

**Council Chambers, 2<sup>nd</sup> Floor, 106 Jones Street  
4:30 P.M.**

1. 809 Station Street – Public Hearing – WBR, Inc. & Mike Yenser – CUP Request for Indoor Commercial Entertainment
2. Review Landscape Permit for Hoffman Drive
3. Site Plan Review Minutes – June 12, 2017
4. Plan Commission Minutes – June 12, 2017

## 809 Station Street – Conditional Use Permit

### Background:

WBR, Inc. (Watertown Blue Review) is looking to rent spaces at 809 Station Street for a dance studio. Currently, Michael Yenser is rezoning 809 Station Street from General Industrial (GI) to General Business (GB). The purpose of the rezoning is to allow suitable businesses to occupy his property located at 809 Station Street. A dance studio is considered Indoor Commercial Entertainment under Chapter 550, this use is not allowed in GI, but is allowed in GB.

### Issues:

The following issues have been identified by the Zoning Administrator:

1. For General Business (GB), under Section 550-33B(2):

*Principal land uses permitted as conditional use (per § 550-45B):*

- (a) Clear-cutting.
- (b) Indoor institutional.
- (c) Outdoor institutional.
- (d) Institutional residential.
- (e) Outdoor display.
- (f) In-vehicle sales or service.
- g) Indoor commercial entertainment.**
- (h) Outdoor commercial entertainment.
- (i) Commercial animal boarding.
- (j) Commercial indoor lodging.
- (k) Bed-and-breakfast establishments.
- (l) Group day-care center (nine or more children).
- (m) Boardinghouse.
- (n) Vehicle repair and maintenance.
- (o) Personal storage facility.
- (p) Sexually oriented land use.

2. Indoor Commercial Entertainment is further defined and regulated under Section 550-52H:

*Indoor commercial entertainment. Description: Indoor commercial entertainment land uses include all land uses which provide entertainment services entirely within an enclosed building. Such activities often have operating hours which extend significantly later than most other commercial land uses. Examples of such land uses include restaurants, taverns, theaters, health or fitness centers, all **forms of training studios (dance, art, martial arts, etc.)**, bowling alleys, arcades, roller rinks, and pool halls.*

(1) Regulations:

- (a) If located on the same side of the building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 150 feet, or as far as possible, of a residentially zoned property.
- (b) Facility shall provide bufferyard with minimum opacity of 0.60 along all borders of the property abutting residentially zoned property (see § 550-99).

(2) Parking requirements. One space per every three patron seats or lockers (whichever is greater) or one space per three persons at the maximum capacity of the establishment (whichever is greater).

**Options:**

These are the following options, but not limited to, for the Plan Commission based on the information received by the City of Watertown Zoning Administrator:

1. Deny the Conditional Use Permit
2. Approve the Conditional Use Permit with no conditions
3. Approve the Conditional Use Permit with conditions identified by the Plan Commission
  - a. Make Conditional Use Permit contingent upon a successful 2<sup>nd</sup> reading of the Rezoning Ordinance for 809 Station Street (July 5, 2017).

## NOTICE OF PUBLIC HEARING

Notice is hereby given by the Plan Commission of the City of Watertown, Wisconsin, that a public hearing will be held on the 26<sup>th</sup> day of June, 2017 in the Council Chambers of the Municipal Building, 106 Jones Street, Watertown, Wisconsin at 4:30 P.M., or shortly thereafter, to consider the request of WBR Inc. and Mike Yenser for a Conditional Use Permit for an Indoor Commercial Entertainment under Sections 550-33B(2) and 550-52H.

Lots 1 to 7 inclusive in Block 13 (being all of said Block 13) of A. I, Pritchard's Second Addition in the First Ward, now Third Ward, of the City of Watertown, Jefferson County, Wisconsin.

ALSO the West 3.67 feet of Ninth Street vacated adjacent to said Block 13.

Except Lot 1, as designated on Certified Survey Map No. 2673, recorded on October 14, 1992 in Volume 10 of Certified Surveys on Pages 121 and 122, as Document Number 895078, being a part of Lots 2, 3 and 6, Block 13, Pritchard's Second Addition to City of Watertown, Jefferson County, Wisconsin. (809 Station Street)

All persons wishing to be heard are invited to be present.

CITY OF WATERTOWN

Jacob A. Maas  
Zoning Administrator

JM/nmz

PUBLISH: June 12, 2017  
and  
June 19, 2017

(BLOCK AD)

# Review Landscape Permit for Hoffman Drive

## Background:

See Item #2 from the June 13, 2017 Public Works Commission (attached).

## Issues:

Below is the Zoning Administrator's reasoning in regards to the Landscape Permit:

1. Landscape Permits fall under Chapter 356, Landscaping (This section is not under the purview of the Plan Commission.)
  - a. Per Section 356-1 & 356-2:

### **356-1 NATURAL LANDSCAPE MANAGEMENT PLAN**

*A written plan relating to the management and maintenance of a landscape which meets the following requirements:*

- A. Street address or legal description of the property where the proposed natural landscape is being requested.*
- B. A statement of intent and purpose for the landscape.*
- C. A detailed description of the types of plants and plant succession involved.*
- D. Specific management and maintenance techniques to be employed.*

### **356-2 Plan and permit required; restrictions.**

*A. The growth of natural landscapes in excess of eight inches in height shall be prohibited within the City, unless a natural landscape management plan is approved and a permit is issued by the City as set forth in this article. [Amended by Ord. No. 94-35]*

*B. Proposed landscaping is to be confined to property owned by the applicant according to current City Assessor's records.*

*C. Natural landscaping on any City-owned property within any street right-of-way is strictly prohibited. This shall include the property between the sidewalk and street and not less than 10 feet adjacent to the street where there is no sidewalk.*

*D. Natural landscapes shall not be permitted within three feet of the abutting property unless waived in writing by the abutting property owner on the side or sides affected. Such waiver shall be affixed to the landscape management plan.*

*E. The property owner shall submit to the Weed Commissioner a drawing, plot plan and/or survey which will show the location of the natural landscape area on the applicant's property. [Amended by Ord. No. 05-29]*

*F. All property owners who currently have natural landscapes must file for a permit and submit a plan to be covered by this article.*

*G. Natural landscapes may constitute a fire or safety hazard, due to weather conditions or other conditions. The Street Department, the Weed Commissioner may order natural landscapes cut due to such conditions. As a condition of receiving approval of the natural landscape permit, the property owner shall be required to cut the natural landscape within three days upon receiving a written letter from the City of Watertown's Weed Commissioner.*

- b. Under Chapter 356, Bethesda has a right to appeal to the Public Works Commission under Section 356-5:

*Appeal, [Amended by Ord. No. 05-29[1]]*

*The property owner may appeal a decision to deny or revoke the natural landscape permit to the Public Works Commission at an open meeting. All applications for appeal shall be submitted within 15 calendar days of the notice of denial or revocation of the natural landscape permit. The decision rendered by the Public Works Commission shall be final and binding.*

2. The Zoning Administrator is not aware if a permit was applied for and denied, nor is the Zoning Administrator aware if the June 13, 2017 Public Works meeting was the appeal.
3. The June 13, 2017 Public Works meeting also refers to a Developer's Agreement, the Zoning Administrator is not aware of any Current Developer's Agreements between the City of Watertown and Bethesda.
  - a. Developer's Agreements under the Purview of the Plan Commission are developed under Chapter 545, Subdivision of Land, and Chapter 550, Zoning.
  - b. Bethesda has only had conceptual talks with Building, Safety & Zoning, thus no developer's agreement in regards to these 2 chapters.
4. The City of Watertown Zoning Administrator has identified a possible solution:
  - a. An applicant or the Plan Commission can request for an Interpretation by the Zoning Administrator in regards to a Cultivation land use, under Section 550-148 (attached).
  - b. A Cultivation land use is permitted by right in all Zoning Districts within the City of Watertown (attached table).
    - i. To make this an acceptable determination, the applicant would have to provide an agreement with a farmer, showing intent to cultivate and/or harvest (i.e. tame hay, tree farm, etc.).
  - c. Cultivation land use is defined and regulated under Section 550-50A:

*Agricultural land uses.*

*A. Cultivation. Description: Cultivation land uses include all operations primarily oriented to the on-site, outdoor raising of plants. This land use includes trees which are raised as a crop to be replaced with more trees after harvesting, such as in nursery or Christmas tree operations. The raising of plants for consumption by farm animals is considered cultivation if said plants are consumed by animals which are located off site.*

    - (1) *Regulations.*
      - (a) *On buildable lots, cultivation areas shall not exceed 20% of the lot's area.*
      - (b) *Cultivation areas shall not be located within the required front yard or street yard of any buildable or developed lot.*
    - (2) *Parking requirements. One space per employee on the largest work shift*
  - d. In regards to the regulations under 550-50A(1), the City of Watertown must be mindful of Wisconsin § 823.08 (attached).

- e. With that said, **ANY** property owner in the City of Watertown who is denied a Landscape Permit or loses an Appeal from the Public Works Commission (so long as there is no other principle use occurring) could apply for an Interpretation by the City of Watertown Zoning Administrator.
  - i. So long as they supply an agreement with a farmer with intent to cultivate and/or harvest a minimum of once per year.

**Options:**

These are the following options, but not limited to, for the Plan Commission based on the information received by the City of Watertown Zoning Administrator:

1. The Plan Commission may, if it wishes, request the Zoning Administrator make an interpretation.

# Public Works Commission

June 13, 2017

RECEIVED AND FILED

6-20-17

Public Works Commission met on above date @ 6:30pm in Room 2044 of City Hall w/ the following members present: Ken Berg, Bill Maron, Tim Raether, Kurt Larsen, Mike Klaus, plus Street Superintendent Rick Schultz, Water Systems Manager Kevin Freber, Staff Engineer Andrew Beyer, City Engineering Projects Manager Jay Haberkorn, Lawrence Werner Lumm & Charles Cole of Maranatha & Mike Rollert from Bethesda--Watertown.

**1: Review Sidewalk request on Lafayette Street:** Chuck Cole & Lawrence Lumm were present to ask for our city to assist with getting the Union Pacific Railroad Co to support installing sidewalk on a section of Lafayette St where a gap exist currently. In doing so, it would help ensure greater safety for students (now @ 24) that are crossing the railroad tracks further west along Lafayette Street. They have tried to get the Railroad's help with their proposal but have had no cooperation so far. Chuck noted there is also a large culvert on the west side of the tracks where they would like to see a walkway & guard rail system installed to ensure safety. They commented that there are several nearby homes that would benefit from their proposed improvements. It was pointed out this section of Lafayette St has a 20 to 25 ranking on the Infill Sidewalk Program recently approved by the City. Rick Schultz & Jay Haberkorn stated that involving our City Attorney previously helped get cooperation from the railroad where we needed it and encouraged us to go that route again if there was support for filling in the gap of sidewalk on Lafayette St. Kurt Larsen moved to have Rick & Jay put together estimates for sidewalk & related improvements on Lafayette using the Infill Sidewalk Policy for cost sharing & procedure while involving our City Attorney as needed to help get the Railroad's attention on this matter, seconded by Tim Raether & approved unanimously. Maranatha will shovel this section of sidewalk if installed.

**2: Discuss & approve landscape permit for Hoffman Drive:** Rick Schultz brought this back to the Commission at the request of Mike Rollert from Bethesda Lutheran Communities. Mike noted that he misunderstood this issue was on our last meeting's agenda. He apologized for this mistake but was present tonight to explain the rationale for wanting some relief in the lawn mowing duties for a part of their property in town. Mike stated that the largest portion of their approx. 400 acres will continue to be in an agricultural type of use where the land will and be rented out & the fields of tall grass will be cut for farming purposes. With Bethesda's decision to raze all of their institutional buildings except for their Corporate Building & the Camp Matz buildings, due to the huge cost of remodeling these other structures & the high operational expenses associated with their continued existence, reducing maintenance related costs where they can is a top priority. He outlined areas w/in town where active mowing will continue but asked if an 8-10 acre parcel of theirs between Ace Hardware & Milford Street that is largely vacant land could be designated as a prairie grass type of land use. In doing so, lawn mowing duties would be avoided. However, Commissioners did not feel this would work for precedent, safety & aesthetic reasons, but a variation of our Developer's Agreement Policy may allow for this portion of land to be mowed once in later June and then again in the middle of August. Since most of Bethesda's land other than the portions identified above will be in some phase of redevelopment, a Developer's Agreement model allowing less frequent mowing duties for portions of their land would be appropriate. So, Kurt Larsen moved to refer Bethesda's request for less frequent mowing duties for a portion of their land to the Plan Commission for greater definition and evaluation, seconded by Bill Maron and approved unanimously.

**3: Review lawn maintenance issue on S 3<sup>rd</sup> Street:** Alderperson Larsen asked to bring this issue back for an Update. He noted that the owner of a property at 1115 S 3<sup>rd</sup> Street has continued to ignore our city's lawn maintenance requirements. Mr Liebhart is involved in litigation with Lindberg Industries located at 304 Hart Street and his view that contamination exist on his property from this adjoining factory. However, the DNR has studied this matter and examined this contamination and concluded that the grass area at his property is



**§ 550-148. Interpretations.**

- A. Purpose. The purpose of this section is to assign responsibility for the official interpretation of the provisions of this chapter and to describe the required procedure for securing such interpretation.
- B. Initiation of request for an interpretation. Proceedings for an interpretation may be initiated by any of the following four methods:
  - (1) An application of the owner(s) of the subject property, lease holders or contract purchasers;
  - (2) A recommendation of the Plan Commission; or
  - (3) By action of the Common Council.
- C. Application requirements. All applications for interpretations, regardless of the party of their initiation per Subsection B above, shall be filed in the office of the Zoning Administrator and shall be certified as complete by the Zoning Administrator. No placement of the application on any agenda, as an item to be acted upon, shall occur unless said certification has occurred. The item may be placed on any agenda as a discussion-only item, with the permission of the Zoning Administrator, without an application. Upon certification, the official notice regarding the application will be sent to the newspaper by the Zoning Administrator. Said complete application shall be comprised of all of the following:
  - (1) All requests for interpretations shall clearly indicate the part of the text of this chapter for which the interpretation is requested and the specific questions the applicant has regarding said text.
  - (2) If the requested interpretation relates to the application of this chapter to a specific property, the additional following information shall be required:
    - (a) A map of the subject property, showing all lands for which the interpretation is requested and all other lands within 200 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current records of the Register of Deeds of Dodge and/or Jefferson County as provided by the City of Watertown. Said map shall clearly indicate the current zoning of the subject property and its environs and the jurisdiction(s) which maintains that control. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier and shall be at a scale not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a North arrow shall be provided;
    - (b) A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the City as a whole;

- (c) A written description of the reason for the requested interpretation and how the proposed interpretation relates to type of activities, buildings and structures currently located on and proposed for the subject property; and
  - (d) A site plan of the subject property as proposed for development. Said site plan shall conform to any and all the requirements of § 550-145C, as determined by the Zoning Administrator.
- (3) If the requested interpretation relates to the classification or treatment of a particular land use under the provisions of this chapter, a series of written responses to the following questions:
- (a) How is the subject land use (in general) in harmony with the purposes, goals, objectives, policies and standards of the City of Watertown's Comprehensive Plan, this chapter and any other plan, program or ordinance adopted or under consideration pursuant to official notice by the City?
  - (b) How is the subject land use in harmony with the purposes, goals, objectives, policies and standards of the pertinent zoning district for which the interpretation is being sought?
  - (c) Do the potential public benefits of the proposed interpretation outweigh any and all potential adverse impacts of the proposed interpretation?

D. Review by Zoning Administrator.

- (1) The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this chapter. If the Zoning Administrator determines that the application is not complete or does not fulfill the requirements of this chapter, he shall return the application to the applicant. If the Zoning Administrator determines that the application is complete, he shall so notify the applicant.
- (2) Upon notifying the applicant that the application is complete, and within 30 days of such filing, the Zoning Administrator shall review the application and shall evaluate and comment on the written justification for the proposed interpretation provided in the application per Subsection C above. This review shall also take into consideration the standards for review presented in Subsection E below. The Zoning Administrator shall also evaluate the application to determine whether the requested interpretation is in harmony with the recommendations of the City of Watertown's Comprehensive Plan.
- (3) The Zoning Administrator shall forward a report to the applicant indicating the interpretation of the Zoning Administrator. If the Zoning Administrator determines that the proposal may be in conflict with the provisions of the City's Comprehensive Plan, the Zoning Administrator shall note this determination in the report.

E. Standards for review of requested interpretations. This chapter shall be interpreted in a manner which is consistent with the purposes intended by the City of Watertown Common Council as noted in this chapter and the Comprehensive Plan. The intent of the standards and supporting definitions of this chapter is to protect both individual property owners and the general public from adverse impacts that may result from a proposed, modified or existing land use. To this end, those called upon to interpret this chapter shall proceed as follows:

- (1) Articulate certain public purpose(s) underlying the standard(s) for which an interpretation is required.

Rationale: Before any zoning interpretation is made, there must be an explicit discussion of certain purpose(s) for which the regulation was initially imposed. Each zoning regulation is intended to protect the interests of both present and future neighbors and the general public. Each standard is developed as a regulatory response to an identifiable potential negative impact. A sound interpretation of any standard cannot be ensured without careful analysis of the regulation and the end toward which it is directed. It is understood that there may be other public purposes underlying the interpretation which are not explicitly articulated.

- (2) Articulate the actual impact of various proposed interpretations, permitting flexibility in design and prohibiting any interpretation that lowers the protection afforded to the public.

Rationale: There is a critical distinction between an interpretation which provides a greater degree of design freedom to achieve a permitted land use and an interpretation which permits a new or not previously permitted use, or which allows a use to be enlarged or have its intensity increased beyond the degree specified in this chapter. Design freedom is to be encouraged while a lowering of the standards of this chapter is to be prohibited.

- (3) Determine whether the proposed interpretation will ensure a just balance between the rights of the landowner and all others who will be affected by that person's land use proposal.

Rationale: If an interpretation would merely allow a design solution that is slightly different from the one expressly stated or permitted, and if it would result in a same or greater degree of protection to any affected party (either the adjoining landowners, the public at large, and/or a future property owner or renter), such an interpretation may be appropriately made. Any interpretation which would result in any identifiable loss of protection for one group to the benefit of others is contrary to the spirit of this chapter. Similarly, any interpretation which would either increase the nuisance potential of any use or alter the purpose for which the regulation was adopted shall be considered counter to the legislative intent of this chapter. Any interpretation which will result in any loss of protection or increase in intensity beyond that already permitted shall only be made if the party interpreting this chapter has the power to impose additional restrictions or requirements.

- (4) This chapter has been carefully designed by the Common Council to combine maximum achievement of public goals and the protection of adjoining property owners while providing flexibility for property owners to use their land for a variety of uses consistent with the goals and objectives of the Comprehensive Plan of the City of Watertown. Great care has been taken to balance the rights of competing groups while achieving maximum protection with flexibility and a range of use options. Persons interpreting this chapter should not substitute their own judgments for the legislative acts of the Common Council.
- (5) In addition to the applicant's response to the questions required by Subsection C above, the following standards shall govern the decision on the requested interpretation on land use interpretation matters:
  - (a) No interpretation shall allow the establishment of any land use which was previously considered and rejected by the Common Council on an application for an amendment to this chapter, the Official Zoning Map, or a previously applied for appeal from a requested interpretation.
  - (b) No interpretation shall permit a land use listed as a use permitted by right, a special use or a conditional use in another zoning district if the use is not listed as permitted in the zoning district of the subject property (see § 550-46).
  - (c) No interpretation shall permit a land use in a zoning district unless evidence is presented which demonstrates that the land use will comply with any and all regulations applicable to development in the subject property's zoning district (see § 550-46 and Article IV).
  - (d) No interpretation shall permit a land use in a particular zoning district unless such use is substantially similar to other uses permitted in that same district and is more similar to such other uses than to uses either not

permitted in said district or permitted in a more intensive district in the same zoning district category (see §§ 550-46 and 550-130).

- (e) If the proposed land use is more similar to a land use permitted only as a conditional use in the subject property's district than to a use permitted by right, then an interpretation permitting such use shall be conditioned upon the approval of a conditional use pursuant to § 550-142.
- F. Effect of a favorable land use interpretation. No interpretation finding a particular land use to be permitted or conditionally permitted in a specific zoning district shall authorize either the establishment of such use or the development, construction, reconstruction, alteration or moving of any building or structure. A favorable interpretation merely authorizes the preparation, filing and processing of applications for any permits and approvals which may be required by this chapter. These permits and approvals include, but are not limited to, required site plans, special use permits, conditional uses, and certificates of occupancy.
- G. Limitations on favorable land use interpretation.
- (1) No interpretation finding a particular land use to be permitted or conditionally permitted in a specified zoning district shall be valid for a period of more than 365 days from the date of issuance of the interpretation, unless a building permit is issued and development is actually begun within that period, and is thereafter diligently pursued to completion, or a occupancy permit is obtained and a use commenced within that period.
  - (2) An interpretation finding a particular land use to be permitted or conditionally permitted in a specified zoning district shall be deemed to authorize only that particular use at that particular location for which the interpretation was issued. The interpretation shall not be deemed to authorize any allegedly similar use for which a separate interpretation has not been issued. A favorable interpretation shall automatically expire and cease to be of any force or effect if the particular use for which it was issued shall, for any reason, be discontinued for a period of 365 consecutive days or more.
- H. Fee. A fee is required for this procedure. Refer to § 550-157.
- I. Appeals of zoning interpretations.
- (1) Purpose. The purpose of this subsection is to provide regulations which enable the City to hear and decide requests for appeals from the interpretations of the Zoning Administrator per this section as provided for by § 62.23(7)(e)7, Wis. Stats.
  - (2) Initiation of request for review of zoning interpretation. Proceedings for the review of an appeal may be initiated by any person aggrieved or by any officer, department, council or bureau of the City affected by any decision of the Zoning Administrator.

- (3) Time limit for filing an appeal. Any appeal of an interpretation under the provisions of this section shall be made per the requirements of Subsection I(4) below within a period not exceeding 45 days from the date of issuance of the interpretation by the Zoning Administrator. Failure to initiate this appeal procedure within this forty-day period shall constitute a final and binding waiver of the right to appeal said interpretation.
- (4) Application requirements. All applications for review of an interpretation, regardless of the party of their initiation per Subsection I(2) above, shall be filed in the office of the Zoning Administrator and shall be approved as complete by the Zoning Administrator a minimum of two weeks prior to the initiation of this procedure. The Zoning Administrator shall forward copies of said complete application to the Zoning Board of Appeals. Said complete application shall be accompanied by all of the following:
  - (a) A copy of pertinent items in the file on the matter at hand maintained by the Zoning Administrator, as identified by the Zoning Administrator and/or the applicant.
  - (b) A written statement from the applicant indicating the reasons why an appeal is justified, based upon an analysis of the Zoning Administrator's interpretation. This statement shall be dated and signed by the applicant.
- (5) Review by the Zoning Administrator. The submitted appeal shall be reviewed by the Zoning Administrator in the following steps:
  - (a) The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this chapter. If the Zoning Administrator determines that the application is not complete or does not fulfill the requirements of this chapter, he shall return the application to the applicant. If the Zoning Administrator determines that the application is complete, he shall so notify the applicant.
  - (b) Upon notifying the applicant that the application is complete, the Zoning Administrator shall review the application and shall evaluate and comment on the written justification for the appeal to the Zoning Board of Appeals as submitted by the applicant. The Zoning Administrator shall also evaluate the application to determine whether the requested appeal is in harmony with the recommendations of the City of Watertown's Comprehensive Plan.
  - (c) The Zoning Administrator shall forward a report to the Zoning Board of Appeals for review and action. If the Zoning Administrator determines that the proposal may be in conflict with the provisions of the City's Comprehensive Plan or this chapter, the Zoning Administrator shall note this determination in the report.
- (6) Review and action by the Zoning Board of Appeals.

- (a) Within 45 days after the filing of the complete application as determined by the Zoning Administrator, the Zoning Board of Appeals shall schedule a reasonable time and place for a public hearing to consider the application. Notice of the appeal and said public hearing shall conform to § 63.23(7)(d), Wis. Stats. Said notice shall contain a description of the issue per Subsection I(4)(b) above. At least 10 days before said public hearing, the Zoning Administrator shall mail an identical notice to the applicant, to the clerk of any municipality whose boundaries are within 1,000 feet of any portion of the jurisdiction of this chapter, and to any property owner within 200 feet of the subject property. Failure to mail said notice, provided it is unintentional, shall not invalidate proceedings under this section.
  - (b) Within 60 days after the filing of the complete application as determined by the Zoning Administrator (or within an extension of said period requested in writing by the applicant and granted by the Zoning Board of Appeals), the Zoning Board of Appeals shall make its findings per Subsection I(5) above. The Zoning Board of Appeals may request further information and/or additional reports from the Zoning Administrator and/or the applicant. The Zoning Board of Appeals may take final action on the application for appeal at the time of its initial meeting or may continue the proceedings at the applicant's request. Said final action shall be followed by a written report, which shall include a formal finding of facts developed and approved by the Zoning Board of Appeals concerning the request.
  - (c) If the Zoning Board of Appeals fails to make a determination within 60 days after the filing of said complete application, then the request for the appeal shall be considered approved.
- (7) Effect of denial. No application for an appeal which has been denied (either wholly or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Zoning Administrator.
- (8) Limited effect of a favorable ruling on an appeal.
- (a) No ruling by the Zoning Board of Appeals on an appeal finding a particular land use to be permitted or conditionally permitted in a specified zoning district shall be valid for a period of more than 365 days from the date of issuance of the ruling on the appeal, unless a building permit is issued and development is actually begun within that period, and is thereafter diligently pursued to completion, or a occupancy permit is obtained and a use commenced within that period.
  - (b) A ruling by the Zoning Board of Appeals on an appeal, finding a particular land use to be permitted or conditionally permitted in a

specified zoning district, shall be deemed to authorize only that particular use at that particular location for which the ruling was issued. The ruling shall not be deemed to authorize any allegedly similar use for which a separate ruling has not been issued. A favorable ruling shall automatically expire and cease to be of any force or effect if the particular use for which it was issued shall, for any reason, be discontinued for a period of 365 consecutive days or more.

- (9) Fee. A fee is required for this procedure. Refer to § 550-157.



ZONING

Table of Land Uses

**KEY:**  
 P = Permitted by right (§ 550-45A)  
 C = Permitted as a conditional use (§ 550-45B)

Nonresidential Land Uses												
Agricultural Uses (§ 550-50)												
A. Cultivation												P
B. Husbandry												C
C. Intensive Agriculture												C
D. Agricultural Services												C
E. On-Site Agricultural Retail												P
F. Selective Cutting												P
G. Clear-Cutting												C
Institutional Uses (§ 550-51)												
A. Passive Outdoor Public Recreational												P
B. Active Outdoor Public Recreational												P
C. Indoor Institutional												C
D. Outdoor Institutional												C
E. Public Services and Utilities												P
F. Institutional Residential												C
G. Community Living Arrangement (1-8 res.)												P
H. Community Living Arrangement (9-15)												C
I. Community Living Arrangement (16+)												C

**823.065 Repeated violations of a municipal ordinance a public nuisance.** Repeated or continuous violation of a municipal ordinance relating to naphtha, benzol, gasoline, kerosene or any other inflammable liquid or combustible material is declared a public nuisance, and an action may be maintained by the municipality to abate such nuisance and enjoin such violation.

**History:** Sup. Ct. Order, 67 Wis. 2d 585, 762 (1975); Stats. 1975 s. 823.065; 1993 a. 246.

**823.07 Violations of ordinances or resolutions relating to noxious business.** Repeated or continuous violations of a city, village or town resolution or ordinance enacted pursuant to s. 66.0415 (1) is declared a public nuisance and an action may be maintained by any such municipality to abate or remove such nuisance and enjoin such violation.

**History:** Sup. Ct. Order, 67 Wis. 2d 585, 762 (1975); Stats. 1975 s. 823.07; 1999 a. 150 s. 672.

**823.075 Actions against forestry operations. (1)** In this section:

(a) “Department” means the department of natural resources.

(b) “Forest” means a parcel of land in which at least 80 percent of the parcel is producing or is capable of producing at least 20 cubic feet of merchantable timber, as defined in s. 77.81 (3), per acre per year.

(c) “Forestry operation” means any activity related to the harvesting, reforestation, and other forest management activities, including thinning, pest control, fertilization, and wildlife management.

(d) “Generally accepted forestry management practices” means forestry management practices that promote sound management of a forest, as determined by the department by rule. The rule promulgated by the department may incorporate by reference the most recent version of the department’s publication known as Wisconsin Forest Management Guidelines and identified as publication number PUB–FR–226.

(2) A forestry operation is not a nuisance if the forestry operation alleged to be a nuisance conforms to generally accepted forestry management practices.

(3) A forestry operation that conforms to generally accepted forestry management practices is not a nuisance as a result of any of the following:

(a) A change in ownership or size of a forest.

(b) Cessation or interruption of forestry operations.

(c) Enrollment of all or part of the forest in governmental forestry or conservation programs.

(d) Adoption of new forestry technology.

(4) In any action in which a forestry operation is alleged to be a nuisance, if the party who was alleged to commit the nuisance prevails, the court may award that party the actual and necessary costs incurred in the action and, notwithstanding s. 814.04 (1), reasonable attorney fees.

**History:** 2005 a. 79.

**823.08 Actions against agricultural uses. (1)** LEGISLATIVE PURPOSE. The legislature finds that development in rural areas and changes in agricultural technology, practices and scale of operation have increasingly tended to create conflicts between agricultural and other uses of land. The legislature believes that, to the extent possible consistent with good public policy, the law should not hamper agricultural production or the use of modern agricultural technology. The legislature therefore deems it in the best interest of the state to establish limits on the remedies available in those conflicts which reach the judicial system. The legislature further asserts its belief that local units of government, through the exercise of their zoning power, can best prevent such conflicts from arising in the future, and the legislature urges local units of government to use their zoning power accordingly.

(2) DEFINITIONS. In this section:

(a) “Agricultural practice” means any activity associated with an agricultural use.

(b) “Agricultural use” has the meaning given in s. 91.01 (2).

(3) NUISANCE ACTIONS. (a) An agricultural use or an agricultural practice may not be found to be a nuisance if all of the following apply:

1. The agricultural use or agricultural practice alleged to be a nuisance is conducted on, or on a public right-of-way adjacent to, land that was in agricultural use without substantial interruption before the plaintiff began the use of property that the plaintiff alleges was interfered with by the agricultural use or agricultural practice.

2. The agricultural use or agricultural practice does not present a substantial threat to public health or safety.

(am) Paragraph (a) applies without regard to whether a change in agricultural use or agricultural practice is alleged to have contributed to the nuisance.

(b) In an action in which an agricultural use or an agricultural practice is found to be a nuisance, the following conditions apply:

1. The relief granted may not substantially restrict or regulate the agricultural use or agricultural practice, unless the agricultural use or agricultural practice is a substantial threat to public health or safety.

2. If the court orders the defendant to take any action to mitigate the effects of the agricultural use or agricultural practice found to be a nuisance, the court shall do all of the following:

a. Request public agencies having expertise in agricultural matters to furnish the court with suggestions for practices suitable to mitigate the effects of the agricultural use or agricultural practice found to be a nuisance.

b. Provide the defendant with a reasonable time to take the action directed in the court’s order. The time allowed for the defendant to take the action may not be less than one year after the date of the order unless the agricultural use or agricultural practice is a substantial threat to public health or safety.

3. If the court orders the defendant to take any action to mitigate the effects of the agricultural use or agricultural practice found to be a nuisance, the court may not order the defendant to take any action that substantially and adversely affects the economic viability of the agricultural use, unless the agricultural use or agricultural practice is a substantial threat to public health or safety.

(c) 1. Subject to subd. 2., if a court requests the department of agriculture, trade and consumer protection or the department of natural resources for suggestions under par. (b) 2. a., the department of agriculture, trade and consumer protection or the department of natural resources shall advise the court concerning the relevant provisions of the performance standards, prohibitions, conservation practices and technical standards under s. 281.16 (3).

2. If the agricultural use or agricultural practice alleged to be a nuisance was begun before October 14, 1997, a department may advise the court under subd. 1. only if the department determines that cost-sharing is available to the defendant under s. 92.14 or 281.65 or from any other source.

(4) COSTS. (a) In this subsection, “litigation expenses” means the sum of the costs, disbursements and expenses, including reasonable attorney, expert witness and engineering fees necessary to prepare for or participate in an action in which an agricultural use or agricultural practice is alleged to be a nuisance.

(b) Notwithstanding s. 814.04 (1) and (2), the court shall award litigation expenses to the defendant in any action in which an agricultural use or agricultural practice is alleged to be a nuisance if the agricultural use or agricultural practice is not found to be a nuisance.

**History:** 1981 c. 123; 1995 a. 149; 1997 a. 27; 1999 a. 9; 2009 a. 28.

Sub. (4) unequivocally mandates the recovery of reasonable attorney fees. *Zink v. Khwaja*, 2000 WI App 58, 233 Wis. 2d 691, 608 N.W.2d 394, 99-0149.

**SITE PLAN REVIEW COMMITTEE**  
**June 12, 2017**

The Site Plan Review Committee met on the above date at 1:30 P.M. in Room 2044 of the Municipal Building. The following members were present: Jacob Maas, Andrew Beyer, Tim Gordon, Greg Michalek, Doug Zwieg, Kevin Freber, Robert Schwerer, Rick Schultz, Mike Slavney and Curt Kleppin. Also in attendance were Secretary Nikki Zimmerman, John Donovan of Bielinski Homes, Mary Gaultz, Willard Horuath, Ron LeRoy, Mike Klinger, Mary Ann Luman, Laurita and Rich Radtke, Pat and Don Treichel, V. Staude, Steve Mihal, and Ken Casey.

Chairperson Jacob Maas called the meeting to order.

**1. Hunter Oaks Subdivision – Bielinski Homes, Inc. – Conceptual PUD**

John Donovan of Bielinski Homes presented the conceptual information on multi-family dwelling units proposed to be built in an area that currently does not have the necessary developer agreement.

Bielinski is proposing to ultimately build a total of eight 12-unit buildings of 1-2 bedroom apartments with attached 1-2 car garages. This would be done in 3 phases. Bielinski would also like to vacate the road nearest the roundabout due to the close proximity and extend Steeplechase drive to Horseshoe Road.

More detailed plans will be submitted should Bielinski proceed with this project.

Each City Department which was represented at the Site Plan Review meeting was given a chance to voice any concerns they had on the initial concept review. The following items were discussed:

**Building Inspection:** Verify that there will not be any parking issues.

**Engineering Department:** The attached memo from City Engineer Jaynellen Holloway was read into record by Andrew Beyer of the Engineering Department. A copy of said memo was submitted to Mr. Donovan.

**Fire Department:** The street width needs to be verified to allow for emergency vehicle access. There currently is not enough width in the proposed plans. In addition, the developer needs to submit a FDC plan and a hydro plan. The developer shall obtain information on these items from the Fire Department to aid in the completion of the plans. The Fire Department also mentioned that they would like details on the materials planning to be used for the siding. A recent fire call at a location which had vinyl siding resulted in a very destructive fire vs. a property where brick and other materials was used and the fire was maintained to one area. Buildings will also have to be supplied with sprinkler systems.

**City Planner:** At the entrance to the area, town homes could be considered. The north/south street could be relocated 1 building to the East instead of eliminating it all together. That would allow public access from both sides and could potentially aid in the emergency vehicle access. The proposed building style would be acceptable. Landscaping plans would have to be submitted. Sidewalk improvements along Steeplechase need to be depicted. Storm water calculations will also be required.

**Zoning:** If there is a vacation of ROW, it needs to be done through an attorney. Ponds need to be connected with the storm water plans. All signage must also be indicated on the plans. An irrevocable Letter of Credit will be required at the Planned Implementation (PIP) stage.

No action is required on this agenda item at this time.

**3. Site Plan Review Minutes – May 8, 2017**

Motion was made and seconded to approve the minutes as submitted.

Unanimously approved.

There being no further business to come before this committee, motion was made and seconded to adjourn. So ordered.

Respectfully submitted,  
Nikki Zimmerman, Secretary

**NOTE: These minutes are uncorrected and any corrections made thereto will be noted in the proceedings at which these minutes are approved.**

## **Plan Commission Minutes**

**Monday, June 12, 2017**

The Plan Commission met on the above date at 4:30pm in Council Chambers of City Hall with the following members present: Alderperson Augie Tietz, Alderperson Emily McFarland, Rick Tortomasi, Tony Arnett, Sherry Cira and Zoning Administrator Jacob Maas. Also in attendance were Staff Engineer Andrew Beyer, Mark Hady, Mike Yensen, Kurt Liebenow, Mike Hedrick, Meliza Ritacca, Richard and Laurita Radtke, Deborah Michalek, Jeanne Zuleger, Linnea Nagel, Carolyn Gallert, Jim Seavert, Bonnie and Steve Mihal, John Nelson, John Donovan, Angela Schueler, Annie Weisser, Kathy and Dale Reichert, Dana Pochowsla, Bev Bailey, Ken Casey, Jim Freres, Evan Green and Susan Putra.

### **1: 746 N. Church Street – Jim Seavert – Public Hearing – CUP Request**

Alderperson Augie Tietz called the meeting to order at 4:30 pm. Notable and excused absences of the Plan Commission include: Mayor John David, Alderperson Fred Smith and City Engineer Jaynellen Holloway. The City of Watertown received a complaint by a citizen about a U-Haul Rental location and car dealership located at 746 N. Church Street. Upon inspection and review of City records, Mr. Jim Seavert was found to be operating a U-Haul Rental location without an Outdoor Display Conditional Use Permit (CUP). No car dealership activities were found. To be compliant, Mr. Seavert must have a CUP for his U-Haul Rental Business. A public hearing is a requirement of a CUP Request. Augie opened the public hearing. Mark Hady spoke on the CUP request and stated that the business at 746 N. Church Street is an asset to the community. Mark favorably recommended the CUP be granted. Augie closed the public hearing. Jacob Maas mentioned that the parcel is currently zoned as General Business. Jacob said that some set-back requirements are difficult to obtain on an older lot such as this and that his biggest concern would be to keep a 10-15 foot setback from the street. A recommendation was made by Tony Arnett to approve the CUP with the condition that a 10' display setback be required from the street. Sherry Cira seconded the motion made by Tony. Rick Tortomasi asked about car sale displays being included in the CUP request. Jacob said that outdoor sale of vehicles falls under outdoor display and would be applicable under the current CUP request. The motion was approved unanimously.

### **2: 801 S. Twelfth Street – Evan Green – Public Hearing – CUP Request for Outdoor Storage of Recycling & Bins**

Evan Green of Green Properties LLC recently purchased the property located at 801 South 12<sup>th</sup> Street. The new business occupying 801 S. 12<sup>th</sup> Street will be using the facilities for machining/manufacturing of products. This industry will require exterior storage of dumpsters for recycling of metals as well as garbage. The property is currently zoned General Industrial, GI. Augie opened the public hearing. Evan Green described the purpose of the request for a CUP for outdoor storage of recycling containers. Augie closed the public hearing. Jacob mentioned that the proposed location of recycling containers is in close proximity to the property line and screening is an optional requirement of the CUP. Tony made a motion to approve the CUP without conditions, seconded by Rick and approved unanimously.

### **3: 504 Cole Street – Angela Schueler & Watertown Moravian Church – Public Hearing – Conditional Use Permit Request & Sign Appeal – Group Daycare Center**

Angela Schueler is looking to relocate her day-care business to the Watertown Moravian Church located at 504 Cole Street. Augie opened the public hearing. Angela Schuler detailed the purpose of the CUP request; the daycare center she operates has to move due to the closing of the Bethesda campus and she

is looking to avoid displacing those enrolled in, and those employed through the daycare. Augie closed the public hearing. Jacob spoke on the CUP request stating that a fence is not needed by the proposed activity. Sherry made a motion to approve the CUP request without conditions, seconded by Tony and approved unanimously. Additionally, Angela would like to have a free-standing sign (monument sign) installed at the property. 504 Cole Street already has 2 free-standing signs. The sign appeal request was discussed. Tony made the motion to approve the signage appeal without conditions, seconded by Sherry and approved unanimously.

#### **4: 809 Station Street – Review Council Public Hearing Comments – Rezoning Request**

Michael Yenser is looking to rezone 809 Station Street from General Industrial (GI) to General Business (GB). The purpose of the rezoning is to allow suitable businesses to occupy the property. The property is located in Tax Incremental Finance District (TID) #7. As part of the creation of the TID, the 2009 Comprehensive Plan was amended to allow more mixed use commercial use. The Plan Commission reviewed the two comments received at the June 6, 2017 Public Hearing. A motion was made by Tony to give the item a positive recommendation of rezoning ordinance with no conditions identified by the Plan Commission. Rick seconded the motion made by Tony. The motion was approved unanimously by the Plan Commission.

#### **5: N8937 County Road E – Ryan & Meliza Ritacca – Township Preliminary CSM Request**

Ryan and Meliza Ritacca are looking to create 3 lots from a 12.27 acre parent parcel. As proposed, Lot 1 will be 2.5 acres, Lot 2 will be 1.3 acres and Lot 3 will be 2 acres. 5.8 acres will remain as part of the parent parcel. Lot 1 has residential structures. All three lots will be zoned A-3. County Trunk Highway (CTH) E is identified in the 2009 City of Watertown Comprehensive Plan as having an expanded Right-of-Way of 120 feet (60 feet from centerline). The Airport Approach Protection Zone elevation limits development on Lot 1 & Lot 2 to 958 feet above mean sea level and Lot 3 to 945 feet above mean sea level. A motion was made by Tony to approve the Preliminary CSM under the conditions that a dedication of Right-of-Way of 60' from the centerline of CTH E is denoted on the CSM and the CSM contains a note stating that Lot 1 and Lot 2 have an Airport Approach Protection Zone elevation limit of 958 feet above mean sea level & Lot 3 has an Airport Approach Protection Zone elevation limit of 945 feet above mean sea level for all buildings, structures and objects of natural growth; whether or not such buildings, structures and object of natural growth are in existence. The motion was seconded by Sherry and approved unanimously.

#### **6: 733 Oakwood Lane – Carolyn Gallert – Fence Variance Request**

Carolyn Gallert is looking to install a fence in the front yard of her property located at 733 Oakwood Lane. Carolyn is looking to install a 6' tall fence, 5' west of her existing patio on the south side of her property and running parallel to Deer Trail. As the fence height exceeds the maximum allowed by City Code, a variance is required to install the fence as proposed. Jacob has consulted with the City Planner and no issue is seen with the proposed fence. A motion to approve the variance was made by Rick, seconded by Sherry and approved unanimously.

#### **7: 400-408 Carriage Hill Drive – Amy Buchholtz – Preliminary CSM Request**

Alderson and Acting Mayor, Emily McFarland, joined the meeting at 4:55 pm. Acting Mayor McFarland is a voting member of the Commission. Amy Buchholtz, who recently rezoned 400, 404 and 408 Carriage Hill Drive from Single-Family Residential (SR-4) to Two-Family Residential (TR-6), is looking to create two

lots for the development of two duplexes, one duplex on each lot. Currently 408 Carriage Hill Drive is unbuildable due to a 75 feet navigable stream setback. The Airport Approach Protection Zone elevation limits development on Lot 1 and Lot 2 to 968 feet above mean sea level. The northern border of Lot 1 is located along a stream that is recognized by the Wisconsin DNR as a navigable stream per Wisconsin State Statute NR 115.05(1)(b)(1). A motion was made by Tony to approve the preliminary CSM under the conditions that the CSM contain a note stating that Lot 1 and Lot 2 have an Airport Protection Zone elevation limit of 968 feet above mean sea level for all buildings, structures and objects of natural growth; whether or not such buildings, structures and objects of natural growth are in existence and the inclusion of a 75 foot setback along the northern border of Lot 1 to accommodate the navigable stream's ordinary high water mark. The motion was seconded by Augie and approved unanimously.

#### **8: 1400 Kimberly Court – Allan Builders, LLC – Preliminary CSM Request**

Allan Builders are looking to create 1 lot from 3 existing lots at 1400 Kimberly Court, 1402 Kimberly Court and 1404 Kimberly Court. The new lot will be approximately 2.02 acres and will be zoned Single Family Residential (SR-4). Airport Approach Protection Zone elevation limits development on Lot 1 to 972 feet above mean sea level. All easement should be maintained on the CSM. The western border of Lot 1 is located along a stream that is recognized by the Wisconsin DNR as a navigable stream per Wisconsin State Statute NR 115.05(1)(b)(1). A motion was made by Sherry to approve the preliminary CSM under the conditions that the CSM contain a note stating that Lot 1 has an Airport Approach Protection Zone elevation limit of 972 feet above mean sea level for all buildings, structures and objects of natural growth; whether or not such buildings, structures and objects of natural growth are in existence, the inclusion of a 75 foot setback along the northern border of Lot 1 to accommodate the navigable stream's ordinary high water mark and a note to maintain all existing easements on the CSM. The motion was seconded by Rick and approved unanimously.

#### **9: 915 Garfield Street – Mike Hendricks – Preliminary CSM Request**

Mike and Jennifer Hedrick are looking to adjust the boundaries of 3 lots, 911 Garfield Street, 912 Garfield Street and 915 Garfield Street; specifically adjusting the boundaries of Lot 1 and Lot 2. Airport Approach Protection Zone elevation limits development on Lot 1, Lot 2 & Lot 3 to 968 feet above mean sea level. The eastern border of Lot 2 is located along a stream (Rock River) that is recognized by the Wisconsin DNR as a navigable stream per Wisconsin State Statute NR 115.05(1)(b)(1). There is an existing development pattern of structures that would allow for the minimum setback of 35 feet from the ordinary high-water mark of the Rock River. A motion was made by Tony to approve the CSM under the conditions that the CSM contain a note stating that Lot 1, Lot 2 & Lot 3 have an Airport Approach Protection Zone elevation limit of 968 feet above mean sea level for all buildings, structures and objects of natural growth; whether or not such buildings, structures and objects of natural growth are in existence and the inclusion of a 35 foot setback along the northern border of Lot 2 to accommodate the navigable stream's ordinary high water mark. The motion was seconded by Sherry and approved unanimously.

#### **10: Hunter Oaks Subdivision – Bielinski Homes, Inc. – Conceptual PUD**

Bielinski Development is looking to build multi-family dwelling in the Hunter Oaks Development. This is a preliminary informational discussion. John Donovan of Bielinski presented to the Plan Commission on the subject. The proposed conceptual Planned Unit Development (PUD) consists of three phases. The first phase utilizes the land historically known in the PUD area as "Area B" and would consist of two, twelve

unit apartment units. Phases II and III would be completed as demand indicates the need and once Phase I apartment units are occupied. Bielinski Development proposes dedicating several rights of way to the City as well as the neighborhood park area shown as "Area J" on the PUD. City Engineer, Jaynellen Holloway, had several comments on the PUD. One of Jaynellen's primary concerns pertained to the appearance of the proposed apartment units contrasting the existing town homes immediately south and believes that the apartment units, as proposed, give a cohesive appearance to the neighborhood. Storm water improvements will be a requirement of the PUD as well. Augie opened up to the public for questions and input. Citizens in attendance were notified that there will be multiple future opportunities to provide input on the proposed development as the plan progresses.

**11: Plan Commission Minutes – May 22, 2017**

Sherry made a motion to approve the Plan Commission Minutes of the May 22, 2017 meeting as printed. The motion was seconded by Rick and approved unanimously.

There being no further business to discuss, a motion was made by Emily to adjourn, seconded by Sherry, so moved. The Plan Commission adjourned at 5:50 pm.

Respectfully submitted: Andrew Beyer, Civil Staff Engineer