

MINUTES

1. Meeting called to order by Mayor Kupsik at 6:30 p.m.

2. Roll Call

Present: Doug Skates, John Gibbs, Ann Esarco, Tom Hartz, Tyler Frederick, Sarah Hill
Not Present: Planner Mike Slavney, Atty. Dan Draper
Also Present: Mayor Kupsik, Administrator Oborn, Inspector Robers and Assistant Gregoles

3. Approve Minutes of June 20, 2016 Plan Commission meeting as distributed.

MOTION #1

Gibbs/Skates moved to approve the minutes of June 20, 2016 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. - None

5. Acknowledgment of Correspondence - None

6. Downtown Design Review.

A. Application by Paul Pappas for Gold Coast, 1102 Kathy Ct., Fontana, WI 53125 for a new exterior awning with signage on the storefront at 108 Broad Street, Tax Key No. ZOP 00347B.

DISCUSSION

Inspector Robers gave an overview of the application details and there was a brief discussion with the Commission.

MOTION #2

Hill/Skates moved to approve the application by Paul Pappas for Gold Coast, 1102 Kathy Ct., Fontana, WI 53125 for a new exterior awning with signage on the storefront at 108 Broad Street, Tax Key No. ZOP 00347B, to include eliminating the lighting and staff recommendations. The motion carried unanimously.

B. Application by Beth Tumas for The Bottle Shop, 617 W Main Street, Lake Geneva, WI 53147, for two new exterior replacement signs at 617 W Main Street, Tax Key No. ZOP 00291.

DISCUSSION

Applicant gave an overview of the application details and there was a brief discussion with the Commission.

MOTION #3

Hill/Gibbs moved to approve the application by Beth Tumas for The Bottle Shop, 617 W Main Street, Lake Geneva, WI 53147, for two new exterior replacement signs at 617 W Main Street, Tax Key No. ZOP 00291, to include all staff recommendations. The motion carried unanimously.

7. **Continued Public Hearing and recommendation on a General Development Plan (GDP) Application filed by Peter Jurgens for Oakfire Restaurant, 831 Wrigley Drive, Lake Geneva, WI 53147 for building Modifications to include a rear addition, and a new second floor with indoor and outdoor seating in the Central Business (CB) zoning district at 831 Wrigley Drive, Tax Key No. ZOP 00340.**

DISCUSSION –Peter Jurgens, 262 Center Street - Applicant & David Scotney, Owner

Applicants gave an overview of the application details and there was an extensive discussion with the Commission.

PUBLIC SPEAKER #1 – None

MOTION #4

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

MOTION #5

Hill/Gibbs moved to approve the recommendation on a General Development Plan (GDP) Application filed by Peter Jurgens for Oakfire Restaurant, 831 Wrigley Drive, Lake Geneva, WI 53147 for building Modifications to include a rear addition, and a new second floor with indoor and outdoor seating in the Central Business (CB) zoning district at 831 Wrigley Drive, Tax Key No. ZOP 00340, including all staff recommendations and fact finding.

The motion carried unanimously.

8. **Public Hearing and recommendation on a Precise Implementation Plan (PIP) Application filed by Peter Jurgens for Oakfire Restaurant, 831 Wrigley Drive, Lake Geneva, WI 53147 for building Modifications to include a rear addition, and a new second floor with indoor and outdoor seating in the Central Business (CB) zoning district at 831 Wrigley Drive, Tax Key No. ZOP 00340.**

DISCUSSION –Peter Jurgens, 262 Center Street - Applicant & David Scotney, Owner

Applicants gave an overview of the application details and there was an extensive discussion with the Commission.

PUBLIC SPEAKER #1 – Terry O’Neil, 954 George Street, LG

O’Neil stated his confusion on what is actually being approved.

MOTION #6

Gibbs/Hartz moved to close the public hearing. The motion carried unanimously.

MOTION #7

Hartz/Gibbs moved to approve the recommendation on a Precise Implementation Plan (PIP) Application filed by Peter Jurgens for Oakfire Restaurant, 831 Wrigley Drive, Lake Geneva, WI 53147 for building Modifications to include a rear addition, and a new second floor with indoor and outdoor seating in the Central Business (CB) zoning district at 831 Wrigley Drive, Tax Key No. ZOP 00340, to include Staff recommendations, fact finding, alley to be passable by end of work day, wood sample shown to be product used for all wood references on plan, smooth sample of concrete samples shown (bottom) to be used for all precast sections, both wood and precast be used below front windows as shown on plan, emergency services be notified 48 hours in advance when road and alley is going to be blocked by construction equipment, exterior construction to be completed between November 1st and April 30th, roof panels to be bronze color to match window surrounds, Hardy Board to be standard 6” overlap, notify neighbors when road or alley will be blocked, protect street and curb from damage, and fire sprinklers are required.

The motion carried unanimously.

9. **Public Hearing and Recommendation on a Conditional Use Application filed by Lyle Fitterer, 1040 San Jose Drive, Elm Grove, IL 53122, to install an accessory structure (Pier) closer to the lake shore than the primary structure, within Lakeshore Overlay Zoning District located at 63 Hillside Drive, Lake Geneva, WI 53147, Tax Key No. ZYUP 000941.**

DISCUSSION

Applicant gave an overview of the application details and there was a brief discussion with the Commission. Note – Commissioner Taylor Frederick recused himself to the audience for this item.

PUBLIC SPEAKER #1 – None

MOTION #8

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

MOTION #9

Skates/Hartz moved to approve the recommendation on a Conditional Use Application filed by Lyle Fitterer, 1040 San Jose Drive, Elm Grove, IL 53122, to install an accessory structure (Pier) closer to the lake shore than the primary structure, within Lakeshore Overlay Zoning District located at 63 Hillside Drive, Lake Geneva, WI 53147, Tax Key No. ZYUP 000941, including all staff recommendations and fact finding. The motion carried with Fredricks abstaining.

10. **Public Hearing and recommendation on Zoning Text Amendments for Section 98-407 Substandard Lot Regulations, Section 98-706 Exterior Storage Standards for Residential, Office, and Commercial Districts, Section 98-034 Definitions, & Section 98-206(4)(k) Commercial Indoor Lodging.**

DISCUSSION

Inspector Robers and Mayor Kupsik gave an overview of the recommendation details and there was a brief discussion with the Commission. A memorandum from city attorney Dan Draper was read into the record by Mayor Kupsik.

PUBLIC SPEAKER #1 – None

MOTION #10

Gibbs/Hill moved to close the public hearing. The motion carried unanimously.

MOTION #11

See all below:

Section 98-407 Substandard Lot Regulations

Skates/Hill move to approve the recommendation on Zoning text amendments for Section 98-407 Substandard Lot Regulations. The motion carried unanimously.

Section 98-706 Exterior Storage Standards for Residential, Office, and Commercial Districts

Hill/Skates move to approve the recommendation on Zoning text amendments for Section 98-706 Exterior Storage Standards for Residential, Office, and Commercial Districts. The motion carried unanimously.

Section 98-034 Definitions

Gibbs/Hartz move to approve the recommendation on Zoning text amendments for Section 98-034 Definitions. The motion carried 5/2 with Hill and Frederick voting No.

Section 98-206(4)(k) Commercial Indoor Lodging

Hartz/Skates move to approve the recommendation on Zoning text amendments for Section 98-206(4)(k) Commercial Indoor Lodging. The motion carried 6/1 with Hill voting No.

11. Discussion on Zoning Text Amendments for that may affect several sections of the Zoning Code dealing with Cosmetic Tattooing Options.

DISCUSSION

City Administrator Oborn gave an overview of the recommendation details and there was a brief discussion with the Commission. The Commission recommends to the City Council the following:

Option #3 verbiage that says to limit tattooing below the clavicle but no limitation above the clavicle, with restrictions to professional services at salons and Option #5 verbiage that says to not limit tattooing use but to restrict it in general and central business districts as a Conditional Use.

12. Adjournment

MOTION #13

Hill / Skates moved to adjourn the meeting at 8:38 pm. The motion carried unanimously.

/s/Jackie Gregoles, B&Z Administrative Assistant

THESE MINUTES ARE NOT OFFICIAL UNTIL APPROVED BY THE PLAN COMMISSION

MEMORANDUM

DATE: July 17, 2016

TO: Planning Commission

FROM: Daniel S. Draper, City Attorney

I will not be able to attend the Planning and Zoning meeting, however wanted to give you some background information concerning Zoning Text Amendments to Section 98-407, Substandard Lot Regulations, and Section 98-206(4)(k) Commercial Indoor Lodging which are set for a public hearing.

The amendment to Section 98-407(3) concerns the ability of a landowner to use the conditional use process and use SR-4 lot width, lot frontage, lot area and setback requirement if a person has a non-conforming lot in the ER-1 district. Currently the ordinance defines a substandard lot in the ER-1 district as one that contains less than 1 acre. In discussing the matter with our planner, Mike Slavney (who incidentally authored our zoning code and these provisions) it was determined that it was never intended to define a nonconforming lot in the ER-1 district as one that contains less than 1 acre. There are many other ways that an ER-1 lot could be non-conforming. They could be non-conforming because of lot width, lot frontage, or setback requirements. Since it was never originally intended to limit SR-4 standards for only ER-1 lots that are less than an acre, planning and zoning staff suggested bringing this amendment forward to have it conform to the original intentions of the ordinance that being the ability of anyone with a nonconforming ER-1 lot to be able to utilize the SR-4 standards under the conditional use process.

The amendment to Section 206(4)(k) may look familiar to some of you who have been around for a while. This ordinance was originally brought forward several years ago to clarify the City's long time interpretation of the zoning code to prevent short-term vacation rentals in single family residential zoning districts. It in fact arose from complaints from neighbors of a property in the Manor who was ignoring the City's interpretation of the zoning code prohibiting short term rentals in single family residential districts. At the time the City was attempting to enforce their interpretation of the zoning code to prevent short term rentals in a single family district, a case was decided in the 2nd District Court of Appeals titled *Heef Realty and Investments, LLP v. City of Cedarburg Board of Appeals*, 861 N.W. 2d 797, 2015 WI App 23 (2015). The 2nd District Court of Appeals is the court for cases arising in Walworth County Wisconsin. Therefore the cases determined in the 2nd District are binding on the City of Lake Geneva. The court in *Heef* essentially stated that to prevent short-term rentals in single family residential districts, the zoning code must **specifically state** that they are prevented in such districts. Therefore, the proposed amendments are drafted to specifically prohibit short term rentals in single family districts and define short term rentals. While the *Heef* case hurt the City's interpretation of their zoning code, it also recognized that such restrictions can be

done provided it is specifically stated in the zoning code. Some may argue that such restrictions may restrict one's right to alienation (the ability to sell and lease his property) the City should be able to adopt and regulate such uses under the City's general police power, the right to protect the health safety and general welfare of their citizens. In other words if there is a concern that short term rentals would disrupt citizens in single family zoning districts because of noise, disruption or just not knowing who is living next door, then the Commission would be well within their rights to pass such a provision. If the Commission is not concerned with such issues, and favor a person's right to use his property as he deems fit and believe in the absolute free right of alienation then the Commission may choose not to adopt this ordinance.

I hope the above is helpful in your determinations. If you have any questions, please contact me.

Daniel S. Draper

cc: Blaine Oborn, City Administrator
Ken Rober, Building and Zoning Administrator