

CITY OF WHITEWATER
PLAN AND ARCHITECTURAL REVIEW COMMISSION
Whitewater Municipal Building Community Room
January 13, 2014

**ABSTRACTS/SYNOPSIS OF THE ESSENTIAL ELEMENTS OF THE OFFICIAL
ACTIONS OF THE PLAN AND ARCHITECTURAL REVIEW COMMISSION**

Call to order and roll call.

Chairperson Meyer called the meeting of the Plan and Architectural Review Commission to order at 6:00 p.m.

Present: Greg Meyer, Lynn Binnie, Bruce Parker, Cort Hartmann, Kristine Zaballos, Daniel Comfort. Absent: Karen Coburn. Others: Wallace McDonell (City Attorney), Latisha Birkeland (City Planner).

Hearing of Citizen Comments. There were no citizen comments.

Approval of the Plan Commission Minutes. Moved by Binnie and seconded by Hartmann to approve the Plan Commission minutes of December 9, 2013. Motion approved by unanimous voice vote.

Review extra-territorial certified survey map for a lot line adjustment at W7765 Bluff Road for Colleen and Mark Strelow. City Planner Latisha Birkeland explained that this property is located within the 1.5 mile extra-territorial review boundary. The owners are looking to adjust the lot line so the farm equipment shed is located on Lot 1. This certified survey map is not creating additional lots. The final parcels are not reduced below the minimum size requirement. The parcels are outside the City of Whitewater sewer service area. Birkeland recommended approval.

Chairperson Meyer asked for any public comment. There was none. Chairperson Meyer closed public comment.

Moved by Parker and seconded by Binnie to approve the certified survey map for a lot line adjustment at W7765 Bluff Road for Colleen and Mark Strelow. Aye: Parker, Binnie, Hartmann, Zaballos, Comfort, Meyer. No: None. Absent: Coburn. Motion approved.

Review extra-territorial certified survey map to create a lot and for a lot line adjustment at N515 Howard Road for Mike Pope. City Planner Latisha Birkeland explained that properties of this certified survey map are within the 1.5 mile extra-territorial review boundary for the City of Whitewater. The owner is looking to create a lot for a cell phone tower. The parcels are located outside the City of Whitewater sewer service area.

Chairperson Meyer asked for any public comment. There was none. Chairperson Meyer closed the public comment.

Moved by Comfort and seconded by Binnie to approve the certified survey map to create a lot and for a lot line adjustment at N515 Howard Road for Mike Pope. Aye: Comfort, Binnie, Parker, Hartmann, Zaballos, Meyer. No: None. Absent: Coburn. Motion approved.

Public hearing for a conditional use permit (tavern and other places selling alcohol by the drink) for The Downstairs Bar and Grill LLC. (Agent Gezim Mylkaj) to serve beer and liquor at 204 W. Main Street (for a “Class B” Beer and Liquor License) at The Bar Downstairs a/k/a Downstairs Lounge and Night Club. City Planner Latisha Birkeland explained this is an application for a conditional use permit for the sale of beer and liquor. There will be no major changes to the internal layout. There may be some cosmetic changes after they are up and running. The owner is also looking to incorporate coffee and an additional menu. There is no current sidewalk café permit. No provision for parking is required in the downtown B-2 (Central Business) Zoning District.

Troy Wilber, one of the partners of The Downstairs Bar and Grill LLC., was present to answer questions.

Plan Commission Member Binnie stated that a conditional use permit had been approved last September with conditions. He read the already approved conditions. One of them was for contingencies for three or more noise offenses within one year. There is a concern of noise. Another concern related to this application is staying open beyond bar hours, which according to State Statutes must be for a “restaurant” for the purpose of selling food. It is a challenge to change one’s image from being a bar to being a restaurant.

Troy Wilber stated it would be the “Downstairs Grind and Sports Club”. They want to be known for their coffee also. After 2:00 a.m. they will lock up the alcohol. They will then serve coffee, juice and breakfast food. This will only be on Friday and Saturday nights. They feel this is a good income source.

Plan Commission Member Zaballos stated that Downtown Whitewater has surveyed the community and there is a demand for a 24 hour restaurant.

Plan Commission Member Parker asked about outdoor seating in the front of the building and about a kitchen area.

Wilber thought they might have 2 or 3 tables for coffee. The “Downstairs” space is set up for a kitchen in the back of the building. All alcohol will be locked up, and beer taps taken off by bar hours.

Chairperson Meyer asked for any public comment. There was none. Chairperson Meyer closed the public comment.

Plan Commission members voiced their concerns of: Staying open until 4:00- 4:30 a.m. to serve coffee and food, plan to give him leeway, the owner deserves a shot to do this; Not sure of the kinds of problems that could occur, we need to be cautious; how many violations has this establishment had in the last two years?; with the conditional use, would there be an option to review after a certain period of time?; if this goes through, other businesses will be interested.

City Attorney McDonell stated that this establishment had significant problems a while back, but not in the last couple of years. The Plan Commission can require a review of the business after a certain time period.

Dave Saalsaa, owner and resident of 184 W. Main Street along with other tenants, stated that there have been fewer violations. He has a concern with the business operating until 4:30 a.m. He wanted to know if the music would be turned down or off. Saalsaa stated that if the business is the last place open, people will go there.

Plan Commission Member Parker said the Plan Commission could require one entrance and one exit and to use the east door as an emergency exit only during operation. Make everyone come in and out of the front door.

Troy Wilber stated that if he put an alarm on the door, it might cause more problems than having a bouncer there.

Plan Commission Member Binnie referred to the State Statutes regarding closing hours for licensed establishments. The difficulty is that the after bar hours are only allowed for restaurants. It is very difficult to call this establishment a restaurant. It is more comfortable to have extended hours after it proves itself in selling food. Any college student knows this place as a bar.

City Attorney McDonell stated that there is not a lot of direction in the Statutes. When there is a situation, there is a lot of discretion from the Plan Commission. The Plan Commission can either accept representation or determine that there is not enough in the record to make a decision.

Plan Commission Member Parker asked about the requirement for a percentage of the sales to be food sales.

City Attorney McDonell stated that the City had required it of one tavern/restaurant, but it is not built into the ordinance.

Plan Commission Member Binnie suggested that the Plan Commission could allow extended hours for a limited period of time. Set the time for review in the summer after the school year is complete. Plan Commission could then review the food sales and the after bar behavior.

Plan Commission members voiced their concerns of: this is a new practice, concern with operational aspects; caution, is it legal to extend hours?; how hard is it to take the 4:30 a.m. closing away?; limitations, can we review and extend the after bar hour time period as many times as we want?

City Attorney McDonell stated there would be absolutely no alcohol after the State required closing hour. The police will check to make sure the bar is closed. If the motion is worded as a right and allowed, it would take due process and notice for changes. Alternatively they could be given a certain period of time after which the privilege will expire unless the owner/operator comes in to have the review and possibly have the after bar hours extended. This review can be done many times. As long as it is done on a rational basis it is pretty easy to meet.

Moved by Binnie and Comfort to approve the conditional use permit for The Downstairs Bar and Grill LLC. (Agent Gezim Mylkaj) to serve beer and liquor at 204 W. Main Street subject to the following conditions:

1. The conditional use permit shall run with the applicant and not the land. Any change in ownership/licensee (or operator) will require approval of a conditional use permit for the new owner/licensee (or operator) from the Plan Commission.
2. The applicant shall comply with all required City and building codes.
3. The east door of the building will be an emergency exit only. If there are three or more noise or disturbing the peace complaints within a one year period, the Plan Commission may require the east door to become an alarmed emergency exit only.
4. The extended hours (after bar hours) will be allowed subject to the requirement that any music will be turned down after bar hours and that this privilege will expire after 6 months. If at that time the licensee (operator) wishes to request a continuation of the extended hour's privilege, he must show that the business satisfactorily meets the restaurant requirement and has not been a disruption to the neighborhood.
5. Approval is needed for a "Class B" Beer and Liquor License from the Alcohol Licensing Committee and the Common Council.

Aye: Binnie, Comfort, Parker, Hartmann, Zaballos, Meyer. No: None. Absent: Coburn.
Motion approved. (See attached conditional use permit.)

Public hearing to enact amendments to the City of Whitewater Municipal Codes: Chapter 19 Sign Ordinance, specifically Section 19.54.052 Maximum sign sizes, addressing the B-1 (Community Business), B-3 (Highway Commercial and Light Industrial), I (Institutional), R-3 (Multifamily Residence), R-4 (Mobile Home), and AT (Agricultural Transition) Zoning Districts signage requirements for on premise directional signs to allow for nine (9) square feet of signage on each side of the directional signs. City Planner Latisha Birkeland explained that last month, the Plan Commission saw the addition of "per side" for clarification for the M-1, M-2 and the WUTP Zoning Districts. Birkeland stated that we just want to update the directional sign size to per side for the other Zoning Districts for clarification.

Plan Commission Member Parker recommended that Plan Commission review the remaining Zoning Districts and add "per side" to the size section of the ordinance.

City Attorney McDonell stated the proposal would have to come back at a later date. It could not be recommended at this meeting.

Moved by Binnie and seconded by Parker to recommend to the City Council to recommend the amendments to the Common Council. Aye: Binnie, Parker, Comfort, Hartmann, Zaballos, Meyer. No: None. Absent: Coburn. Motion approved.

Review and recommend to the City Council, the discontinuation of the alley from E. Main Street north to the cross alley behind the properties in the 200 block of E. Main Street. This is necessary under the current plan for the East Gateway intersection design. City Attorney Wallace McDonell explained that most people didn't know this alley was on the map. It is a platted alley that runs east of where the Cordio Parts business was located (216 E. Main St.). The alley continues to the north. When the engineers redesigned the intersection, it was determined that the current access to the business was not in a good location for the newly designed intersection. The driveway would need to be moved. It is requested that the Plan Commission recommend to the City Council to discontinue the alley on the official map so a new driveway can be located in the area where the alley is. Donna Henry owns the property on both sides of the alley and she is on board with this change.

When asked about easements, City Attorney McDonell stated that the resolution will keep any current easements, etc. in place. All are being maintained in the draft of the resolution.

There was no public comment.

Moved by Binnie and Comfort to recommend to the City Council to approve the discontinuation of the alley. Aye: Binnie, Comfort, Parker, Hartmann, Zaballos, Meyer. No: None. Absent: Coburn. Motion approved.

Informational Items:

Zoning Rewrite. City Planner Latisha Birkeland explained that the public hearing for the Commercial sections of the Zoning Rewrite is planned to be held on February 25, 2014. The City Manager had emailed the City Council and Plan Commission members to respond to his email for the February 25 meeting within 48 hours if there was an issue with the date.

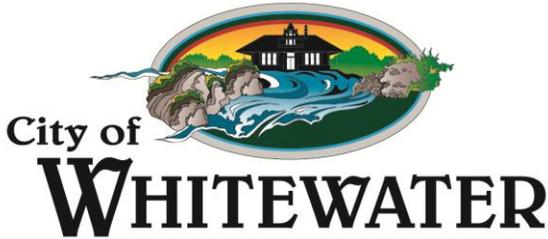
Future agenda items. City Planner Birkeland stated that on the next agenda, the Plan Commission will consider an expansion of the mini storage, and an ordinance amendment for the sign ordinance requirements "per side". It would also be a good night to do some training. If that changes, Birkeland would let the Plan Commission know.

Plan Commission members requested that the training include under the conditional use and plan review sections, what types of plans the Plan Commission should be reviewing and making recommendations on, and which ones are discretionary.

Next regular Plan Commission meeting – February 10, 2014.

Moved by Hartmann and seconded by Comfort to adjourn the meeting. Motion approved by unanimous voice vote. The meeting adjourned at approximately 7:00 p.m.

Chairperson Greg Meyer



Neighborhood Services Department
*Planning, Zoning, Code Enforcement, GIS
and Building Inspections*

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CONDITIONAL USE PERMIT

Plan Commission Meeting Date: January 13, 2014
Property Owner: Robert A. Sweet
Applicant: The Downstairs Bar and Grill LLC. (Agent Gezim Mylkaj)
Property ID Number: /OT 00026
Property Address: 204 W. Main Street
Whitewater, WI 53190

REGARDING: An approval for a conditional use permit (CUP) to allow for the sale of alcoholic beverages by the glass at the “Downstairs” located at 204 W. Main Street.

Approved subject to the following conditions:

1. The conditional use permit shall run with the applicant and not the land. Any change in ownership/licensee (or operator) will require approval of a conditional use permit for the new owner/licensee (or operator) from the Plan Commission.
2. The applicant shall comply with all required City and building codes.
3. The east door of the building will be an emergency exit only. If there are three or more noise or disturbing the peace complaints within a one year period, the Plan Commission may require the east door to become an alarmed emergency exit only.
4. The extended hours (after bar hours) will be allowed subject to the requirement that any music will be turned down after bar hours and that this privilege will expire after 6 months. If at that time the licensee (operator) wishes to request a continuation of the extended hour’s privilege, he must show that the business satisfactorily meets the restaurant requirement and has not been a disruption to the neighborhood.
5. Approval is needed for a “Class B” Beer and Liquor License from the Alcohol Licensing Committee and the Common Council.

This permit was prepared by:

Latisha Birkeland
Neighborhood Services Director / City Planner