53147 for adjusting lot lines and extending the private access road to bring all the lots (601, 605, 615 and 625 S. Lake Shore Drive) into compliance with the current zoning code. Brugger asks if would cover everybody's needs if the condition was that the plat would be changed per the City Engineer's recommendations and the satisfaction of the Public Works director so that if he (Public Works Director) doesn't put blanket easement over the whole property, Dan can say no I don't need that, here's what I do need and you and he and Crispell Snyder can get together and sort it out amongst yourselves. The second condition would be that the Certified Survey Map application would not be approved until the completion of the vacation process. Attorney Torhorst agreed. Commissioner Olson returned to her seat at 8:45pm. Flower asked about the existing utilities that are out there, are they privately owned and will they remain that way? Or are we saying that the City will be maintaining them moving forward or just having the opportunity to turn them off if they so choose. Brugger says that a portion of the utilities may be public. Torhorst says they aren't trying to change the type of ownership, we are just trying to address if part of the portion that belongs to the City needs attention, there is an easement for the City to come and attend to that. Hartz asks if the sewer is maintained by the private resident up to the main connection line, in this case, where is the main connection line and is it out onto South Lake Shore Drive as opposed to down the private drive. The condition on the certified survey map as documented should satisfy the request of the public works director. It wouldn't necessarily have to come back before the Commission. Hartz motion to approve the Certified Survey Map subject to the changes referenced by the City Engineer in a letter date December 17, 2010 and that the blanket easement be changed as deemed appropriate by the Director of Public works prior to the signing of the CSM including the completion of the vacation process. Discussion followed. Hartz withdraws his motion. Hartz/Skates motion to approve the Certified Survey Map submitted by James Davis, 615 South Lake Shore Drive, Lake Geneva, WI 53147 for adjusting lot lines and extending the private access road to bring all the lots (601, 605, 615 and 625 South Lake Shore Drive) into compliance with the current zoning code subject to the recommendations by the City Engineer in a letter dated December 17, 2010, Staff recommendations, subject to an easement to access utilities that is approved by the Director of Public Works and approval of the vacation process as approved by the City Council. Motion carried unanimously.

Request to set public hearing for zoning map amendments on expired Planned Developments; specifically those located at: ZA3650 00001 (Aromi Café), ZSUM 00001 and ZSUM 00002 (Summerhaven), ZYUP 00046A (Conant Woods) and ZGM 00012 (Geneva Meadows). Flower/Olson motion to set a public hearing date as January 17, 2011 for zoning map amendments on expired Planned Developments located at ZA3650 00001 (Aromi Café), ZSUM 00001 and ZSUM 00002 (Summerhaven), ZYUP 00046A (Conant Woods) and ZGM 00012 (Geneva Meadows). Discussion on the locations and the zoning process of the expired developments occurred. Hartz asked if there is a way to get things cleaned up (ie asphalt grindings) that are still left from construction when the Planned Developments expire. Brugger stated that he would have to consult with the City Engineer. Motion carried.

Downtown Design Review

100 Center Street. **Sprecher's Restaurant & Pub.** Former Houlihan's Restaurant. Flower/Olson motion to approve the signage changes as presented. The colors do conform to our standards. Motion carried.

Flower/Skates motion to adjourn at 9:15 pm. Motion carried.

/s/ Jennifer Special, Building/Zoning Administrative Assistant

These minutes are not official until approved at the next Planning Commission meeting.