



Plan Commission Meeting Minutes September 27, 2016

3930 N. Murray Ave Village of Shorewood, WI 53211

1. Call to order.

The meeting was called to order at 6:33 p.m.

2. Roll call.

Members present: Acting Chairman Tr. Michael Maher
Eric Couto
Barbara Kiely Miller
Tim Hansmann
Nate Piotrowski

3. Approval of August 23, 2016 meeting minutes.

Ms. Kiely Miller moved to approve the minutes as presented, seconded by Mr. Couto. Vote 5-0.

4. Statement of Public Notice.

Planning Director Ericka Lang noted that the meeting was published and posted according to state statutes and local regulations.

5. Consent Agenda and Public Hearing:

- a. Consideration of conditional use application for installation of solar panels at residential property 3541 N. Hackett Ave.**
- b. Consideration of conditional use application for installation of solar panels at residential property 1828 E. Kenmore Pl.**
- c. Consideration of conditional use application for installation of solar panels at residential property 3820 N. Downer Ave.**
- d. Consideration of conditional use application for installation of solar panels at residential property 4113 N. Larkin St.**

Acting Chairman Tr. Maher opened the public hearing at 6:34 p.m. With no public comments the public hearing was closed at 6:35 p.m.

Tr. Maher opened the consent items up for questions from the commissioners. Ms. Kiely Miller asked about a large tree in the parkway at 1828 E. Kenmore Place and if the panels would be shaded by it, asking whether the village tree would need to be removed or trimmed back. Mr. Mike Cornell, Arch Electric, explained that the tree is fine and will not need to be removed or trimmed. The panels being installed will incorporate micro-inverters which allows each panel to produce on its own and not in a string as a whole. The homeowner selected these particular panels because of the tree/shade.

Mr. Couto moved to approve the conditional use applications for the installation of solar panels at residential addresses 3541 N. Hackett Avenue, 1828 E. Kenmore Place, 3820 N. Downer Avenue and 4113 N. Larkin Street after the Plan Commission reviewed the applications against zoning code 535-30D. Seconded by Mr. Piotrowski. Approved 5-0.

6. Items removed from consent agenda.

No items were removed from the consent agenda item.

7. Public Hearing: Consideration of conditional use application for a proposed fitness studio at commercial property 4155 N. Oakland Avenue.

Ms. Lang explained that a conditional use application was received for a proposed fitness center, business owner Kevin Scharnek, at 4155 N. Oakland Avenue. The business is within the new Mosaic mixed use building which is to be completed by February 2017. Commissioners were given an additional document showing the front building elevations of the mixed use building to show the exact interior space of the business. The reason a conditional use application is required is because fitness centers are not expressly listed as permitted, prohibited or by condition, therefore the business defaults to the conditional use category. Under zoning code section 535-21A(c) the most related use is *dance instruction studio*. Staff felt a fitness studio was different. Anytime Fitness was the last fitness studio to open in the village and were required a conditional use application also. The business hours of operation will be daily from 5 a.m. to 9 p.m. Per code section 409-26 businesses must be closed between 1 a.m. and 5 a.m. (except bar/restaurants till 2 a.m. on weekends). The business is in a zoned Planned Development District so there is no parking consideration. An entire floor of the parking structure is dedicated to the businesses in the mixed use building.

Tr. Maher opened the public hearing at 6:40 p.m. With no public comments the public hearing was closed at 6:40 p.m.

Ms. Kiely Miller asked for a description of a client's experience at the business and what type of training is available. Ms. Sarah Hansen was present representing Orangetheory Fitness. Ms. Hansen stated that the business offers personal training but in a group setting. Classes are offered for all fitness levels. The business is not like an open gym where members can just pop in when they would like; members have to sign up for classes. Ms. Hansen explained that all staff are certified trainers.

Ms. Kiely Miller asked about the locker room/changing room layout. Ms. Hansen stated the business has 24 locker cubbies, 2 bathrooms, 2 shower rooms and an area to hang keys if a customer is in for a short period.

Ms. Kiely Miller asked if MOD Pizza is next door to the fitness center. Ms. Lang stated that there is a vacancy between the restaurant and the fitness center. Ms. Kiely Miller asked if any sound proofing would be done for the fitness center. Ms. Hansen could not verify but stated that other locations exist in similar settings and with surrounding businesses as well.

Mr. Couto asked if Orangetheory Fitness was the only business in the building showing an awning. Ms. Lang stated yes at this time and that the signage, including awnings, will be presented to the Design Review Board.

Mr. Piotrowski moved to approve the conditional use application for a proposed fitness studio at 4155 N. Oakland Avenue. Seconded by Mr. Couto. Approved 5-0.

8. Public Hearing: Consideration of conditional use application for a proposed veterinarian clinic at commercial property 4604 N. Wilson Drive.

Tr. Maher opened the public hearing at 6:48 p.m. With no public comments the public hearing was closed at 6:48 p.m.

Ms. Lang explained that the veterinary business will be located at 4604 N. Wilson Drive in the northwest corner of the village. The business is in a building with three other businesses. The business is in a B-5 District which refers to the B-1 district regarding what is permitted. Veterinary clinics are not listed as permitted or not permitted in the B-1 District. Per zoning code 535-27 animal hospitals are permitted by condition in the B-3 District and animal clinics are permitted by condition in the B-1, B-2 and B-3 Districts. Staff determines the business needs a conditional use. The business will occupy the space that is currently occupied by the pet store, Bentley's Pet Stuff, which is relocating.

The business hours are 7:30 a.m. to 5:30 p.m. Monday through Friday; 8 a.m. to 12 p.m. on Saturday. There will be 4 to 5 employees on site at a time. There are 21 onsite parking spaces available to the businesses.

Dr. Noah Arnold, the business owner, was present. Dr. Arnold explained he grew up in the community and that this is a lifelong dream to open his business in the village.

Mr. Hansmann asked if there will be overnight stays for animals. Dr. Arnold stated that yes there may be post-op stays for some animals. Mr. Hansmann asked if there was any soundproofing for the apartment units above. Dr. Arnold stated he did not know but would consider it.

Ms. Kiely Miller asked about what staff would be present. Dr. Arnold will be hiring a certified veterinary technician and he will be the sole doctor at the location.

Tr. Maher asked if there has been any discussion with the landlord about noise from pet overnight stays. Dr. Arnold stated that no discussion has occurred as of yet and that the current tenant encourages pets in the store during business hours. He explained that with a one doctor clinic, the overnight stays would be minimal. The majority of patients are companion animals; dogs and cats. Dr. Arnold also confirmed he will be performing all procedures with minimal referrals for procedures he cannot perform.

Ms. Kiely Miller asked if pets would be euthanized on site. Dr. Arnold stated that yes they would offer the procedure and one of the two exam rooms would be open at all times to accommodate this. The clinic will also have storage for animals until the cremation service can pick them up.

Mr. Couto expressed concern about soundproofing the location and how it would be addressed. Dr. Arnold explained that the contractor doing the buildout is familiar with veterinary clinics and particular soundproofing materials will be used to address these concerns and that it will not be an issue.

Mr. Piotrowski asked where dogs would be let out to go to the bathroom. Dr. Arnold explained that there is a grassy area outside of the business surrounding the parking lot and that clients will be encouraged to clean up after their pets. A bag station may be provided for clean-up also.

Mr. Cuoto moved to approve the conditional use application for a proposed veterinary clinic at commercial property 4604 N. Wilson Drive. Seconded by Ms. Kiely Miller. Approved 5-0.

9. Consider staff recommendation of zoning amendment for commercial discount stores.

Ms. Lang introduced the item by explaining that Shorewood's zoning code lists permitted uses, prohibited uses and uses by condition. Discount stores are not listed at all and staff recommends amending Zoning Chapter 535 Article IV to identify discount stores as a conditional use in the B-3 District. The impetus for this recommendation is the growing number of vacancies in the village and the growing trend of discount stores in the market. Discount stores typically need over 7,000 square feet. Most of the vacancies in the village are 1000-1500 square feet but as vacancies increase the square footage of some sites is increasing. Discount stores are traditionally traffic orientated, high volume stores. When staff was discussing this the outcome was that these stores would be best suited for Capitol Drive at the west end with the four lanes of traffic and very traffic orientated versus the east end of Capitol Drive. The B-3 zoning district is at the tail ends of Capitol Drive and the potential for this type of business is best suited in this district. The B-3 District on the east side of Capitol did not pose much concern as the parcels, buildings and parking lots in this area are smaller and would not support this type of business and typically what it would need.

Attorney Nathan Bayer added that under zoning code 535-21 all business districts are described; B-1 Commercial, B-2 Mixed Use, B-3 Mixed Use and B-4 River District. Each district reflects thoughtful planning over the years in regard to what type of businesses are appropriate in particular areas of the village. Attorney Bayer added that the zoning code is a living document whereas when things change the criteria is often revisited. This proposed change would make discount stores prohibited in the B-1 and B-2 districts and by condition in the B-3 district. A prospective business would not be allowed to bypass the Plan Commission and open a business with this ordinance in place. One issue looked at was this type of business's effect on traffic levels/volumes in the areas. Discount variety stores over 7,500 square feet seem to be the industry standard. Prospective businesses would have to come before the Plan Commission and explain why this is an appropriate use and how it meets all the criteria in zoning code 535-25 along with parking and ingress and egress of a particular location.

Tr. Maher asked if this class of businesses could be outright prohibited in all districts. Attorney Bayer stated that it would be complicated and the motive would be questioned. He added that the more appropriate approach would be allowing the use conditionally versus banning the use all together. A court will scrutinize why there is no area of the village where the use is allowed. Tr. Maher asked if this would ban this type of store from the B-5 district as well. Ms. Lang stated it would not.

Mr. Couto asked for examples of currently prohibited business types in the village. Ms. Lang stated vehicle sales, light manufacturing/industrial businesses and storage businesses are some examples. Mr. Hansmann asked if larger box stores over a particular size are banned. Ms. Lang stated that large box stores are not listed in the code.

Mr. Couto asked if there were any buildings in the village that has 7,500 square feet available now. Ms. Lang stated that possibly the dialysis building or Re-Max building could. Mr. Maher asked about the size of Sunseekers on the east end but Ms. Lang stated it was less than 5000 square feet.

Shorewood Plan Commission Meeting Minutes – September 27, 2016

Mr. Piotrowski asked if prospective discount variety stores of less than 7,500 square feet would have to go before the Plan Commission after this amendment would be passed. Ms. Lang stated that no it would be allowed because passing the amendment specifically would be listing discount variety stores over 7,500 as prohibited; making stores less than 7,500 square feet permitted.

Mr. Piotrowski asked if the commission was establishing a definition for “discount variety store”. Attorney Bayer stated based on research the term being used is intended to capture the full range of discount stores. Mr. Piotrowski questioned the concern regarding these stores and the 7,500 square feet specifically when there are no spaces that large in the village available.

Mr. Couto asked about a lower square footage to make almost all stores by condition.

Ms. Kiely Miller said that what she felt was tricky about this amendment was that the B-3 District was split up into two completely different ends of the village with the west end having 4 lanes of traffic, a boulevard and higher speed limits and the east end having 2 lanes of traffic, lower speed limit, schools, churches, smaller businesses and residential. Trying to make a decision that affects two different areas is hard. Ms. Kiely Miller expressed concerns with the issues that discount variety stores would bring to the area, some of which were summarized by emails from residents.

Mr. Piotrowski understood the goal of being cautious of auto-dependent big box/discount stores but he expressed concern about 7,500 square-footage being the right number.

Ms. Kiely Miller stated as proposed currently she would oppose it.

Ms. Lang explained that if a discount variety type store came in with an occupancy permit there would be nothing restricting it from opening because it would be considered a retail store and not prohibited.

Mr. Couto asked what is needed to be done to lower the square footage. Attorney Bayer stated that can be done it just needs to be decided on and voted out of the Plan Commission to the Village Board to vote on.

Mr. Maher stated there needs to be a better definition of discount variety store.

Mr. Couto expressed his concern with the 7,500 square feet and would like the square footage possibly lowered.

Tr. Maher opened the public hearing at 7:31 p.m.

Elizabeth Beeghly, 2413 Shorewood Blvd., stated that after reading the zoning code notice that businesses like payday loan, currency exchange and title loan businesses are discouraged and strongly suggested that the rules applied to these types of businesses be applied to discount stores. These regulations would help the business to be placed in the right place not near residential with traffic problems and people outside of the area. A regulation limiting the hours of operation was suggested. Ms. Beeghly agreed that the square footage should be lowered and all should be before the Plan Commission.

Shorewood Plan Commission Meeting Minutes – September 27, 2016

Sandra McLellan, 4030 N. Downer Avenue, stated that she wasn't aware that the east end of Capitol was treated the same as the west end of Capitol Drive and that maybe that should be addressed on its own. Ms. McLellan expressed her concern about the issue being discussed and voted on quickly. She felt more time should be spent on the discussion.

Mr. Maher explained that this was the first time the commission was hearing the item and upon recommendation there are two public notices and the item would be considered by the Village Board.

Ms. Kiely Miller asked about the process to rezone the east end of Capitol. Ms. Lang explained that staff would do research and discussions would start with the Plan Commission who then would recommend it to the Village Board. Ms. Lang explained that if more restrictions were placed on the B-3 District many of the existing businesses on the east end would become non-conforming businesses.

Mr. Piotrowski added that making it a conditional use item allows the commission to evaluate all applications and determine if the business makes sense on the east end versus the west end. He requested more review of the definition of "discount variety store" and the proposed square footage.

Mr. Couto asked if the proposal got approved and sent to the Village Board if changes could be made on that level. Attorney Bayer stated that yes amendments could be proposed.

The commission asked staff to further evaluate the definition of discount variety store and the square footage number.

Mr. Couto asked for some comparable data on discount store sizes.

Tr. Maher asked if the Plan Commission should be targeting specific properties or the general policy. Attorney Bayer explained that the commission should be guided by the overarching impact a policy would have on the village in regard to traffic, commerce and effect the business would have on the surrounding neighbors versus on particular retailer. Attorney Bayer stated that if this type of business would be a conditional use the criteria under 535-25 would apply.

Tr. Maher asked for information to be provided at the next meeting.

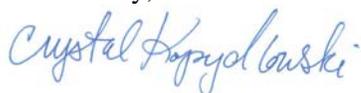
10. Schedule next meeting.

The next meeting is October 25, 2016.

11. Adjournment.

Mr. Couto moved to adjourn the meeting at 7:49 p.m., seconded by Mr. Hansmann. Vote 5-0.

Recorded by,



Crystal Kopydlowski
Planning & Development Administrative Clerk