

PLAN COMMISSION MINUTES
January 8, 2018

CALL TO ORDER: Chairman Wolter called the meeting to order at 6:30 p.m.

ROLL CALL: Chairman Dean Wolter, Trustee Rep David Baum, Commissioners Bob Williams, Peter Nilles, Tony Laszewski, Bill Shadid and Mary Ellen Gray were present. Also present were Community Development Director/Village Planner Jeff Retzlaff and Planning Assistant Lori Johnson.

PUBLIC INPUT:

Bruce Bernarde, N120 W13645 Freistadt Road, spoke regarding the Top Leaf Development proposal. He was concerned with water runoff.

Bob Aiken, W140 N11660 Country Aire Drive, was concerned with water runoff for the Top Leaf Development proposal. He said if the developer receives a variance for the wetland setback, he will want one too when he decides to subdivide his property.

Marcus Stern, W132 N11550 Forest Drive, spoke on the Top Leaf Development proposal. He was also concerned with water runoff, lot sizes and traffic.

Chairman Wolter said the rezoning application for Top Leaf Development will be on the January 15th Village Board agenda and there would be a chance for the public to speak at the meeting.

APPROVAL OF MINUTES: ***MOTION Baum second Shadid to Approve the minutes from December 11, 2017.***

MOTION carried unanimously.

Zoning Code Amendments – Residential Accessory Uses, Buildings and Structures.

Planner Retzlaff explained the Plan Commission recommended approval of three amendments at the November 13th Plan Commission meeting, but tabled action on this amendment, pending the submittal of optional language for the Commission to consider regarding “temporary storage structures”. This amendment creates a new section in the Code that establishes some basic restrictions on the use, duration and location of these types of structures on residential property.

Discussion followed regarding what defines a lawn mower shed or a kit from Menards as being a permanent or temporary structure. Planner Retzlaff said a building permit is required if the structure is permanent and a permit is required if it is a temporary installation. The intention is to address those situations that are truly temporary in nature. The duration of time and size of the structure will define which permit is required. He said we are trying to come up with something to hang our hat on in a more legally defensive manner to address issues that come up.

Chairman Wolter said it would be difficult to define the first 30 days adding that a complaint would probably come in from a neighbor. He said this topic has the potential to become a hot ticket item because these units are so readily available. He understands the reason of wanting to define and manage them but said there are rights of private property. He added that some properties might have subdivision covenants to address them. Planner Retzlaff agreed saying it's a complaint driven system because we're not out there looking for code violations and right now there is no specific regulation to prohibit someone from a putting temporary structure on their property to address if it's being abused. He said we need to have something in place to use in order to address where its being abused to back our level of enforcement without trying to take away private property rights.

And the allowance for using these types of structures would come with some limited conditions or restrictions in place.

Planner Retzlaff explained we need to have something in place for where it is being abused and to use for enforcement. Commission Gray asked what restrictions we have now. Planner Retzlaff said permanent structures require a building permit and must meet setback and yard requirements and if over 200 square feet material requirements. If the use is for less than 30 days, it can be put anywhere on the property and would not require any permit. Temporary structures installed for 30 to 90 days would require a permit and may be located in a side or rear yard of property. Long term temporary uses, 90 to 180 days, would be required to be located in side or rear yards and need to meet building setback requirements.

MOTION Baum second Gray to Approve the Amendment to Section 17.41 (7) (Temporary Storage Structures) as follows where words that are stricken are deleted and words that are underlined are to be added:

SECTION 7. That Section 17.41(7) (TEMPORARY STORAGE STRUCTURES) is created as follows:

17.41(7) TEMPORARY STORAGE STRUCTURES.

- (a) For purposes of this section, a “temporary storage structure” is defined as a building or other enclosed or covered structure intended for the shelter, storage and/or conveyance of vehicles, equipment, building materials, household or personal items, junk and trash, etc. on a short-term or long-term basis. Examples of “temporary storage structures” include, but are not limited to, portable storage containers sold or rented under the business name “UNITS” and “PODS” and all other similar structures, freight-type shipping containers, metal-frame and/or fabric-covered canopies, vehicle shelters or carports, “hoop” buildings, and dumpsters.***
- (b) Temporary storage structures intended for may be permitted in any Single-family or Two-family Zoning District (including the Rs-1 through Rs-7 and Rd-2 Districts), provided that:***
- 1. temporary storage structures may be installed on a property for a period not to exceed thirty (30) consecutive or cumulative days without a permit or approval from the Village if said structure is used for storing or moving vehicles, equipment, building materials, household or personal items while the property owner is moving to/from the property, the property is being renovated, or for any emergency or other reasonable purpose deemed acceptable by the Zoning Administrator. Temporary storage structures allowed under this provision may be located in a front, side or rear yard of a property;***
 - 2. temporary storage structures installed on a property for a period greater than thirty (30) but less than ninety (90) consecutive or cumulative days may be allowed with a “Temporary Storage Structure-Zoning Permit” issued by the Village. Temporary storage structures allowed under this provision may be located only in a side or rear yard of a property;***
 - 3. temporary storage structures installed on a property for a period greater than ninety (90) but less than (180) consecutive or cumulative days may be allowed as a “temporary use” subject to the Temporary Use Permit requirements under Section 17.07(2a). Temporary storage structures allowed under this provision may be located only in a side or rear yard of a property and meet applicable building setback requirements;***
 - 4. Property owners/tenants who want to install a temporary storage structure on a property for a period greater than (180) consecutive or cumulative days can only***

do so if more than one Temporary Use Permit is issued by the Village pursuant to section 3. above.

MOTION carried unanimously.

St1x Golf Entertainment Bar – W164 N11271 Squire Drive. Ryan Hughes, agent and operator is requesting approval for a wall mounted sign and monument sign panel for St1x, a new tenant in the retail center in the Germantown Marketplace II. Planner Retzlaff summarized the proposal.

MOTION Baum second Shadid to Approve the proposed wall-mounted sign and monument sign panel for St1x Golf entertainment in the Germantown Marketplace II subject to the following conditions:

- 1. An electrical permit shall be obtained from Inspection Services prior to installation of any/all electrical components.***
- 2. All electrical sign components must be listed and labeled by a recognized lab.***

Ryan Hughes said the new business would have golf simulators, a putting green, and will sell beer and wine. Golf lessons will also be offered.

MOTION carried unanimously.

Metro Cigars LLC – Germantown Business Park – Lot #5 Willow Creek Way. Paul and Jennifer Groh, owners and operators of Metro Cigars are requesting feedback for a proposal to re-locate their tobacco store and lounge/bar to a new building in the Willow Creek Business Park. Planner Retzlaff summarized the proposal. He explained lot 5 is the smallest lot in the park and is approximately 2 acres but because of easements and wetlands on the property it has a restricted buildable area of approximately 1.3 acres. In the M-1 limited industrial zoning district it's unlikely that a site of this size would have an industrial development on it and would probably have a retail office type activity. He said the Groh's intend to build a 4,000 sqft building. He further explained in this district, retail uses are allowed with a Conditional Use Permit that are listed in the B-2 zoning district provided that the Plan Commission determines the use is supportive of the park. He said the park has covenants and requirements for minimum building square footage and acceptable exterior building materials. The minimum building square footage for this lot would be 5,000 square feet.

Paul Groh said the move to this new location will accommodate the growth of his business and will accommodate the business park. It will be a place where people can enjoy a cigar, relax and enjoy a beverage and conference room. He explained the exemption on the smoking ban would allow him to move to a new location and continue his business.

The following comments and concerns were discussed:

- No cigarette smoking will be allowed; cigar smoke will be sent through filtration systems to the outside
- The business currently has approximately 30 to 50 customers per day
- Their existing liquor license will move with them to the new location
- Owner likes being on Appleton Avenue and remaining close to existing customers.
- A retail establishment would be a better use for this location and could serve many people in the business park, more than a cigar store could
- Not sure if the entrance to the business park is the best location for a retail establishment
- Thin argument that this business would directly support the business park

- The presented 2500 square foot building is smaller than the minimum 5200 square foot building that would be required per the park covenants.

Barry Chavin, MLG Commercial, said they would like to see a building closer to 5,000 square feet but would allow some latitude. He said because the lot is relatively small, they envisioned a retail/office type use but are OK with this use. They want a nice, quality building that because of quality materials could generate comparable "increment" for the TID. Planner Retzlaff said it would be beneficial to maximize the buildout with some other uses to add to the overall supportive type environment. He said it is a use issue; is it appropriate in the M-1 Industrial Zoning district? Trustee Baum said he was more supportive of the business after learning of the bar function and conference/banquet facilities and he can see it supporting the business in the park. Trustee Shadid said he's a customer of this business has conducted business there. He said it's a very well-run business. Planner Retzlaff said the Commission needs to determine whether or not this activity directly supports the business in the park and can be integrated into an over plan. Commissioner Laszewski commented that a retail over the counter business is less compelling, but with a conference room that could serve the business park as a go to networking location to discuss plans is more compelling. However, he does not want a cheap, retail look. Chairman Wolter said this would be a premier new start building and he doesn't think they will be looking for an inexpensive building. He said Barry will hold them to the building standards.

Chairman Wolter said based on comments, as long there is a conference room used as place to meet and not just a place to buy and sell cigars the use could be more acceptable. He mentioned other businesses that have been approved in the past in the Industrial Park including the indoor playground and karate business. Commissioner Gray said this is different because it is a new building and is not as useful as a building could be if another tenant were there. She said there should be more use of the land. The consensus was as long as the use is in support of the business park it could be an acceptable use but preferably with a larger building in size closer to full buildout based on the 1.3 net buildable acres.

This item was for discussion only. No action was taken.

Top Leaf Development – 107-acres South of Freistadt Road, North of Elm Lane and West of Wasaukee Roads. Alan & Lynda Luther, property owners are requesting approval of a revised rezoning application concept plan for a 107-acre residential subdivision with 47-single family lots. Planner Retzlaff summarized the proposal that is requesting the Plan Commission to grant a waiver to the 25-foot wetland setback area requirement for 7 lots. Discussion followed regarding the wetlands on the property. Pete Hurth, Baudhuin Surveying, stated they hired a company that does wetland delineations and comes out to the site and determines what's wetland and upland and then does a detailed report. Commissioner Gray questioned how the wetlands are determined and questioned if they are looking at soil type, there could be no standing water or vegetation there. Mr. Baudhuin said the Village's storm water standards are very stringent and the calculations are reviewed by the Village Engineer. Planner Retzlaff explained the Village code goes above and beyond what the DNR requires and is based on avoiding wetlands by requiring a 25-foot setback. Discussion continued.

Mr. Hurth stated the current plan presented addressed the Plan Commission concerns and said that no lots will have wetlands on them and no house will be placed within the 25-foot wetland setback. Shari Waggoner, Top Leaf Development, stated the side setback is 20 feet so there is nothing being built closer than 20 feet to the lot line and offered to make it condition of these 7 lots to change the

side setback to 25 feet. She said they're still meeting the requirement, it's the setback area that is not entirely in an out lot.

Planner Retzlaff said staff's recommendation is to enforce what is in the code and not approve the wetland setback areas to be outside of the outlot areas. He said if the Plan Commission approves the setback areas to go into the lots, the building setback lines should be beefed up to make it equal to the wetland setback to make sure no development takes place in the wetland setback. Discussion continued. Chairman Wolter asked why they couldn't come up with something in between 43 lots and 47 lots that would get most of the wetland onto the outlots. Mr. Hurth said the direction they got from Plan Commission was they wanted to see smaller 1 acre lots on the west side and to not do the 3 acre lots. He said building a portion of Elm Lane was also factored in to the plan.

Planner Retzlaff said he'd received feedback on the rezoning application because of the notices that were sent out. One of the owners was a rep from MMSD who owns the property immediately north of the west 40-acre parcel. He explained that because of the way MMSD acquired the land, it's part of their Greenseams Program and there is no chance they will be developing that property or sell it for development purposes. So, at this point there is no need to extend the west road to the property line because the road will never be extended. Discussion continued. Ms. Waggoner said if a cul-de-sac is required, they would lose lots and probably wouldn't develop the west side. Trustee Baum said the Village code requires a road to end in a cul-de-sac or a hammer head and not just dead end.

MOTION Baum second Shadid to Approve the revised concept plan subject to the owner/developer revising the plan such that all wetland setback areas be contained in outlots.

Discussion continued. Ms. Waggoner stated depending on how many lots they lose, they will probably be scrapping the west area with small lots and will not be extending Elm Lane to the west or the west road to the north. She said it won't be feasible to make the plan work if the wetland setbacks need to be in the outlots and said they would need to come back with a new plan.

Planner Retzlaff explained the process is somewhat backward because the public hearing is before the Village Board meeting and the Plan Commission doesn't have the benefit of hearing the public comments. He said it may make sense to table action on the concept plan until after we get the public hearing comments that may further influence the lot layout. Chairman Wolter agreed and said it should be something we look at as a procedural change. Mr. Hurth stated they may not be asking for Rs-3 zoning on the west. Planner Retzlaff said to present 2 plans to the Village Board to receive feedback on both.

MOTION Baum second Shadid to Table until the next Plan Commission meeting and after the Public Hearing.

MOTION carried unanimously.

ANNOUNCEMENTS: None

ADJOURNMENT: There being no further business, the meeting was adjourned at 9:04 p.m.

Respectfully submitted,

Lori Johnson, Planning Assistant