

CITY OF WHITEWATER
PLAN AND ARCHITECTURAL REVIEW COMMISSION
Whitewater Municipal Building Community Room
August 2, 2010

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

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

PRESENT: Binnie, Dalee, Torres, Coburn, Miller, Stone, Meyer (Alternate). ABSENT: Zaballos. OTHERS: Wallace McDonell/City Attorney, Mark Roffers/City Planner, Bruce Parker/Zoning Administrator, Wegner/Secretary.

HEARING OF CITIZEN COMMENTS. This is a time in the agenda where citizens can voice their concerns. They are given three minutes to talk. No formal Plan Commission Action will be taken during this meeting although issues raised may become a part of a future agenda. Items on the agenda may not be discussed at this time.

There were no citizen comments.

The Plan Commission decided to take the Outdoor Café Permit Ordinance item first due to the number of people present for that item.

**CONSIDERATION AND RECOMMENDATION TO THE CITY COUNCIL
CONCERNING CHAPTER 5.18 OUTDOOR CAFÉ PERMIT ORDINANCE.**

City Attorney McDonell explained that this is an ordinance for outdoor private property café permits. Councilperson Olsen has asked that an ordinance be drafted to allow a permit to have an outdoor café opportunity for private property similar to the sidewalk café ordinance on public property. This is important to the Plan Commission in that if a licensee requests a permit for an outdoor café, City Staff and City Council would handle the expansion of the alcohol license description. If the Outdoor Café Ordinance is approved, the owners of the business would not have to apply for an amendment to their conditional use permit. An outdoor café would not be a conditional use unless the applicant cannot meet all the conditions or if they want to expand their time past 10 p.m. Then a conditional use would be required. City Council had the first reading on the proposed ordinance and referred it to the Plan Commission. They plan to take action on it at next Tuesday's City Council meeting, August 3rd, with the Plan Commission's recommendation.

Zoning Administrator Bruce Parker added that all sidewalk cafes and outdoor cafes will shut down by 10 p.m. Those who want later hours will be required to apply for a conditional use permit to increase their hours of operation. If the City Council approves the ordinance, they will hold the public hearing and notices will be sent to the property owners and occupants within 300 feet.

City Attorney McDonell also stated that the City Council would have the discretion to require what is necessary to make it an appropriate use and if landscaping is appropriate.

Plan Commission Member Binnie explained that he had mixed feelings. This ordinance is different from sidewalk cafes in that the outdoor cafés include a larger city area and larger pieces of properties. The ordinance puts a lot of responsibility on City Staff to handle all the detail.

Rick Hartmann, owner of Rick's East Side Pub, explained that everyone who has a "Class B" license are all on the same page. They all want to accommodate people due to the smoking ban. They should have the same rights as the downtown area.

City Planner Mark Roffers explained that an applicant for the cafes would need to provide a site plan, showing the size and number of tables, the style of chairs, a barrier (type, location, and height). If they are proposing landscaping, it should be listed on the plan submittal standards. They would need to be able to meet the standards.

Plan Commission Member Stone stated that the Police Chief should also be informed when an outdoor café is being considered.

Plan Commission Chairperson Torres was in favor of this recommendation because it seems to be fair, it is a simpler process, and it is similar to the sidewalk café ordinance.

Plan Commission Member Miller stated that this ordinance makes it fair for everyone. It levels the playing field. If someone wants to make a change, they can apply for a conditional use permit.

Moved by Miller and Meyers to recommend to the City Council to approve the ordinance with the suggestions of Plan Commission Member Stone (the Police Chief be informed when an outdoor café is being considered) and City Planner Roffers (applicants for the cafes would need to provide a site plan, showing the size and number of tables, the style of chairs, a barrier (type, location, and height). If they are proposing landscaping, it should be listed on the plan submittal standards. They would need to be able to meet the standards). It was also noted that if someone wanted something different than what the café ordinances required, they could apply for a conditional use permit. Motion approved by unanimous roll call vote.

City Attorney McDonell stated that in this process, the City Council makes the decision as to what is approved, whether it is the City Council request, as Plan Commission approved it or something different.

CONTINUATION OF THE PUBLIC HEARING FOR THE CONSIDERATION OF A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF THE PROPOSED BUILDING ADDITION AT 1362 W. MAIN STREET FOR WALMART. Chairperson Torres opened with the continuation of the public hearing for consideration of a conditional use permit for the construction of the proposed building addition at 1362 W. Main Street for Walmart.

Zoning Administrator Bruce Parker explained that Walmart has been through many different plans and has met with the Fire Chief and Assistant Fire Chief. Parker explained the two options. One of the options (Plan 2), fire hydrants and water main around the building were added. Also the driveway behind the building was extended to the east property line for fire access. The stormwater detention would be on the east side of the building. They were looking at adding 20 feet of grass pavers for heavy equipment to drive along the east side of the building. The other option (Plan 1) added a 1.93 acre easement on the northeast corner of the site for stormwater detention and overflow and green space. This option also allowed for parking and access completely around the building.

The stormwater is still being worked on and is expected to be resolved. The property owner of the adjacent car wash has agreed to allow for a pedestrian walkway along the east side of their

property as long as it will not count against the car wash green space. City Manager Brunner and City Attorney McDonnell will be working on the developer agreement between Walmart and the City, which will include future traffic lights etc. Walmart has also applied for a variance through the City of Whitewater Board of Zoning Appeals to allow for larger wall signs (the current maximum wall sign is 50 sq. ft.

Debby Tomczyk, the Attorney for Walmart, stated that they were focusing on the differences and what remains open. They want to stay on track to be able to be up and running in October 2011. There is a need for urgency. Plan 1 has full fire access, full landscaping and stormwater management which would drain into a pond. They are proposing a 1.93 acre easement with DLK. The land needs soil tests for environmental issues. Because of the time frame, Plan 2 is their second choice. Tomczyk explained that there are timing and cost issues. They have 20 per cent green space; they have lost parking; added back additional green space by Main Street; and they have added hydrants. They will be going with Plan 1 unless they cannot meet requirements. They will be leasing the portion of land behind their property although they ultimately may purchase the extra land.

Attorney Mitch Simon explained that the easement of the 1.93 acres would be a separate outlot with its own tax parcel number, if conveyed it would be owned by an adjacent property owner. An easement gives a legal title, but no right to use it. A transfer of ownership of the 1.93 acres would be an acceptable alternative. Plan 1 is do able. Everyone is pulling in the same direction. They prefer Plan 1.

Don Gregoire, Fire Department Chief, stated that the Fire Department prefers Plan 1 with the 1.93 acre easement. The other plan would work if Plan 1 does not.

City Planner Mark Roffers explained that Plan 2 does not affect the Sentry property. Worst case scenario, best access to Walmart. The 20 foot strip to the east of the Walmart building would handle emergency vehicles in an emergency. The Development Agreement would provide for 360 degree access by contract. These three items give a failsafe to alternative #2.

Chairperson Torres closed the public hearing.

City Planner Mark Roffers recommended approval to proceed with either plan, with the discretion to work it out.

Karie Hardin, Walmart Engineer, explained that the cart corrals are a galvanized silver metal type. She explained #9 of the comments, that the cross access easement with Hawk Bowl, would serve as an alternate if Hawk Bowl closed their eastern driveway.

Attorney Simon explained that they would like to have the cross access easement line up across from the hotel access, where the cross access would be appropriate. They do not want to create an uncertainty of future use. If and when Hawk Bowl does redevelop, the cross access easement and traffic control are to be installed 100 to 150 feet to the west to line up with the hotel (Baymont) driveway.

The City Planner Mark Roffers and Megan MacGlashan recommended the Plan Commission approve the conditional use permit for the construction of the proposed building addition at 1362 W. Main Street for Walmart subject to the following conditions as amended at the meeting.

- 1) The project shall be constructed in accordance with either one of the two Site, Paving, and Striping Plans (sheet C1.0) dated 7/28/10; Grading and Drainage Plan (sheet C4.0) dated 7/8/10; Landscape

Plan (sheet L6.0) dated 7/8/10; Utility Plan (sheet C5.0) dated 6/28/10; Natural Features Inventory Map (sheet NF1.0) dated 6/28/10; Photometric Plan (sheet C8.1) dated 6/28/10; Roof Plan (sheet A4) dated 7/13/10; Stormwater Management Reports dated 7/27/10; Signage (sheet A2.2) dated 6/28/10; Site Plan Amenities (SP1) dated 7/7/10; Site Details (sheet SP2) dated 7/7/10; Site Details (sheet SP2.1) dated 6/28/10; Elevations and Site Photos dated 7/7/10; the LED lighting cut sheets submitted 6/28/10; LED Site Lighting Performance Specifications submitted 6/28/10; Lighting Cut Sheets submitted 6/28/10; the Ribbon Rack Cut Sheet submitted 7/9/10; Sconce Lighting details submitted 7/9/10; Cart Corral Details submitted 7/9/10; Custom Mechanical Equipment Screening Details submitted 7/9/10; except as changes to those plans are required to meet the conditions that follow and Walmart's selected site plan alternative.

- 2) If the first alternative (continuation of east-west rear fire drive, no additional easement acquired) is ultimately selected, per the Site, Paving, and Striping Plan dated 7/28/10, the applicant shall be allowed to reduce the required amount of landscaped surface area on the lot from 30 percent down to no less than 20 percent, provided that the approved landscape plan is fully implemented and the 20-foot wide strip directly east of the building shall be surfaced in such a way to both meet green space requirements and handle emergency vehicles in an emergency situation.
- 3) If the second alternative (acquisition of easement and 360 degree fire lane) is selected, per the Site, Paving, and Striping Plan dated 7/28/10, the acquired easement shall count toward meeting the applicant's 30 percent landscaped surface area requirement, provided the following restrictions are recorded in conjunction with the easement and provided to City staff:
 - a) This easement area must be restricted for permanent open space use in perpetuity (i.e., no buildings or impervious surfaces shall be erected within the easement area).
 - b) The easement shall run with the Walmart property regardless of future ownership.
 - c) The easement area shall be restricted against counting towards the minimum landscaped surface area requirement for any other current or future development site aside from the Walmart property.

Transfer of ownership of the indicated easement areas shall be an acceptable alternative without amending the conditional use permit.

- 4) Prior to the issuance of a building permit, the applicant shall prepare/revise and resubmit the following plans for City staff approval:
 - a) Revised roof plan to clearly indicate the locations of any existing and proposed skylights, and as necessary to confirm to the satisfaction of the City Planner that all rooftop mechanical equipment shall be fully screened so that it is not visible from adjacent properties or and public street.
 - b) Revised site and related plans to indicate that the planter located on the west side of the main building entrance will be positioned in a manner that allows people to walk along the walkway to the south of the planter (i.e., shift the location of the planter closer to the building) and all pedestrian crosswalks will be a different material and color from the parking lot pavement.
 - c) Revised photometric plan to explicitly indicate that all lighting fixtures will be mounted at a 90 degree angle to the light pole and to indicate that lighting levels shall not exceed 2.0 foot-candles at any property line. Indicate the color of all light poles, selecting a color that is compatible with the building color and other hardscape features on the property.
 - d) Revised versions of relevant plans to clearly indicate any and all locations designated for permanent or seasonal outdoor display, including vending machines, propane tanks, or seasonal sales lots. (If not indicated, will not be allowed without subsequent Plan Commission approval, except for propane tank storage areas, which may be allowed with City staff approval.)
 - e) Revised versions of all relevant plans to reposition the bike rack located west of the main building to a location underneath the building canopy.
 - f) Clearly indicate through a detail sheet the number of bicycle spaces located in each proposed bike rack and the color of the bicycle racks, with the color compatible with the building and other hardscape features on the property.

- g) Revised versions of all relevant plans to show the new location and dimensions of the pylon sign (within the landscaping peninsula located along the eastern entrance driveway), along with all directional signs.
 - h) Revised cart corral detail sheet. Cart corrals shall be specifically designed for this project and shall be compatible with the building and with other hardscape features on the property.
 - i) Detailed plans for the retaining wall proposed for the north property line (and east of the building if the first site plan alternative is selected) and for the dumpster enclosure. The design, colors, and materials used on such features shall be compatible with the design, colors, and materials of other related site features.
 - j) Revised stormwater management, grading, and engineering plans to address the City engineering consultant's comments.
- 5) Prior to the issuance of a building permit, the applicant shall revise and resubmit the landscaping plan for City staff approval to address the following issues:
- a) Adjust the landscaping proposed for the east side of the building based upon the final site plan alternative selected. Landscaping should, to the extent practical, be consistent with the landscaping proposed on the landscaping plan dated 7/8/10, also taking into consideration fire access.
 - b) Reconfigure landscaping to the front yard between Main Street and the southern edge of the parking lot, consistent with the other landscaping proposed for this area of the site, and add landscaping here if removed from the area east of the building for fire access purposes.
 - c) Replace all Autumn Blaze Maples and Dwarf Bush Honeysuckles with other appropriate species, consistent with the City's Landscaping Guidelines.
 - d) Revise the landscaping legend to reconcile all differences between the legend and what is indicated on the landscaping plan drawing.
 - e) Expand the length of the planter located on the east side of the main building entrance to accommodate a minimum of 4 trees. Each tree shall be a minimum 4" caliber at the time of installation.
 - f) Clearly indicate the location of all "gravel mulch maintenance strips" indicated in the legend.
- 6) Prior to the issuance of a building permit, the applicant shall submit a signed agreement with the owner of the car wash to locate the proposed walkway from Main Street to the front of the building in the eastern location shown on the site, paving, and striping plans dated 7/28/10, or shall submit and have approved by City staff an alternate location for that walkway.
- 7) Prior to the issuance of a building permit, the applicant shall work with the City staff to prepare and execute a development agreement addressing the following and have that agreement approved by the City Council:
- a) Outline an approach for resolving all outstanding traffic issues, as described in both the traffic impact analysis and the recommendations of the City's engineering consultant. At minimum, the agreement shall establish who determines when the signal will be installed and how the installation of the signal will be paid for.
 - b) If the first alternative site plan (continuation of east-west fire drive, no additional easement acquired) is ultimately chosen, specify Walmart's obligations if full east-west access across both the Walmart and Sentry driveway is ever closed off in the future.
 - c) Include other fire safety provisions, such as provision of additional hydrants and maintenance of a 20 foot paved clear zone at all times around the building.
 - d) Include provisions for a community business sign/community wall.
 - e) Include provisions for cross-access for lands to the west of the Walmart property when such lands redevelop in the future.
- 8) Prior to the issuance of a building permit, the applicant shall apply for and be granted a variance

allowing the size and number of wall signs to exceed the City's ordinance standards. In no way shall the issuance of this conditional use permit or this condition of approval compel the Board of Zoning Appeals to issue such a variance.

Moved by Binnie and Miller to approve the conditional use permit for the proposed building addition at 1362 W. Main Street for Walmart with the City Planner recommendations as revised. Motion approved by unanimous roll call vote.

INFORMATION:

Zoning Administrator Bruce Parker explained that the name change from "Circle Inn LLC." to "Fire Station 1 LLC." for the business located at 140 W. Center Street would be changed administratively. The proposed new owner was unable to use the "Circle Inn LLC." name.

The next regular Plan Commission meeting will be August 9, 2010.

Moved by Binnie and Stone to adjourn at approximately 7:20 p.m. Motion was approved by unanimous voice vote.

Respectfully submitted,

Jane Wegner
Secretary