

CITY OF WHITEWATER  
PLAN AND ARCHITECTURAL REVIEW COMMISSION  
VIRTUAL MEETING  
January 11, 2021

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

**1. Call to order and roll call.**

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

Present: Greg Meyer, Lynn Binnie, Tom Miller, Andrew Crone, Bruce Parker, Sherry Stanek, David Stone

Others: Jaclyn Misch, (Temporary City Planner from VandeWalle & Associates), Cameron Clapper (City Manager), Wallace McDonell (City Attorney)

**2. Hearing of Citizen Comments.**

There were no citizen comments at that time.

**3. Hearing for the proposal of a Certified Survey Map for a division to create two (2) lots for Keystone Real Estate Services, LLC at Tax ID /CAH 00007.**

Clapper stated he understood that this item, due to some areas that needed to be addressed from the Planner's report, was pulled from tonight's meeting due to questions and Misch confirmed. He stated the developer asked that this item be removed until certain areas have been addressed.

City Attorney, McDonell stated the City ordinance on CSMs provides if the Plan Commission doesn't act on it within 60 days it is deemed approved. It is either acting by approval or denial or approval with conditions. However, that can be extended by agreement of the parties. It was dated December 7, 2020, and the next meeting would be February 9, 2021. From his perspective, they should agree because it can be extended by agreement of the parties. By the developer asking that it be removed from this agenda it would be considered in agreement. Therefore, there would be an extension until the next Plan Commission meeting for the purpose of the Plan Commission acting on it.

Meyer asked if we have to act on it to table it. Attorney McDonell stated the only action that would qualify within the 60 days would be either approval or denial. He doesn't believe the Commission is ready to do either of those tonight. The 60 days can be extended by agreement of the parties and should suffice by operation of the developer asking for it to be postponed. If for some reason it doesn't, he thinks they can deal with that in a different fashion. They will have to make sure by contacting the developer that they agree with the procedure. If they don't, they will have to figure something out. Meyer asked if it would have to be resubmitted. Attorney McDonell said, no, that it would technically be approved if it's not acted on in the 60 days. That's where the Plan Commission would lose the right to make a decision on it. He said he is not positive for sure when the official filing date was because December 7, 2020, was on the application but doesn't know if that was the exact date it was filed. Sometimes there are reasons the 60 days is extended because all submittals are not done because it really runs from the 60 days. He really doesn't think it will be a problem. If for some reason there is an extraordinary reason why it is a problem, they could ask for a short Plan Commission meeting before the 60

days. Meyer commented that the wetlands could be a problem. He thinks it may take longer than the 60 days for them to figure out what's going on. Attorney McDonell will make sure the developer agrees that it would be postponed. If the developer doesn't agree then the City would likely ask for a Plan Commission meeting to take place within the 60 days. It may be that all of the submissions were not in within the date of December 7. Therefore, it would be moved as far out as the 60 days coming up on the next Plan Commission meeting.

**4. Hearing for the proposal for a Conditional Use Permit for Development of a 36-Unit Multifamily building at Parcel ID /WUP 00153A for Adam Coyle and Ryan Hughes doing business as ARCH Development, LLC.**

Misch said this was brought to the Plan Commission in 2018. She understood that they initially had approval for the building in 2018. However, they did not commence construction under the CUP at that time. Therefore, the permit has expired and the developers are coming back now and ready to begin.

Misch stated this project is located on the northwest side of the City off of N. Tratt St. There would be a combination of underground parking and surface parking. When looking at the site map there is a private drive dividing this property into two lots. It shows a proposed 66 foot right of way with the potential of someday becoming a City street. The City's Comprehensive Plan shows the City developing westward. The plan meets set back and minimum street frontage requirements and zoning code. However, there are a lot of unanswered questions and components of this proposed multi-family building that will still need to be reviewed and approved. Some of that would be by Neighborhood Services, some by Public Works and/or the City Engineer. Since they are in an adjustment stage right now, that is why the Planner's Report contains a lot of conditions. This body can conditionally approve the CUP subject to those conditions. If the body here tonight is comfortable with all of those conditions, Misch would recommend conditional approval, subject to all of the conditions laid out in the Planner's Report. Misch did review the submittal. She would like to see the applicant demonstrate that they in fact meet the lighting requirements that are laid out in the zoning ordinance. The City would need confirmation that they don't have too much illumination at the property line because the parking lot will be close to the southern property line. They need to demonstrate that don't have light trespass onto the neighboring property to the south. Additionally, because the parking lot is within 15 feet of the property line they would need to have a buffer yard screen to screen the property from its neighbor from the south. Those are the two conditions Misch would like to add to the conditions already laid out in the Planner's Report.

Brienne Brown commented that it seems dangerously overlapping of flood plain. The flood plain seems to be getting bigger and bigger. It sounds like they have to check with the DNR anyway. She wondered if that was the right assumption. Misch said she would have to take a second look at that. She knows the CSMon the agenda had a flood plain issue. One of the developers spoke up and said one of the previous items had a flood plain. He said they would end up putting a pond in the south west corner of the site. It would just be a design pond as they did not have any issues with wetland.

Meyer opened the meeting for public comments.

One of the applicants commented that their civil engineer submitted details late last week. There was a wetland delineation report in that information showing they are not in the flood zone. He believes there was a lighting plan submitted as well but will have to check on that for sure. That does show that they complied with the lighting standards as well.

Meyer did address public comments and there were none at that time. Therefore, Meyer closed the public comment and opened it up to the board for discussion.

Binnie stated the project seems to be almost identical to the project that was presented in 2018. There was one item that he noted in the Planner's Report that Munz-Pritchard was uncertain of the building height. He noted back in 2018, it was indicated it would be 39 feet at the front and 45 feet at the rear with an exposed garage level. He asked if that was still the plan. One of the developers stated there has been no change with the height of the building. He stated the only real change has to do with the front office and work out facility. Binnie asked for more information on that facility. The developer stated with everything going on (virtually) they were not sure if that facility would be opened and was not sure about the timing. The other developer spoke from the management side and said they do want an office area at some point. As of now, all of their offices are closed to the public. Misch commented that on Friday, Cronic did send out the lighting plan, landscape, parking lot lights and the elevations. Meyer asked if everyone received them and was able to review them. The board commented, yes.

Binnie also said that noted in the Planner's recommended conditions there seemed to be an error on #13, regarding the usable space. It was calculated on the basis of 35 units and now the project is proposed to be 36 units. The required open space would now be 12,600. Misch stated that one of the conditions on the memo showed that open space on the site plan. He stated that should be changed on the conditions.

Stanek said she reviewed the landscape plan and there were quite a few restricted plants on the landscape plan. Whatever they approve tonight she would like the UFC to look at and replace the invasive plants with native plants. She would like this noted in case they approve this plan tonight that they are not approving the landscape plan at this point.

Stone said he has a couple of concerns. One was in the Planner's Report. In the report, under #9, it talks about past fire department requirements. It states, currently the east of the building is lacking in access by fire lanes. He thinks it's asking for a way around the building and additional fire hydrants. He is hoping those items will be addressed. Given the oversupply of residential units, he would not be in favor of supporting a project with 87 new bedrooms. He would like to see the project come back smaller with less bedrooms than seven units each. He understands that this was probably approved a few years ago, but given the current conditions he would like to see something smaller.

Clapper wanted to confirm with Misch and Attorney McDonell that as long as the design of the development plan fits within the limits or parameters of the zoning on the property,

he doesn't know if they could restrict it at this point. Attorney McDonell said it is certainly something that could be considered. However, it would have to be very carefully documented as to why there are too many units right now and why this many may not be needed as opposed to a lesser amount. It could be hard to do but it could also happen theoretically based on the overall record and could be a reasonable consideration. He did say the new Statutes indicate that it's harder to deny a conditional use than it used to be with the new legislation that has been around for a while now. It does indicate that if a plan meets the standards, set out for conditional use, that it should be approved. Now that is somewhat simplistic, and there is more to it than that. The bottom line is that it is certainly a relevant consideration but there would have to be a pretty good record for the basis for the denial on those grounds. It was a fair thing for Mr. Stone to bring up and good for Clapper to alert the Plan Commission that any time there is a denial of a conditional use there has to be some fairly substantial reasons to deny it. At this time, he is not prepared to say there is or is not enough there because they are in the middle of a hearing and the Plan Commission needs to look at all of the evidence, information, documents and hear everyone's input before a decision is made.

Meyer asked Clapper when they approved this item the last time it had to go to the fire chief for approval. Was this all approved at that time. Clapper stated it has been long enough that he doesn't recall the exact discussion they had with the fire department. He did say that all of the approvals that were needed to let this development move forward had been taken and approved. It was for the lack of a variety of reasons it was paused and therefore the conditional use expired. As Mr. Hughes stated, there is nothing that changed with the development. Any approvals tonight could be made contingent upon a successful report from the fire department that they are comfortable with the development. Binnie stated he thought that matter was covered under suggested condition #17, that includes approval from the fire department inspector.

He also mentioned Stanek's concern about UFC. He feels it is addressed in #15.

Binnie wanted to speak about Stone's concern. If this appears to be targeted specifically for the student population, he would particularly share that concern since they know there is a considerable amount of vacancy in student-oriented housing. He has not heard a vacancy report, as of late, in regards to the apartment complexes that are more oriented toward non-student adults or family settings. He asked for information be shared if anyone had more information about the current vacancy levels in complexes right now. One of the developers stated he has seen a lot of interest in the units he directly runs. He has seen fairly strong demands. It has been harder during the pandemic because of the offices being closed but they are getting better doing everything virtually. He thinks the market will receive this project well. He stated this project will take about 10 months to finish, best-case scenario. This would give them time to find more tenants and hopefully attract people and he thinks they will. Meyer brought up from a previous meeting as to whether it was student vs. non-student. From his opinion, this is a business. Whether it is a business for student rentals or a business for single family or single housing, he doesn't think it really matters. If they want to bring a business and tax dollars into the City, he doesn't have a problem with it. Crone stated the board had concerns in the past

when expanding the amount of inhabitation in buildings that are more downtown or in town where it has impacts on immediate student rentals and the neighborhood quality. If they are looking for places to have higher density, that would be an area that would be suitable. He understands this is a business and knows where Meyer is coming from. He wants to let businesses succeed and fail based on their assessments. However, real estate is a business industry that affects everyone throughout the town. It could really affect the economy in different parts of the City. He doesn't think we can totally say it's a business and not be concerned about it. We do have a right to be concerned about it.

Crone commented and wanted to piggyback on what Stanek said about having it go before the UFC. He knows we do have a policy in Whitewater regarding using the most native vegetation whenever possible, especially when there are situations of wetlands. He would like to say to every developer that comes along to really educate themselves on the effectiveness of natural vegetation vs non-native vegetation as far as being able to alleviate the pressures from water. The roots are 15 feet deep vs. six inches for most grass. It is the most cost-effective way to remove water from property. He would like to make sure this goes before UFC as well.

Binnie stated that Misch mentioned a 66-foot driveway easement or a public right of way. He said it was phrased in the last CUP but the recommendation this time came as a 40-foot right of way. Attorney McDonell indicated that it was their belief that Munz-Pritchard confirmed with Public Works that it is no longer a 66-foot requirement. Misch said she would have to refer this to the Attorney. She did see on the site plan that they are showing a 66-foot right of way. She stated she was not part of the discussion with Public Works. However, it seems to her that 66-foot makes sense if that will be a future City street. Attorney McDonell stated he received it somewhat third hand but Clapper believed that Munz-Pritchard was involved with Public Works and thought the 45-foot was sufficient. Attorney McDonell stated they usually do look for the 66-foot as a benchmark for a public right of way. Maybe we could make sure the developers don't have a problem with the 66-feet. Clapper said there was previous conversation. There was an extensive review when this came forward the first time because of it potentially being a punch through for an east to west corridor. When the discussion came about they talked about the space necessary. They wanted the driveway to be adequate for a permanent development and the space available if there was a need to expand. Clapper did not revisit that item of discussion with the Public Works Committee or the Public Works Director prior to this meeting tonight. He does know it was discussed previously. He thinks the developers might be able to shed some light in the absence of our prior City Planner and give context if there are additional questions. Clapper stated they could also make that another element of the approval that it be confirmed. Parker said in reviewing the 40-foot road or driveway (driving lane), he thinks they are talking about the paved area and the 66-foot is for the future right of way from the south lot to the north lot. Clapper agreed with Parker. Binnie asked Parker if he felt that it should specify a 66-foot right of way. Parker stated, yes, if that is going to be a future street, east/west from Tratt St. to the west side. He thinks the minimum should be 66-foot for a right of way. Because of the traffic that could be on that road, once everything is developed and opened to the west, you are going to want more than a 36-foot and the 40 foot is right on.

The subdivision section of the ordinances dictates what the street pavement, curb and gutter and so on should be. Binnie's recollection would be, subsequent to the previous submission, is discussion about the City having a lot more wetlands issues for bringing that larger street through from Indian Mound. At that point, Binnie felt it would be best to specify the 66-feet until they know otherwise.

Binnie made a motion that they grant conditional approval to Item #4 for the property located on Tratt St., subject to the Planner's conditions with the change on #1 to specify a 66-foot public right of way, subject to confirmation from Public Works. In addition, changing #13 to requiring usable, open space to 12,600 sq. feet. Attorney McDonell asked to clarify the Planner's conditions, referring to Munz-Pritchard and Misch's additions as specified tonight. Binnie stated although the buffering parking is really addressed by the UFC, he has no problem adding that specifically. Parker seconded the motion by Binnie.

Stone added after hearing the comments from the City Attorney and City Manager, he decided he will support this with the comments made by the City Planner's and the 66-foot right of way.

Stanek asked a question to the developers. She stated she noticed their property at Prince St. and Main St. has big purple for rent signs on every single porch. She wanted to know if they are having problems renting those units. One of the developers stated it is full right now and there is only one unit left for the following school year. She wanted to know if there was a reason why they have so many for rent signs still up. She feels it gives the impression that some apartments are not rented. The developer stated that is not the case. He said they are just trying to grab your attention and it worked.

Crone asked for comments from others on the board about having landscaping go before the UFC. Clapper stated that is #15 or #17 in the Planner's Report. Stanek noted that Brian Neumeister, the City's Forester and the native urban plant expert on the UFC and herself will be addressing the landscape plan. They will be replacing invasive plants and putting together recommendations to present to the developers. Meyer did state for the record that it is #15 (on page 6) on the Planner's Report.

AYES: Meyer, Binnie, Miller, Crone, Parker, Stanek, Stone. NOES: None. ABSENT: None.

**5. Informational Items:**

Clapper stated that all board members should have received a copy of the Fire Report for December 2020, from the Neighborhood Services and also a map of the 2020 violations.

Parker asked when the Director of Neighborhood Services Director applications need to be turned in. Clapper said the deadline for submittal for applications is January 17, 2021 at 11:59 p.m. The remainder of the timeline has not yet been laid out yet with HR. Clapper will be meeting with HR Director, Atkinson this week to start the planning.

Miller asked about the map with the violations. He said with all of the dots it seems to him to be a waste of paper. He suggested maybe they could print out the addresses and how many violations they had. Just looking at the map would be impossible to know where the property was located. Clapper said he would make note of it. He stated the original purpose for sharing this information was to illustrate the trend or explain the idea that the violations are occurring throughout the community rather than in one specific area. Stanek added that when they get this information in their packet electronically, you can actually open the document and enlarge the information to see which place they are talking about. It still doesn't give you addresses but it gives you an idea of where the concentrations are at. Crone stated he really likes the map and everyone gets their information in different ways.

Meyer commented when getting the sets of plans for projects, he would like the larger paper used as it makes it a lot easier to read. Stanek also noted you can enlarge those documents on your screen as well. Clapper will take this idea back internally and see what he can come up with to help the board members.

Stone wanted to request that if the City decides to make new TIDs that the information on the TID districts and project plans be included in their packets. That way they can make sure the Comprehensive Plan is consistent with the new TID. It's good to have some sort of coordination as to what the Plan Commission is doing and what the City is doing. Clapper stated they will definitely make that information available. He stated they are in process right now, at a staff level, at looking at all of the different factors they can think of and how things overlap so they can come back with recommendations. Ultimately, with the City Council there will be recommendations on where the new districts will be developed. Their anticipated deadline is May of this year. They do have to deal with closing their existing districts as well as the possibility of an extension for use of TID dollars for housing development. This is all in the works with Cathy Anderson. She is actually doing a great deal of work on that front. That needs to be determined by April 15, 2021. However, they would like it determined sooner than that date. That will also have to go before the Common Council for final approval on or before April 15, 2021. After that, they will move more into a public setting for discussions with those districts. So, this body will definitely be included in terms of disseminating this information regarding those districts, in addition for opportunities of feedback as well.

**Future Agenda Items:**

There were no future agenda items at that time.

**Next Plan Board Meeting:** February 9, 2021

Stanek made a motion to adjourn at 7:52 p.m. and seconded by Crone.

AYES: All via voice vote (7)

NOES: None

Respectfully submitted,

Alison Stoll  
Administrative Assistant, Public Works