

**CITY PLAN COMMISSION
MONDAY, FEBRUARY 15, 2010 - 6:30 PM
COUNCIL CHAMBERS, CITY HALL**

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

Roll Call: Commissioners Hartz, Kupsik, Horne and Alderman Tolar. Also Present: Mayor Chesen, City Attorney Draper, Building/Zoning Administrator Brugger, City Administrator Jordan, City Planner Slavney (arrived at 6:34pm) and Administrative Assistant Special. Commissioners Kuehl and Lyon were excused.

Tolar/Horne motion to approve minutes of January 18th, 2010 Plan Commission meeting as presented. Motion carries.

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.

Correspondence. None

Public Hearing for an amendment to the official zoning map, from (RH) Rural Holding to (PB) Planned Business, on a parcel of land located along the west side of Highway 12 north of Highway 50 and south of Sheridan Springs Road more precisely identified as Tax Key Number ZYUP 00194. Slavney arrived at 6:34pm. Brugger gave a short summary of the background of this item. Ellyn Kehoe, 222 Warren Street, questions whether the property at question is owned by the City. It was stated that the Peller Investment group owns the land, is petitioning the zoning change and is then dedicating the land to the City. The rezone is the only thing that we are addressing tonight. Hartz/Horne motion to close the public hearing. Motion carries. Tolar/Kupsik motion to approve the amendment to the official zoning map with Staff recommendations. Hartz asked how many buildable acres are out there. Brugger answered that he doesn't know but there would be some loss due to steep slopes and some of it is in the wetland. There might be some in the environmental corridor. Hartz also asked about the Comprehensive Plan that reflects this zoning. Brugger states that it is in the Staff recommendations. Slavney responds that there are approximately 10 acres. Motion carries.

Public Hearing on a Conditional Use Application filed by James Roddy, 1110 Park Row, Lake Geneva, on behalf of Roddy's Wine, Spirits and Deli, to modify an existing non-conforming pole sign by replacing the faces with new signage at 880 W. Main Street, Lake Geneva, Tax Key Number ZOP 00337. James Roddy approached the podium and apologized for the wrong doing of putting up the new sign faces without a permit. He proceeded to let the City know that he was told that the sign was grandfathered and that he could change the faces with no problem. When he was notified of the error, he quickly went to apply for the proper paperwork. Ellyn Kehoe, 222 Warren Street, approached the podium and recommends to keep the sign as Mr. Roddy has done it. Kupsik asks if the only reason that it is non-conforming is because it is a pole sign. Brugger stated yes, as a free-standing sign it is too high and it wouldn't have the setbacks that a new sign would have. The sign itself was not modified, just the faces. Brugger stated that there is a ten year limit on the sign approval and it would be up for review in ten years. Kupsik/Horne motion to close the public hearing. Motion carries. Kupsik/Horne motion to approve the Application as noted with Staff recommendations. Brugger stated that this is officially their downtown design review as well. Hartz mentions that the ordinance states that when these nonconforming signs change, they are supposed to make it conforming. If we are not enforcing compliance, then Hartz stated that perhaps the Commission should take a look at the ordinance and see if it needs to be revised. Brugger stated that some of the signs that Hartz speaks of have been denied. Brugger stated that he can bring an example to the next meeting. Slavney states that some signs don't even make it to the commission and are denied at the Building Department. Brugger agrees. Hartz questions whether or not the ordinance should be changed. Kupsik states that usually if

there is no structural change to the sign then approvals like these are usually done. However, if the sign has to be structurally changed, then it will have to be brought into compliance. Brugger agrees. Motion carries.

Public Hearing on a Conditional Use Application filed by Stone Soup LLC d/b/a Baker House, 327 Wrigley Drive, Lake Geneva, to amend the existing Conditional Use to provide additional Indoor and Outdoor Commercial Entertainment, additional Commercial Indoor Lodging and a Commercial Apartment at 327 Wrigley Drive, Lake Geneva Tax Kay Number ZOP 00387. Ken Etten from *Mc Cormack and Etten Architects* approached the podium and explained the project on behalf of the owners Bethany Souza and Andrew Fritz. There are 41 parking stalls on the property. He believes that there are two deeded stalls in the adjacent building (Bella Vista) but for the purposes of the presentation, they will be referring to 41 stalls. Etten explains the history of the property and speaks of the building from being a residence, to a seminary, a sanitarium and eventually the St. Moritz and Gilberts (lodging) and a restaurant. The current owners would like to take the existing Conditional Uses that were in effect at the time when Gilberts was operating and indoor commercial entertainment, which is the dining on the primary floor, a commercial apartment on the third floor (Commercial indoor lodging) and keep it as a residence. The first floor will be kept it all open similar to what is there right now for serving breakfast, dining, etc. They would keep the bar, which has a current liquor license, the kitchen and the existing bathrooms (will be brought into compliance and provide handicapped accessibility). The second floor will be proposed to bring it back to a hotel use. There will be six individual hotel rooms and would like to bring it back to the original plan from 1983. They will provide an additional handicapped accessible bathroom on the second floor as well. There is a connection to Bella Vista on the first and second floors and they would like to keep that. The storage area in the back of the second floor which was still a restaurant will be made into two additional bedrooms to go with the third floor apartment. The uses that they would have would be a commercial apartment on the third floor, commercial indoor lodging on the second floor, commercial indoor entertainment on the first floor plus the commercial outdoor entertainment which at this time would only be what was allowed when Gilberts was there. Any other uses besides that would have to come before the Commission. Etten explains how the parking stall requirements are adequate for 3 stalls for the third floor apartment, six stalls for the second floor, plus 1 additional stall for an additional staff member, and the remaining 31 stalls would be adequate for no more than 93 seats on the first floor.

Bethany Souza, 327 Wrigley Drive approached the podium to explain more about project. She handed out a packet of information. They are looking to restore the best parts of the building. She wants to put back into effect the residence, the hotel rooms and restaurant. They want to make the first floor very reminiscent of what the home was like when Emily Baker lived there. They want the community to come and visit during the week and weekend. They don't want to have several tables that all look the same. They will provide a couch and overstuffed chairs with low coffee tables. They will provide foods that won't require heavy cutting. They are looking to provide a place where the people of the community and those that visit can come. The Baker House turns 125 year old this year. She explains the background of her and her team along with their experience. The hotel rooms will stay at six. They will be luxury style rooms. They will provide breakfast (although not a bed and breakfast). It will be a formal style but not so formal that it is unapproachable. She also talks about wanting to reach out to the community i.e. civic luncheons and also reach out for grand birthdays and weddings. Hartz questions the email that they received. Souza explained that Gilberts received temporary use permits for outdoor engagements (weddings) and thought that they could just do it while there were here for the other conditional use items. But, since they submitted the packet, they don't believe that they will be coming back to approach the Commission for a formal approval but still may come per event like Gilberts did.

Tammy Carstensen representing Harbor Shores 300 Wrigley Drive, approached the podium. She explains that when Gilberts did their outdoor events they (Harbor Shores) received a lot of complaints about the music into the night and hopes that they consider limiting the time frame for the outdoor entertainment.

Sam Weaver, 300 Wrigley Drive, states that he believes that this is a good thing however the only issue he foresees is the outdoor entertainment in the evening. He thinks that other than that, the idea of the Baker House will work well.

Tolar/Kupsik motion to close the public hearing. Motion carries. Hartz/Horne motion to approve the amendment to the Conditional Use for additional indoor Commercial Entertainment, additional Commercial Indoor Lodging and a Commercial Apartment as submitted including Staff recommendations. Hartz questions if this falls under a group development. Brugger stated no; one owner, one operation, one building, and no separate tenants. Kupsik

asks if any outdoor activity will have to come for a permit. Brugger states that they have a Conditional Use for outdoor beverage and light appetizer serving out in the garden area. Other than that, they will need to come before for a temporary use permit. Motion carries.

Consistency Requirement (tabled from the 1/18/10 meeting). Kupsik/Tolar motion to remove from the table. Motion carried. Kupsik/Horne motion to suspend the rules and allow the Downtown Design Review to happen next. Motion carried. Slavney handed out a packet. Slavney approached the podium. Slavney explained that as of the first of this year, we entered into the era of Consistency. This means that we will be doing things the way that we have been doing them throughout the years for the City. Slavney believes that this City has been doing things well. There are different levels of planning in the state (see page two of Slavney's handout). The Consistency requirement comes from the State level. In 1998-1999 the State legislature passed the State's Smart Growth law. Part of that is defining what a Comprehensive Plan is. Part of that was imposing a requirement that starting on January 1st 2010 a local government's actions having to do with zoning, land division and official mapping have to be consistent with the Comprehensive Plan (see bottom of page two). There are some words that are not defined and Slavney will give his educated guess (best interpretation of those terms) until something can be patched into the statute. Slavney continued on through the packet. Nine elements have to be contained in the Plan. Our plan here contains those nine. Our plan is consistent with what the Statutes' require. The administrative staff of the Department of Administration also has a lengthy checklist which currently is not officially being used but they have it so our plan was written to comply with that checklist as well. At the top of page four (of Slavney's handout) is a picture of the land use plan (map). Slavney believes that we should have a large copy of the plan laminated and placed in this room (council chambers). He believes that most of the discussion of consistency will be the relationship between proposed zoning map amendments and the future land use map. That has to do with annexation as well. The Statutes don't say that annexations have to be consistent with the Plan but you have to give zoning to annexed property. The zoning map actions and annexations are going to be the easiest comparison of consistency to make in relationship to the plan just comparing one set of colors to another. Zoning and official mapping action and land division action includes other things. Zoning map amendment and text amendments, planned unit developments, conditional use permits, site plans, land divisions, plats and certified surveys (including those within the extra-territorial platting area) and the official map should all have findings of consistency with the plan. We don't have an official map but we should. It creates a first right of refusal on property that is either currently owned by the municipality and expansion areas around that property or new properties. You apply and enforce the official map through the land division or conditional use permit process. Its how we get right of way dedications, reserve land identified for parks, water towers, drainage basins, lift stations, any kind of municipal facility. It's how we reserve that land so it doesn't get developed. The official map is by far the biggest bargain for the tax payers in local government. Millions of future tax dollars can be saved by using the official map. Since we have a new plan, we should get the official map together. Any time the City buys or sells a property or a partial interest of property, the plan commission by statute needs to be consulted and we should be making a finding related to the official map, the community facilities map or the future land use or transportation maps in the Comprehensive Plan. City owned property or acquisition of property, Plan Commission as well as one of several other committees in the City typically needs to be consulted. Finally, the statutes don't talk about variances or appeals from the interpretations of the zoning administrator but both of those are also in the zoning ordinance (Slavney believes as actions) and things the Zoning Board of Appeals does also should be viewed in light of the Comprehensive Plan and that is in there right now. He doesn't believe that we will be seeing changes in the big scope of things because of this requirement because we have been utilizing many of these things already (in the form of staff putting the recommendations before you). Consistency was anticipated when the Zoning Code was done.

At the bottom of page 7 (of the packet Slavney handed out) is a reminder about how on certain things the Plan Commission and Common Council don't have very much discretion. On other things, we have unlimited discretion. The best example is of a Final Plat. Where a Final Plat is fully consistent with the approved Preliminary Plat, you pretty much have to approve that. There are some unusual circumstances related to the timing of development where maybe the utility network is not in or all of the storm water provisions, or the access requirements related to adjacent public roads, or some improvements that actually have to be built let alone designed. You could deny a Final Plat on a matter of timing in some instances. In most instances it is difficult to deny a Final Plat, or a Certified Survey Map that meets all the rules. Slavney says it is like a matter of right in Wisconsin. On the opposite end of the spectrum, annexations, buying or selling property, what you do with

adopting a Comprehensive Plan... you have almost unlimited discretion with those. We don't get a lot of those actions in front of the Plan Commission except for annexations; most of our work is in the middle, the rezoning(s), site plans, conditional use permits and text amendments. We have quite a bit of discretion on those but we need to remember to relate it back to the plan. Top of page 8 explains how to relate it back to the plan. Slavney explains consistency. Slavney states that in your motions, you should refer to the Staff report or incorporate it into your motion or make an independent finding of how something is consistent or inconsistent with the Comprehensive Plan. The minutes should reflect those findings and when the ordinance is prepared, Slavney is recommending one of the *where as is where as this has been found by the elected body to be consistent with the Comprehensive Plan...* This is a matter of simple record keeping.

What is Consistent? Slavney continues on with defining consistency. Almost every instance (decision) will be a little gray. Nothing will be pure white or pure black. The Mayor left his seat 7:34pm. The Mayor returned to his seat 7:34pm. In terms of evaluating the Consistency (at the top of page 9) of all of those actions in the zoning code, there are usually four or five findings and there is a final finding that says "overall, considering everything about the proposal and the site and surrounding area and the city's objectives, we think this is either a good idea or a bad idea or it could be made better with certain conditions". We as a City have been in a good habit of doing this. Slavney presented a Case Study as written in the packet. Slavney indicates that with a plat, generally the further we are along in the development process, the courts have indicated the less discretion we have. Things will change and we have the right to amend the Comprehensive Plan. There will be times when it is clear that you have to say no or times when you will have to amend the Plan. Under state law we have to update the Plan every ten years. Attorney Draper asks about the term "concurrency". He has seen it but not often. Slavney states it is not in our Statutes yet. He comments that Florida has it and it may be something to think about for our state. He suggests that it is common sense that before you say yes you are able to provide the service. Brugger states that many times when we do Planned Developments there's frequently a mix of uses and one or more are not covered by the current zoning which is many times why they go the planned development route. Our current plan has areas that call for mixed uses and the planned development is the best way to deal with those but in an area where a planned development is proposed and one or more of the proposed uses is not consistent with the future land use map is that an automatic no to that planned development then? Do they need to re-look at the mix and only stick with what's on the land use map? So that part of the flexibility in our planned development is kind of gone. Slavney states he doesn't know right now but perhaps we will have to tackle that when we come to it. Brugger states that maybe we will have to evaluate that it is mostly consistent with the plan and the inconsistencies are outweighed by the benefit of the development or not. Slavney hopes that we have some guidance before we have to face that. Slavney also suggests looking at what is the proposed range of principle uses rather than accessory uses. Is there a way they can be categorized under one of our land use categories and what does the plan says about that? Brugger also asks that if the Comprehensive Plan is to be amended, do we go through the whole process that we just went through to adopt it. Slavney states that the required components are an adopted public participation plan at the beginning and the only required parts of that are the public hearing at the end of the waiting period, distribution to the neighboring jurisdictions and affected agencies and the meetings of the Plan Commission and the elected body has to be open to the public. So there is not a requirement for a survey, vision workshop, or an open house. Jordan asked about the repercussion of not going after an Official Map. Slavney thinks that we have been getting a lot of what we could do through an official map by using our land division and zoning procedures. The one thing are failing to do by not having an official map is that we don't have the ability to get that first right of refusal on properties. Jordan asked if the law has changed in regards to putting the right of ways in and purchase some of the property but not all, and owners threaten that after a certain amount of time how long can you keep this for if you are not going to put in the improvements. Slavney says the law hasn't changed and there is a lot of flexibility. The biggest concern with the official maps is the roads. They can go more or less anywhere versus ponds and lift stations and water towers that have to be where they are topographically. Anything on the official map essentially puts a cloud on the title of the property you are mapping for. Slavney says they don't usually recommend mapping a whole subdivision worth of local streets. We don't have enough information to guess how those street layouts are going to go at this time but we know where the county highway is and for example, we want a bike lane on either side eventually and 66feet isn't going to do it we want 80 feet of right of way or 100 feet of right of way, so lets get that nailed down. We have to be judicious with the official map. Brugger asked if there was anything on the official map that wasn't on one of the maps in our Comprehensive Plan. Slavney says there is not a requirement for that, but it makes sense. Official map actions though have to be consistent with the plan. The Plan then states to be consistent with the Official Map. Slavney

says he is careful with using the word municipal because they cannot put school sites on the map. It is reserved for municipalities. Hartz references Slavney use of the words case law. Hartz asks if it would make sense to keep a record of the times when things are kept consistent and things that may not. Slavney defers to the City Attorney. Attorney Draper states that everything is done on a case by case basis. So the process will be more important than the tally process. Hartz comments on the goals and objectives. Slavney says that there will always be contradictions and the plan will provide a process and we will need to document. Draper says that the law still gives us broad discretion when making the decision that we make. But the important part is to document why you are doing that. Historically we have been judging Conditional Uses for example against the Comprehensive Plan. Why stop doing it. Covering our procedural responsibilities will be most important. Kupsik asks how much responsibility is on the developer for maintaining the consistency. Slavney says that our ordinance actually suggests that the applicants do their own evaluation of consistency. Of course, we can listen to their reasoning but they will be advocating for themselves. A thorough packet will help to make the decision. We each should make our own evaluation of the projects consistency.

Downtown Design Review. Roger Wolff approached the podium on behalf of the former Arnolds space on Main Street. Ken Etten, *from McCormack and Etten Architects*, approached the podium and shared some pictures and background of the property. They want to bring back the original look of the drug store. They wanted to use the existing brick however that brick is in very bad shape. They want to take it back to when it had a sloped parapet with a little pop up in the center and a flat canopy sticking out with diagonal rods supporting the canopy. They have found some nice reclaimed cream city brick that they would like to use and a number of buildings downtown are similar. Since there isn't enough room to use the prism glass block they would like to a glass block with a prism face on it and it will be going on over the face of the wall so it will maintain the same look. The canopy will look like an aluminum channel type canopy. It will be flat with tie rods going back up similar to how it was before, almost like an open trellis type canopy as opposed to a solid roof. The brick on the bottom part of the building will be replaced with a sort of cast stone type material and trying to clean up the front stoop with some new concrete. Tolar asks if it will be an open canopy. Etten replied that it will have a channeled edge on it but it would have louvers instead of a solid roof that would hold snow. It would be more like a sun shade that would stick out about four feet from the building. Etten also explains that since this is in a National Registered Historic District, he presented it to the Historic Preservation Commission and it went over quite well. Kupsik asks about the signage. Wolff explains that it will be a separate issue; the tenant will design that and will come forward at a later time. Kupsik/Horne motion to approve the façade as presented. Motion carries.

Geneva Street Antiques - wants to replace the monument sign. Brugger shows that the sign he is holding up is similar, but the lettering will be black and the graphics will be maroon on a cream background. Kupsik/Horne motion to approve. Motion carries.

Abellimento, 728 Main Street. They want to hang a projecting sign in front of the building from a bracket on the wall. Horne/Kupsik motion to approve. Motion carries.

Kupsik/Horne motion to adjourn at 7:59 p.m. Unanimously carried.

/s/ Jennifer Special, Building/Zoning Administrative Assistant

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