

# CITY OF LAKE GENEVA

## PLAN COMMISSION MEETING

MONDAY, FEBRUARY 17, 2014 - 6:30 PM  
COUNCIL CHAMBERS, CITY HALL

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### MINUTES

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**1. Meeting called to order by Mayor Connors 6:30 PM.**

**2. Roll Call**

*Present* Hougen, Gibbs, Flower, Olson, Skates, Robers, Connors, Draper, Gregoles  
*Also Present* Administrator Jordan, Planner Slavney, Clerk Neubeck (briefly)

**3. Approve Minutes of December 16, 2013 Plan Commission meeting as distributed.**

MOTION #1

Hougen/Skates motion to approve the Minutes of 12/16/13 Plan Commission meeting as distributed.  
The motion carried unanimously.

**4. 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.**

PUBLIC SPEAKER #1 NAME/ADDRESS

Mary Jo Fesenmeyer, 955 George Street, Lake Geneva

COMMENTS-Questions for the Commission on agenda items #11 & #12

Question on agenda items #11 and #12. If the staff can direct the public on where to access this information about the Comprehensive Plan amendment and then the zoning code amendment. I couldn't find the information on the website, so I would like to be able to comment on it, but we don't have the packet. There wasn't anything to print off. I am anxious to hear the conversation but hope that someone can make a motion to table the actual decision, if there is one, until the next month so the public can actually have access to all the appropriate paperwork. Thank you.

**5. Acknowledgment of Correspondence.**

None

**6. DOWNTOWN DESIGN REVIEW**

**A. Application by Dawn Marie Mancuso to modify the exterior awning with a sign for her new business, Clear Waters Salon Spa, located at 734 Main Street, Tax Key No. ZOP 00314.**

DISCUSSION

Commission discussed the relation of this Clear Waters business to the one 2 doors down and in Williams Bay, Wisconsin.

MOTION #2

Flower/Olson motion to approve the application by Dawn Marie Mancuso to modify the exterior awning with a sign for her new business, Clear Waters Salon Spa, located at 734 Main Street, Tax Key No. ZOP 00314. The motion carried unanimously.

- B. Application by Jeffrey & Kathleen Schoo to install an exterior sign for their business, Lake Geneva Spice Company, located at 255 Broad Street, Tax Key No. ZOP 00263.**

DISCUSSION

The Commission discussed that it conforms to all the sign requirements (no primary colors, size etc.) and it would be fitting within the existing framework that is already up in front of the building.

MOTION #3

Olson/Gibbs motion to approve the application by Jeffrey & Kathleen Schoo to install an exterior sign for their business, Lake Geneva Spice Company, located at 255 Broad Street, Tax Key No. ZOP 00263. The motion carried unanimously.

- C. Application by Ida Tarczynski to install an exterior sign for her business; Ida's, located at 222 Center Street, Tax Key No. ZOP 00258.**

DISCUSSION

The Commission discussed the location and material of the sign as well as concerns of it being a distraction to traffic.

MOTION #4

Flower/Hougen motion to approve the application by Ida Tarczynski to install an exterior sign for her Business; Ida's, located at 222 Center Street, Tax Key No. ZOP 00258. The motion carried unanimously.

- 7. Review and Recommendation on an Application for Land Division Review for a Certified Survey Map submitted on behalf of Tri-State Farms, LLC by Edward A. McCarthy, manager, N1436 State Road 120, Lake Geneva, WI 53147 for land located in the extra-territorial plat review area at N1436 State Road 120, Lake Geneva, WI 53147.**

DISCUSSION

City Planner Slavney stated this is simply a lot line adjustment, moving a property lot line so that it better conforms with the buildings on the site. This is the kind of certified survey map that the State compels us to approve as long it's not in any violation of ordinances. It's perfectly fine and it doesn't affect the other buildable properties. It already has adequate right of way in front of it. Mayor Connors stated the city engineer also reviewed it and Inspector Robers confirmed that they made all requested changes. Comm. Skates asked what did they want changed? Inspector Robers replied that they didn't have a North arrow and he suggested they shouldn't use colors on their maps, which the colors are just shown here for purposes, so that we could see what they were doing. Why they want to do the changes. There were some minor changes to the document to make it more recordable. The final drawing that comes back will be in black and white.

MOTION #5

Hougen/Olson motion to approve an application for Land Division Review for a Certified Survey Map submitted on behalf of Tri-State Farms, LLC by Edward A. McCarthy, manager, N1436 State Road 120, Lake Geneva, WI 53147 for land located in the extra-territorial plat review area at N1436 State Road 120, Lake Geneva, WI 53147. This is pending any further requirements that may be posted by the city engineer. (Inspector Robers again confirmed that this was already done.) The motion carried unanimously.

- 8. Public Hearing and recommendation on a Conditional Use Application filed by Alex Paredes & Yolanda Frontany, 4843 W. Dakin Street, Chicago, IL, 60641 to operate a Commercial Indoor Lodging facility in a Planned Development (PD) zoning district located at 328 Center Street, Tax Key No. ZOP 00149.**

DISCUSSION

**Alex Paredes** - We purchased these two properties (328 & 330) over eight years ago and which at that time we came here we asked if we could have 330 changed to home because we wanted to utilize the home and keep 328 as an office ... and it was approved. The economy being what it is during that time we had 6 good years of rent title using 328 Center Street as an office and since then it has been hard to rent the place. The ideal place would be for a dentist, an accountant, a legal office, but it has been kind of empty. So we secured the proper (*inaudible speaking*) for that property.

## AGENDA ITEM # 8 CONTINUED

**Alex Paredes** (Continued) - We wanted to turn it into an evening, daily, weekend or weekly rental for that property now because the last two years it has been kind of hard to rent out because the property is not on Main Street which is what everybody wants. **Mayor Connors** - The 4 parking stalls down near the garage at the end of Wisconsin Street? **Alex Paredes** - (Yes) Literally across the street we have secured it already. The Accounting firm has a parking lot, which we also have a top of that floor which we utilize every weekend when the kids are here and we come in one car. (Inaudible speaking) **Mayor Connors** - One question that I have when I look at the floor plan is, how would the floor plan work inside and how the deck would be use? Because I am assuming that you intend to keep the residence separate? **Alex Paredes** - Yes definitely, because we utilize that every weekend from February until November. (Inaudible speaking) The patio there has three entrances. **Mayor Connors** - So would the proposed lodging utilize the deck as well or would they just use that small area in front? **Alex Paredes** - Probably not because we utilize that and we are doing a little secure and you've seen the property there is a good 15 feet before the curb and we're going to fence it in I believe about 2 ft off the sidewalk – you know fence it in and sliding doors with a little coffee area for them there. Because what we have seen over the years a lot of people just come and head to the beach or downtown or everywhere else and it is not that they are going to be hanging around the lodging / deck but we utilize that. **Mayor Connors** - One thing I would like to see before you would go any further would be a floor plan of how the rooms would be laid out. **Alex Paredes** - Yes, definitely, I was told to first come before you because anything we do of course we have to first come back here with the floor plans and get approval on that. (inaudible speaking) Electrical, Plumbing, electricians, plumbers, are licensed to go. (inaudible speaking) **Comm. Skates** - I am just curious is there any historical significance to that structure? **Alex Paredes** - Not at all. **Planner Slavney** - In addition to the floor plan I would like to see the site plan for the property. I didn't see one in my packet and for other similar uses we have identified particular conditions for the site. **Alex Paredes** - I believe everything was put in the packet that they wanted. **Mayor Connors** - The only thing I saw was a survey that showed the house and then also the other building to the south that we are talking about. (Inaudible reply by Alex Paredes)

*There were no public comments on this agenda item.*

**Mayor Connors** - So we should see a specific site plan and floor plan? **Planner Slavney** - That would be advisable. I think we do have the plat of survey but that's not the same as the site plan and for similar uses we've identified sometimes conditions on outside storage, on-site parking, off-site parking and I think it would be prudent to have some time to look that over. In some instances petitioners have provided us with the rental agreement that they might use for a similar kind of situation. I think typically we get a little more information about the proposal. **Mayor Connors** - I am supportive of the concept but would like to see more information. **Comm. Flowers** - I would just like to add that there are similar uses surrounding that property so I feel like in that would fit. And I have no concerns except for the ones mentioned already as well. **Mayor Connors** - We should also probably have hours of operation as well. **Comm. Skates** - Just so, while we are at it, just so you are not coming back and getting turned away at the March meeting, you know you talked about a fence.... Throw it all in there as complete as you can and because I think everyone is in agreement that you have similar scenarios in the neighborhood... **Alex Paredes** - I didn't come with plans because I was told I didn't need any blueprints of any kind otherwise I would have had all of that. (inaudible speaking) **Mayor Connors** - Just a reminder on the last one we did on S. Wall Street, they told us how many times they were going to be utilizing the property and hours and how many people would be involved, that there was adequate parking for all of those things. **Planner Slavney** - In fact, that is public record and we have a recent example that we approved that you can come in to City Hall and get a copy of so that you have a clear idea of what we are looking for.

### MOTION #6

Connors/Olson motion to continue the public hearing and the item to the next month's March Plan Commission meeting on 3-17-14 and ask that more information be provided to staff – specifically a site plan and a rental agreement (The floor plan is not required). The applicant will come back with a site plan, typical hours of operation and all the things associated with the operation. The motion carried unanimously and is continued.

9. **Public Hearing and recommendation on a Conditional Use Application filed by Immanuel Lutheran Church, 700 Bloomfield Road, Lake Geneva, WI 53147, for the installation of an electronic message center on a freestanding monument sign located at Immanuel Lutheran Church, 700 Bloomfield Road, Tax Key No. ZA4330 00001.**

DISCUSSION

**Peter Jergens** (*Agent for the Church*) - I was here about a year ago to get the approval we needed to build the church. At that time we had submitted a site plan that showed sign locations for our main sign and our secondary sign for address and entrance. It was all approved. At that time we did not have adequate funding to do an electronic sign and someone has now donated. It is my understanding that because it is an electronic sign we need additional approval that we did not originally get. Nothing else has changed from our original submission and approval except that now instead of having a fixed reader board we are going to have an electronic one that can be changed. **Mayor Connors** - So this will actually be only along Hwy 120 is that correct? **Peter Jergens** - Only along 120, the sign for Bloomfield road has not been designed yet. When we get to that point I will submit that to Robers for approval. **Mayor Connors** - You are aware the message can only change once per minute? **Comm. Skates** - No questions, but we have a standard verbiage - message changing. Is there a certain bright LED? **Planner Slavney** - There isn't a quantifiable standard except it cannot cast more than ½ a foot candled light at the property line. That is our standard for general exterior lighting. We do have a general standard that any exterior lighting cannot create glare or interfere with traffic operations. Most of these can be adjusted so they meet all of those requirements. I didn't have that concern, but be aware that that requirement is out there. **Peter Jergens** - We decided to go with the amber colored lights and it is quite a ways off of the roadway so I don't see that as being an issue. **Comm. Gibbs** - Are you planning on having that sign on 24 / 7? There are residents across the street. **Peter Jergens** - Well right across the street there are a bunch of cows – to the East. To the North, we have not talked about that. If that was a problem I guess we can address that now? Can we get it resolved? But again we are quite a distance from that residence. If I had to guess I would say we are probably 200 feet from that residence. **Mayor Connors** - The scale on the map is about what 40 ft? Or (is it) roughly 20 ft per inch? Could just quickly approximate? **Comm. Skates** - All the neighbors were "noticed" on this correct? **Inspector Robers** - Yes, everyone within 300 ft (were notified). **Peter Jergens** - On the scale drawing I just looked at – I am approximating because I know where that house is but it is not located on my drawing, I would say it is a good 180-200 feet from where the sign will be. I would also note that if it is a problem I am sure the church would be willing to do something like from 10:00 pm to 6:00 am shut it off if it were a problem.

**PUBLIC COMMENT** (*Unknown Speaker*) - First of all I don't think Jesus needs an electronic message board. I am neither opposed to or in favor of the request. My concern is about the ramifications about this Plan Commission taking actions on this. If the Plan Commission grants or denies this request then all similar lit message sign requests should likewise be granted for all other businesses. Otherwise you are showing preferential treatment to one establishment over another. I believe that would be a violation of the law. At least, for equal rights and consideration and protection of the law. Please be aware that granting this request could open the door and lead to many more electronic signs in Lake Geneva.

MOTION #7

Skates/Olsen motion to close the public hearing. The motion carried unanimously.

ADDITIONAL DISCUSSION

**Mayor Connors** - (*Directed to Planner Slavney and City Atty. Draper*) If the commission were to make a motion they could include 24 hrs operation and the result of a neighbor complained about the brightness they could adjust the hours? **Planner Slavney** - They could, my recommendation would be that from 10:00 pm to 6:00 am the sign should be turned off. The church is for the most part not in operation and I would think that would be typical of a restriction put on an electronic sign. **City Atty. Draper** - Clarification - Conditional uses are revocable anyway. If someone made a complaint and there was a problem with that sign, I think you would have the right to revoke that Conditional Use. **Mayor Connors** – Electronic signs within the city are controlled by ordinances isn't that correct Mr. Slavney? **Planner Slavney** - That is correct and as a rule every Conditional Use permit is reviewed on its own merits independently and not based on any previous or subsequent applications.

*Peter Jergens walked to podium – told by Mayor Connors the public hearing portion was closed.*

**Comm. Flower** - I guess I don't really see the concern about limiting the hours unless there are complaints. In other instances we have put conditions that we review in 6 months and if anyone has complained then we could keep the restriction or deny or revoke if we need to but that seems kind of serious.

## AGENDA ITEM # 9 CONTINUED

**Comm. Skates** - I agree. The three I can think of are St. Francis, Eastview and the Liquor store. The liquor store had some opposition but we have yet to see ... I think they were worried it was going to be the new "Vegas" out there at the quick stop and none of that has developed. I think if there is a complaint, the Lutheran church is a good neighbor and I hate to put a restriction on it. Again it's a Conditional Use and if there is an issue and it comes back to the City, Mark & Marian are going to deal with it on their end, and if they don't then just say cut it off at 10:00 pm.

### MOTION #8

Skates/Hougen motion to approve the Conditional Use Application filed by Immanuel Lutheran Church, 700 Bloomfield Road, Lake Geneva, WI 53147, for the installation of an electronic message center on a freestanding monument sign located at Immanuel Lutheran Church, 700 Bloomfield Road, Tax Key No. ZA4330 00001, as long as they are following the # of message changes and any other staff recommendations offered. The motion carried unanimously.

**10. Public Hearing and recommendation on a Conditional Use Application filed by Kocourek Property Holdings LLC, 880 S. Lake Shore Drive, Lake Geneva, WI 53147, for a Group Development in the Central Business zoning district at 269 Broad Street, Tax Key No. ZOP 00262.**

### DISCUSSION

**Peter Jergens** (*Agent for the property*) - His home address is 132 Darwin, Lake Geneva. I am working with Mike Zurick to pre-approve the work (*Inaudible speaking*). As part of the approval and to get a time frame for all of the work had to be started and completed by (*Inaudible speaking*). But we didn't do anything and basically what I did was I changed the date on the application and resubmitted the exact same application as 2 yrs ago. **Mayor Connors** - The one question I had for you is it shows roughly 3 spaces with the flex unit on it – Sheet A 1 and the application said for up to 4 spaces? Just clarify that. **Peter Jergens** - Maximum of 3 spaces. It really depends on who the tenant is as to where the median wall would be between the second and third tenant facing Geneva Street. **Mayor Connors** - Okay so that wall would shift either east or west depending on which tenant? **Comm. Flower** - What is your proposed timeline for overall the exterior improvements? Obviously the interior is going to be dependent on people renting – what's your timeline on the exterior? **Peter Jergens** - If he accepts my proposal, which I hope he will, then as a contractor we are going to start tomorrow morning. **Mayor Connors** - It has to go thru the Council first. **Peter Jergens** - We will be prepared to begin right away. **Comm. Skates** - The entrance for that Unit C, is that going to be in that North East corner or ? **Peter Jergens** - It literally depends on the space, if it is far enough West, even though there is another entrance way facing Geneva Street, then that Unit C could have an entrance off of Geneva Street. **Comm. Skates** - So then is that side entrance on Geneva Street, it may not be there? If they take the far East wall and push it all the way to the back so that Unit C – their only entrance would be that small door in the corner. Is that correct? **Peter Jergens** - Our thought is that the tenant for unit C would actually use the Geneva Street entrance in the middle of the building – a fancier entrance way. **Comm. Skates** - I want to be clear, because I know there was some shifting last time this came around. I am saying that if Unit B took that far East wall and went all the way to the back so they took up that store, the only entrance then for Unit C would be in the corner, I mean they wouldn't have the option of using that door or are you saying you are still going to ... **Peter Jergens** - We are going to improve it either way because we are going to go ahead and do the work, all the entrances and then rent the space. So depending on who the tenant is, how we split that space up internally will depend on what the tenants needs are. So in any event, the exterior appearance will still have the doorway there. Whether the doorway is used by the tenant is another story. **Comm. Skates** - But the door itself, the little door, and I say little door because all the others that they have there at the Board shop, it's a pretty small door, that would be the only door for Unit C if B ... **Peter Jergens** - Plus it has a secondary exit through the rest room area as an emergency. (*Inaudible speaking*) But as an entrance for the public it would be that corner. In the event that Unit B being that far East – actually utilizing that door space. **Comm. Skates** - Is that reflected on the plan, the emergency door? I only see one door in the Unit C and I don't see a... **Peter Jergens** - Do you see the internal hallway, where the bathrooms are? **Comm. Skates** - Yes. **Peter Jergens** - Then there is a doorway in the back of the building through that hallway? That would be the secondary exit for Unit C and D. **Comm. Skates** - I don't think I have the same plans? **Mayor Connors** - What sheet are you on? It is on A1? **Peter Jergens** - I apologize. The plans that I have – internally we did a little re-arranging so that we would have a secondary exit for all the spaces. We will be done ahead of time so no matter what whoever the tenant is they will have a secondary exit out of the back of the building. It would not be a public exit – more of a private or emergency exit. It doesn't affect the exterior building which you already have. **Ald. Hougen** - Would that fall under the staff remarks for the final approval for the secondary exits? I assume if you come back with more plans they have to be approved. Right Ken? **Inspector Robers** - Yes, they have to meet the egress requirements of the state.

**AGENDA ITEM # 10 CONTINUED**

**Ald. Hougen** - With some of the historic properties along Broad Street, some of the retail frontages we have had difficulty with ADA compliance because of the nature of the facades, they cannot always accommodate ADA requirements. Is that going to be a problem with this building? **Peter Jergens** - No we will meet all the ADA requirements. **Mayor Connors** - Maybe you could pass that drawing around with the revisions, for all of the commission to see. **Peter Jergens** - Sure.

MOTION #9

Flower/Skates motion to close the public hearing. The motion carried unanimously.

ADDITIONAL DISCUSSION

**Mayor Connors** - With this being a commercial property, would it need to go to the state for final approval? **Inspector Robers** - No, I can do this approval as it is a remodel. It has to comply with State requirements which we do an internal review. I can do up to a 100,000 cubic foot remodel. Anything over that – yes they have to go to State Review. **Comm. Skates** - This last time this went around, did it go for State Review? Were they approved – the original? **Peter Jergens** - *(Inaudible reply from audience.)* **Mayor Connors** – Okay, so it is in local control is what we are saying. Yes.

MOTION #10

Flower/Hougen motion to approve the recommendation on a Conditional Use application filed by Kocourek Property Holdings LLC, 880 S. Lake Shore Drive, Lake Geneva, WI 53147, for a Group Development in the Central Business zoning district at 269 Broad Street, Tax Key No. ZOP 00262, for the proposed remodel as well as the inclusion of the hallway with the doors as we discussed and any other staff recommendations. The motion carried unanimously.

ADDITIONAL COMMENTS

**Comm. Flower** - Please check the ADA requirements and the hallway are reviewed. *(Ald. Hougen approved as second.)*

11. **Review and recommendation to establish an Annual Comprehensive Amendment Process limiting requests to a single cycle every year.**

DISCUSSION

**Mayor Connors** - Mr. Slavney, please comment on this and where it goes from here?

**Planner Slavney Addressed the Commission** - We have a Comprehensive Plan and many things about it are dictated by state law. One of the requirements is that it be updated once every ten years (comes up in 2019). In many communities, ideas come along about amending the Comprehensive Plan and they don't want to wait 7, 8 or 9 years for the renewal date to come along. In communities that are particularly dynamic in terms of investment ideas and development ideas like this city is, when the real estate market gets hot, I've seen communities like this one get 5, 6, 7 requests for plat amendments. Another thing the state requires is a very particular amendment process. It takes about 3-5 months and if you have multiple amendments running during the course of any given year, it becomes complicated, complicated for the public, it's expensive and I don't know that it gives much better results. In case we need it, we have talked at staff level about adopting an annual predictable review cycle. That's a recommendation that's actually made in the Comprehensive Plan. This is not really an ordinance; it is a policy and a procedure that is guided by the policy. If you can go to the back side of the Memo, you can see recommended five month process. The reason it's five months is to give the Plan Commission, applicants and the public several months to think over an issue, rather than having them be brought up at a final public hearing for the first time. And then a vote expected at that point in time. It is very comparable in effect to the consideration we do the ten year review cycle. There are some quirks about state law. The public hearing for the comp plan has to be in front of the elected body, but the primary work on the Comprehensive Plan is supposed to be done by the Plan Commission. That creates uncomfortable positions for the Plan Commission to make a recommendation without the benefit of hearing from the public about the proposed request. The statutes also require a 30 day minimum review period after legal notice until the public hearing. This is much longer than is required for a zoning or conditional use. Also under state law we have to distribute the plan amendments to be considered to surrounding municipalities and a variety of state and county agencies. And when the amendment is adopted, we have to update those parties as to what we did. So the intent of this schedule is to put it all out in a series of steps to make sure we don't inadvertently forget one. Then a joint public hearing would be held, where the Council and the Plan Commission are both present. After which, later that night or at a later date, the Plan Commission can make recommendations on the plan to the Council.

## AGENDA ITEM # 11 CONTINUED

**Planner Slavney (Continued)** - And that has the benefit of allowing you as the Plan Commission to hear public testimony and it's the same testimony that the Council (has) heard. I think that's, in my experience, is a benefit.

Finally, I have arranged this schedule with the help of staff to ensure that it would start in June after the annually reconstituted Council and Plan Commission are seated and have a meeting or two under their belts, rather than starting off cold. But we conclude the process with that Plan Commission and Council still intact. So, everybody who votes in the end is then present through the whole process. You can imagine if we were fielding these as they came up, all kinds of uncomfortable timing relationships could occur. So this is a process I've used in maybe a dozen other communities over the years. Since the Comprehensive Plan is recommending something like this, this is my best advice to you, if you are going to set an annual review process this is the best way to structure it.

**Ald. Hougen** - This marks a shift to a more conceptual annual review process and amendment process, as opposed to facts related to a particular property or a proposed conditional use. When we approve a conditional use or disapprove one; there is a point in our ordinance that says this proposed conditional use is consistent in its particularities in its existing location, not just in a general sense, but this particular parcel is consistent with the Comprehensive Plan. I am wondering if we don't lose that by doing this in a block as we would. Let's say we decide that as a part of our Comprehensive Plan amendment process we are going to do a redevelopment of all of the parcels along the railroad line. We decide that that's going to be our process. Without actually doing an inventory of all the parcels that are in this block, we don't know in advance whether we will have created a problem for ourselves or expedited the redevelopment process. That's a good thing, that we want to redevelop some of these parcels, at least that is one of my goals, and yet we want to do it correctly, so that we don't end up looking like Potterville or something. Do you know what I mean? How do you balance these things though?

**Planner Slavney** - It has been my experience that having an annual cycle allows the commission to focus whereas if you are juggling 3 or 4 or 5 of these cycles in the context of a year, there is burnout, there is confusion on the part of the public, as to where each plat amendment that is being considered stands in the process, particularly from those surrounding jurisdictions and neighboring property owners. So I think in terms of having set timing, that's a benefit. I think like anything, if we have one parcel here and maybe another parcel there that we are looking at a plat amendment for. Then brought forward by the property owner, it is probably because what they wanted to do with the property doesn't jive with the Comprehensive Plan. That may or may not be a good idea. We aren't compelled to amend the plan, to make anybody happy, we still get to review it. But because we have those findings in both the conditional use process and in the zoning map amendment process, there are going to be instances where someone's idea development or of redevelopment is not consist with the plan and some of those instances, the commission and the Council is going to think it is a good idea and the plan ought to be changed, or it's not a good idea and we should stick to the plan that we have. Where we have multiple parcels in the same area that might be affected by the requested amendment, it is incumbent on me, in particular, to analyze the situation in detail and look at every property individually to make sure we are not over doing it, in terms of the geography that we are covering. I can tell you that it is easier for me if we are only doing one of these a year even though there are multiple properties involved. I have been doing this now under this particular statute for about 15 years. I find it easier to provide the best advice to you and the Council and the best experience in terms of a participating public under an approach like this.

**Mayor Connors** - When would the actual application deadline be? **Planner Slavney** - The application deadline would be near the end of July, before we set the public hearing. So you can see setting the public hearing ... (*Mayor interrupts*)

**Mayor Connors** - Wouldn't it be prior to the June meeting? Because if you don't have anyone applying you certainly wouldn't be (*Slavney speaking*) **Planner Slavney** - I apologize, the application deadline rather than the hearing, meeting review. Right, we would want the application by the end of May. **Mayor Connors** - I am thinking out loud - Would we need public notice prior to this first one? If we have someone who comes in and says they want to apply for a change? Is there 30 days notice required for that? **Planner Slavney** - There is not. I think that a public notice in the paper saying that we were beginning to accept applications, would be good public policy. There is no statutory requirement for it. **Ald. Hougen** - So the initiative again would come from a developer or the public. Would we ever take the initiative? For example, having been through a couple of years now of the Plan Commission process; we've seen things shift around a bit development wise. Certain old forms of development have gone by the board, hearing tonight from the gentleman who spoke, things didn't work out and now we have to try to do something else. On a larger scale that has been the case all over town.

## AGENDA ITEM # 11 CONTINUED

**Ald. Hougen (Continued)** - Would we ever take the initiative to say, well what we need to do is to approve the future land use map so that it encompasses the tendencies that we see on a daily basis going forward. So that we can amend the Comprehensive Plan to take into account more commercial indoor lodging facilities in formerly business related districts.

**Planner Slavney** - Yes. An actively engaged Plan Commission that really wants to think about the future of the community in addition to reacting to individual development proposals can certainly initiate an amendment, as can the Common Council. **Comm. Flower** - In the last year have we had any requests for developments to go through this process? **Planner Slavney** - We have had discussions with property owners and potential property purchasers about their ideas. A few do not jive with the current Comprehensive Plan recommendations. We don't know if there will be actual requests for amendment coming forward. Somebody can request an amendment at any time. So we haven't seen one, but not having this process does not prevent someone from coming forward asking for an amendment. It would be fair to say that people have been talking about projects that would require an amendment; no one has come forward with a serious enough proposals that would require an amendment. We have been talking about this internally as staff for six months and it is mainly to follow up on the recommendation in the Comprehensive Plan to establish an annual cycle. As the development begins to warm up here in the city, I think it is a prudent thing to do. **City Atty. Draper** - If you look on page 129 of our Master Plan that really is the framework within which we are working. That establishes that we probably ought to have a cycle of some kind. If you look at page 129 of the Master Plan you will see sort of what he is talking about. He talked about all of those factors and we have seen that it is very expensive to go through the comprehensive planning process. To focus it all in one time frame is much more efficient and manageable for everyone concerned. That is why we put this proposal together. No one has come to us and said we got to do it, we are just adopting this process in anticipation that if something comes in the future we can deal with it in a more manageable basis. **Mayor Connors** - So then essentially we would tell them that the deadline would be at the end of May for an application and then the process would start in June? If there were applicants we would go ahead and do it and if there were not, it would skip on until next May? It really controls the application process so that you are not looking at multiply applications throughout the year.

**Planner Slavney** - Correct. It makes it predictable for everyone and with your recommendation I will add a top row about collecting applications before the end of May, to the schedule. **Comm. Skates** - We talked about this 1 ½ to 2 years ago and it kind of died off just because of the economy. I think this is a good process because as things improve we can get bogged down at every other meeting on a new amendment or new conversation. My question is, is there an up or down vote in that July or August meeting if we get someone who is requesting an amendment? That is either (A) out-landish; are they vetted through this whole process, does it move forward through the whole process regardless of how out of bounds or if someone wanted to slap a Great America along the White River... If it is an out landish request or it was something that just doesn't fit with what we wanted, can we shoot it down or what is the process? **Planner Slavney** - In the box that says Plan Commission reviews, plan amendment applications, that is the opportunity for parties that are interested in the plan amendment, including someone from staff or the commission or the Council, the park board etc. wants to float some ideas by the public works director and to have a discussion with the Plan Commission, it is preliminary to the public hearing. It might be to refine their idea or for you to make sure the particular questions are addressed. We have not provided for a way to have a pre-vote before a public hearing or before the Council hears the public hearing and the presentation that goes with it. Other instances that I have been involved with, some ideas have been floated and by the second meeting discussion with the Plan Commission, they are not coming back for a few years. We need to wait for the public hearing before formal recommendation is taken. **Mayor Connors** - I have a question on your chart on the back. The third item down says city clerk accepts plan amendment applications? **Planner Slavney** - Yes, I need to re-word that and move it to the top. It should be the first step. **Mayor Connors** - That would be prior to the last day in May? **Planner Slavney** - Yes, what that line should say is city staff provides the applications to the Plan Commission packets.

**Mayor Connors** - (Directed to City Atty. Draper) So this body would be recommending this policy and it would go to the City Council for adoption? **City Atty. Draper** - Right and they would adopt it through a resolution. **Mayor Connors** - This cycle takes roughly about 5 months from start to finish? **Planner Slavney** - Yes and the fastest I have seen it happen without a review cycle like this is about 3 ½ months. It is still pretty compressed compared to what the minimum required cycle is. We don't get tangled with the holidays, election season, etc. **Comm. Skates** - True transparency. We don't have to vote on this tonight and it was suggested to table it. Because of the time frame, if we are getting it out there, what we are coming up with really makes better use of our time, the staff's time, Mike Slavney's time, Ken's time etc. Is there anything wrong with getting the word out there and putting this on the March meeting? We still have time even if we voted on it in March, it would go to a City Council meeting and then you have April and May and June for people to bring amendments.

## AGENDA ITEM # 11 CONTINUED

**Mayor Connors** - That's fine. So would you like to make a motion to continue on the March meeting? **Comm. Skates** - Yes I would like to do that. What I have seen is good. I make a motion to continue this to the March meeting.

### MOTION #11

Skates/Gibbs motion to continue recommendation to establish an annual comprehensive amendment process limiting requests to a single cycle every year, to the March 17<sup>th</sup> Plan Commission meeting. The motion carried unanimously.

## 12. Review and recommendation to establish new Zoning Code Amendments regarding Nonconforming Situations.

### DISCUSSION

**Planner Slavney Addressed the Commission** - This is a more complicated issue. It is confusing for normal, only zoning people seem to get this stuff. What I will be doing is introducing the idea here. I have been doing this for 25 yrs and in the last three years have been thinking about how to encourage redevelopment more effectively. The zoning code gets in the way. The reason it does is because in the 1923 the federal guidance on zoning the provisions in your current code were invented and introduced. If you think about that long ago, there were really bad buildings that might have been put up in the 1840's. They are still standing and that was long before zoning was invented. Some of the provisions in that model code are still with us. I think I have been doing this long enough now that I have finally come to the conclusion that it is time to break free from the past a little bit. You are the seventh community I have been talking with about this with. I have had 4 communities adopt these provisions or something very similar to them. And I am working on three others right now. Marshfield, Watertown and Mt. Horeb have adopted these provisions and Shawano is in the process. Oshkosh is beginning to look at them and Madison has also adopted some of these. They deal with non conforming situations. So just as an introduction, there are four kinds. They are non-conforming uses; a use that is in place right now is actually not permitted by zoning. Maybe it is completely not permitted or maybe it's a use that is regulated as a conditional use, but it doesn't have a conditional use permit. Some of these non conforming uses have been around since before zoning. That is why they are non-conforming and that is why they happen. Or some of them have been around since we last adopted and re-did the zoning code, which changed some of the regulations. The state has very particular rules for how we deal with non conforming uses and there is not much we can do in terms of granting a lot of flexibility but I am recommending a few "tweaks" to the non conforming use regulations, including the ability to apply for a conditional use and make a non conforming use fully conforming. You don't have to approve a conditional use so you get to look at it on a case by case basis. That is about as much flexibility as I can do on the conditional uses. The other stuff we do a lot, so let me talk about the second kind of non conforming situation is where the requirements for site development aren't met. There is not enough landscaping, the lighting is too bright, the parking lot is too close to the property line, etc.

Again, a lot of these non-conforming situations occurred before zoning was adopted by the city in the 1930's or when we last did the code in the late 1990's. We adopted tougher lighting and landscaping and set back requirements. We can clarify those situations and note for example if a non conforming site is modified. Let's say the parking lot is enlarged, that addition to the parking lot has to meet the current requirements of the code. You have to meet landscaping requirements for that addition. Also the parking lot lights in that part of the parking lot have to meet the requirements. This is more about clarifying things and encouraging redevelopment by making things more predictable and by assuring people that you don't have to go back and re do all your landscaping. So, again, this is trying to set more predictability about these non conforming site conditions. And a lot of these things don't come to you, they are just site plans or building additions that Ken Robers deals with. Not all of them are going to come to you and if they come to you they are not a conditional use. They are just simple little things that are going on. Important things would come to you as a conditional use and then you would have the ability to address them anyway. This is picking up all those other things. Sometimes people are afraid to submit something because they think we are going to fill the whole book with their entire site and we really shouldn't.

**Mayor Connors** - Can you give an example? Would it be like a garage that was built on an alley that was too close to the site set back or? **Planner Slavney** - Let's say that it's a residential driveway and it's not five feet from the side property line. There are hundreds of homes in the city in that situation. And they want to add a bay on the other side of the driveway on the inside of their lot so they are altering a non conforming driveway. They are not making it worse and we want to clarify that we are not going to make them tear up the existing driveway. It was probably put in before there was zoning.

**Comm. Skates** - So what impact would this have on sales or potential sales, title searches, non-conforming etc? This to me would encourage or take away a negative on a property and encourage a sale or a transfer of property. Am I right?

## AGENDA ITEM # 12 CONTINUED

**Planner Slavney** - This would take away what I would call a pretty subtle negative because these conditions that I am talking about, it is not a structure, it's the pavement, the landscaping, the lighting, etc. It is still a concern, you are right. The next issue is the big one, the non conforming structures. Right now if you have a non-conforming structure that is built too close to the street to meet the set-backs, or too close to a side yard lot line or a rear yard lot line, it is a non conforming structure. It is very difficult to get a loan to buy a non conforming structure. Therefore it is very difficult to sell a non-conforming structure. So they tend to sell for a lot less. Before the financial crisis, those were still concerns but everybody was doing it. Now, however, everybody is a lot pickier about underwriting residential or other mortgages. The rules for non-conforming structure we're changing in a big way. We are saying that if the structure was up before whatever date we adopt these provisions on, it is fully legal. There will be no limit on putting structural repairs into the building. Right now you can only put 50% of the buildings value into repairs. Technically that bookkeeping dates back to when the city first adopted zoning. A couple of rafters and you have hit your 50% limit and it is cumulative. So by making these non-conforming structures fully legal, we are taking the big cloud off the title. When those provisions were put in the model code in the 1920's and the state model code in the 1930's, there were some buildings built in the 1840's that you hoped would crumble into the ground and there was a pretty good chance that they would. However, today, have you seen a building crumble into the ground? They don't, they just don't go away. So putting the cloud on the title and preventing these structural repairs, it doesn't make the buildings go away; it just makes them really crappy. It's blight that the ordinance is kind of mandating. The big recommendation in this packet would be to make it these legal non conforming structures fully legal and take the cloud off the title. Additions to the structures have to meet the set-backs. We are not enabling like an addition, or other structural alterations, the changes would have to meet the code. We are recognizing that these buildings for the most part were put up before the current zoning rules or sometimes before zoning at all. We have 100's of those buildings in this city. If we can enable the sales, then we can enable higher property values. We can help people get a better return on their investment and we can raise the tax base of the city, significantly over time. So this is, I think, the most important recommendation section in the packet. The final section has to do with sub standard lots. That is a lot that was typically created before the subdivision was. It doesn't have enough street frontage or isn't big enough or wide enough at the building line. It is kind of like non conforming structures except it is the lot. This would be a provision that would make these lots fully legal and would make them buildable in some cases. You would still have to meet the set-backs and the pavement limits and all the landscaping requirements. But the fact that the lot didn't meet all of the modern rules would not get in the way of having it used. So in a nut shell I think these are pragmatic and practical and you can argue even fairer approaches to what we have now. These are radical departures from the way cities for the most part doing this. I have knocked down 6 out of 3000 local governments in Wisconsin. It is something that I am almost embarrassed that I hadn't really brought forward earlier. I think it took me 25 years to figure out that there was a better way to do it. I don't know if you want to keep talking about this tonight, but I wanted to give you a general introduction into all we are trying to accomplish here. In your packet we have the current code, we have the proposed code and we have a red line strike out version so you can see where we were making changes. You can see some of these sections were completely re-written.

**Ald. Hougen** - Can we have someone tell us online where to find the ordinances that are referenced? Specifically, if someone at home might be looking on their computer might be able to do this? Or alternatively, could we put this document online so that people can see exactly what is being suggested for change? So that we can discuss it? **Mayor Connors** - We can easily do that. I would like to see this continued to our next meeting for another discussion. The memo... we can insert the new dates, a couple minor three things. Along with the, I will call it the strike through copy, I would like to see included with it. Because it is easy to read. You can see the additions and the deletions in the same document.

**Planner Slavney** - I will provide an updated version with the 2013 change to 2014 and a couple of other typo's that we have noted and I will get it down to you this week so we can get it up online. I will get it to you as a PDF. **Comm. Flower** - (I have) just a couple questions on the document itself. Is this the right time? On page 6 of 13 at the bottom of the page, item 1, you have village in there and it should be city. Then under 1b, what do you mean by legal proceedings on the structure? What would that be? **Planner Slavney** - (It would be) a condemnation or a raise order. **Comm. Flower** - Okay - so it is not like a short sale like that type of legal proceeding. Then on page 8 at the middle of the page #1 you have a village in there as well. And that was all.

### MOTION #12

Connors/Skates motion to continue recommendation to establish new Zoning Code amendments regarding nonconforming situations to the next month's agenda. Motion carried unanimously and was continued to next month.

**13. ADJOURNMENT**

MOTION #13

Skates/Flowers motion to adjourn the meeting at 7:56pm. Motion carried unanimously.

/s/ Jackie Gregoles, Building & Zoning Administrative Assistant

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