



**Plan Commission
Meeting Minutes
February 25, 2020**

3930 N. Murray Ave. Village of Shorewood, WI 53211

1. Call to order.

The meeting was called to order at 6:34 p.m.

2. Roll call.

President Allison Rozek	Aye
Trustee Jessica Carpenter	Aye
Leah Blankenship	No
Eric Couto	Aye
Tim Hansmann	No
Therese Klein	Aye
Barbara Kiely Miller	Aye
Sangeeta Patel	Aye
Daniel Wycklendt	Aye

Also present was Village Attorney Nathan Bayer and Building Inspector Justin Burris.

3. Statement of Public Notice.

Staff posted and publicly noticed the meeting according to local and state regulations.

4. Approval of January 28, 2020 meeting minutes.

Mr. Wycklendt moved to approve the minutes, seconded by Mr. Couto. Vote 7-0 to approve.

5. a). Public Hearing: Consideration of Conditional Use Permit application for a proposed acupuncture clinic at commercial property 4433 N. Oakland Avenue, Suite B in the Village of Shorewood, Milwaukee County, Wisconsin. TAX ID 240-0185-001.

President Rozek opened the public hearing at 6:35 p.m.

Building Inspector Burris introduced the item per the memo that was provided to the Plan Commission.

Business owner Lisa Mussak said she read the proposed conditions regarding the parking lot updates and asked what that would consist of when granting an occupancy and, if that is not something she could facilitate as she does not own the building, what would be the next step.

Inspector Burris said that the Plan Commission does have authority to add conditions as they review the overall site. Even though her business does not impact the parking in any way, any time a new business goes into a space the whole site is reviewed to see if any site improvements are necessary. The condition attached to her conditional use would not affect her occupancy but it would be a separate item the business owner would be responsible for.

With no further public comments the public hearing was closed at 6:41 p.m.

b). Consideration of Conditional Use Permit application for a proposed acupuncture clinic at commercial property 4433 N. Oakland Avenue, Suite B in the Village of Shorewood, Milwaukee County, Wisconsin. TAX ID 240-0185-001.

Mr. Wycklendt said he did not like the wording of the condition (parking lot) and felt it was penalizing the business owner for something that is the property owners' responsibility who were not present. He felt the condition should be removed from the motion and would remove it if he made the motion. He said the property owner should have some notification of the correction also.

President Rozek asked if the condition remained and the property owner did not make the correction within the year what would happen. Inspector Burris explained that at that time an enforcement would be issued to the property owner for the correction.

Attorney Bayer said that the Plan Commission does have the authority to put additional conditions on the granting of a conditional use application under State Statute 62.23 and Village Code 535-25 as long as the additional condition is necessary to fill the purpose and intent of the zoning chapter in general.

President Rozek asked what if the condition is not met within a year and it is tied to an occupancy and not a building permit. Mr. Wycklendt said that the suggested motion also states "subject to the assurance from the property owners" that the correction be made. He asked how assurance can be given without the property owners present.

Attorney Bayer said another way to approach this could be to issue a separate enforcement to the property owner if the building is not in compliance with the building code. He said the condition could be left out of the motion as the responsible party is not present at the meeting to address it.

Mr. Couto said he agreed with Mr. Wycklendt and said it does not make sense to tie an occupancy/business to a correction that should be made by the property owner.

President Rozek said that if a small business requests a façade grant the property owner and the tenant have to sign off on the application. She asked why with conditional use application property owners and tenants weren't both signing off especially when conditions could be added that impact both. Attorney Bayer said that presumably the property owner received notice of the hearing and if they had a concern with the tenant's use they would have objected. President Rozek referencing additional conditions added to the conditional use permits asked how they would be notified. Ms. Kopydlowski asked if President Rozek was referencing having the property owners sign off on the applications at time of submittal. She said yes because it is acknowledging that it could impact them as the property owner and they may attend the hearing then.

Ms. Kiely Miller said it did not make any sense to make a tenant responsible for a building owner's responsibilities, especially when we are not holding other tenants' permits in that same building to the same temporary penalty. The new tenant shouldn't be subject to something that is not their responsibility. She also asked about employees parking off site and if this would be street parking. Ms. Mussak stated yes.

President Rozek said, as a small business owner, it is the responsibility of the building owner to have the building up to code. It is in the interest of the property owner to rent out their spaces and their buildings should be up to code. She felt the Plan Commission

did have the authority to add conditions to the conditional use application but that in this instance there was not the proper sign off and notification to require a condition (parking lot) of the property owner.

Ms. Patel said that it is her understanding that typically how a government can make a property owner bring their building up to code is to prohibit any new expansion/tenant until the corrections are made. She said that it doesn't seem right that this process is not in place. Inspector Burris said that conditions/corrections that are the property owner's responsibility can be added to the notice of corrections at the time of an occupancy inspection. He said he believed the condition was included in the conditional use motion because the Plan Commission reviews the site in its totality when granting approvals. He said the site has an ADA parking space it is the striping of the lot that is in such poor shape and needs to be corrected. Inspector Burris clarified that when a tenant completes their corrections yet the property owner has not corrected theirs the occupancy is granted for the business and the owner corrections are now an enforcement to the property owner.

Ms. Kiely Miller moved to approve the conditional use permit application for an acupuncture clinic at commercial property 4433 N. Oakland Avenue, Suite B, based on meeting the conditions stipulated in 535-25C. Seconded by Mr. Couto.

President Rozek asked Inspector Burris if he believed all seven conditions per 535-25C were met without the parking lot condition included. He stated yes. She asked staff to relay to Director Griepentrog that the parking lot corrections be addressed during the occupancy permit process.

Vote to approve 7-0.

6. a). Public Hearing: Consideration of Conditional Use Permit application for Fiddlehead's Coffee to serve food or beverage outdoors at commercial property 4334 N. Oakland Avenue in the Village of Shorewood, Milwaukee County, Wisconsin. TAX ID 239-0292-001.

President Rozek opened the public hearing at 6:59 p.m.

Building Inspector Burris introduced the item per the memo that was provided to the Plan Commission.

Ms. Kopydlowski informed the Commission that the only formal objection came via a letter from Joy Frederick, property owner of 1809 E. Lake Bluff Blvd., which was provided to them at their desks. The letter will be included in the public record of the meeting.

With no public comments the public hearing was closed at 7:05 p.m.

b). Consideration of Conditional Use Permit application for Fiddlehead's Coffee to serve food or beverage outdoors at commercial property 4334 N. Oakland Avenue in the Village of Shorewood, Milwaukee County, Wisconsin. TAX ID 239-0292-001.

Ms. Kiely Miller said this seems really similar to the patios at other restaurants/coffee shops and doesn't recall those coming before the Plan Commission and asked why this location and proposal is different and before the Commission. Ms. Kopydlowski explained that the others mentioned are seasonal outdoor seating which the approval for that is different and this location is going to be permanent all year around seating. President Rozek asked about City Market specifically and Ms. Kopydlowski stated their outdoor seating is located on private property and any previous approvals for that

location would have to be researched. Ms. Kiely Miller asked about the previous Ruckus location which has a similar permanent outdoor seating area and the difference between that approval process and this current process and if the ordinance had changed. Ms. Kopydlowski stated there had been no ordinance change.

Ms. Kiely Miller stated that in the materials it references two parking spaces for workers in the lot and asked where the parking lot was. Ms. Jovana Cubric, of Fiddleheads Coffee, stated that the parking lot (behind the building) was for residential tenants and that the property owner included in their lease the use of two parking spaces in the lot.

Attorney Bayer clarified that if the applicant simply wanted to open a restaurant in the location which is an approved use they would not need any conditional use approval. He said what drives the need for the conditional use is the outdoor dining area only and how that impacts the conditions within code section 535-25C. He also reminded commissioners that per state statutes if the applicant agrees to meet or meets all the requirements and conditions specified in the municipal ordinance or those imposed by the board the conditional use shall be granted. Any conditions imposed must be relevant for the purpose and based on substantial evidence.

Mr. Wycklendt asked if there will be outdoor music.

Mr. Couto mentioned a letter of objection from a neighboring property and said the letter discussed 4 a.m. deliveries. He asked what the applicant's delivery conditions will be like. President Rozek also asked if they will be requesting loading zone designation. Ms. Cubric explained that their deliveries typically come from Fiddleheads on a daily basis which includes the bakery deliveries in a small van that will pull up in a loading zone to deliver product that takes five to ten minutes to unload. There will also be a couple deliveries a week for milk products and supply products. A majority of their deliveries are made with their company business vans. President Rozek asked if there is currently a loading zone for this location. Ms. Kopydlowski stated that currently Sherwin Williams does have a loading zone but that the loading zones are tied to businesses and Fiddleheads would need to apply for one in the future. It was asked if the vans could pull into the alley for deliveries. Inspector Burris clarified that the alley behind the building is private property and could be used also. Mr. Ray Marcy, (11533 N. Parkview Drive, Mequon) business owner, stated there will be no 4 a.m. deliveries and that staff does not arrive until 6:15 a.m. to begin prep for a 6:30 a.m. opening.

Ms. Kiely Miller asked about another concern from the neighboring property owner's letter regarding coffee roasting on site. Ms. Cubric stated there is no roasting at this location just brewing of coffee.

Ms. Kiely Miller said a main concern is how the business will affect the neighboring properties and asked if there are apartments above the business location. She said that noise and lighting will affect the apartment overlooking the outdoor patio and wanted to know if there was a tenant in that unit or if it was an office. Ms. Kopydlowski stated that the units above are residential and all received notice of the meeting.

Mr. Wycklendt asked if the alley was the private property of the property in question. Mr. Burris stated yes.

Ms. Kiely Miller asked if the apartment building had an easement to use the alley to get to the parking spaces. Mr. Burris explained that the apartment building to the east has no parking at all and the alley and parking lot is all owned by the owner of the property in question.

Mr. Couto asked where the trash and refuse will be stored. Ms. Cubric said that it is to be stored in the private alley. Mr. Couto said he believed the alley was a one car length wide alleyway and if refuse was stored there that could impact cars getting through. He said if it was stored back by the parking spaces in the lot that could be a different story. Ms. Kiely Miller said that there is a small space to the east end of the building along the alley where the patio does not extend to and suggested that refuse could be placed there. Mr. Couto asked if the plan was to place the refuse containers between the patio wall and the alley which is adjacent to the neighboring property to the east. Ms. Cubric said that their understanding was to keep the refuse in the back where the alley is but that another option was to enclose the containers and place them at the back of the patio.

Mr. David Schroeder (1819 E. Lake Bluff Blvd.) stated that as of today the buildings refuse containers sat in front of the north side of the building and not in the alleyway like is being proposed. Trustee Carpenter added that per Google Maps the trash dumpster is shown being partly in the alley but visible from where the patio would be and allowing access to the alleyway. Mr. Couto said they are about 15 feet off of Lake Bluff. Ms. Klein said she felt there would be more trash for this business (restaurant) than a paint store. President Rozek asked if a restaurant typically has more refuse than a paint store. Inspector Burris said that a paint store probably has the same amount of recycling refuse that a restaurant would have as garbage.

Trustee Carpenter asked, as a way to be a good steward to the neighbors, if there was a way to incorporate the dumpsters into the design of the patio so they are somewhat hidden. This is a route families walk to school and in summer to prevent critters also. Ms. Cubric said this is definitely a possibility.

Mr. Wycklendt wondered if the door on the east corner of the north side is part of their lease. Ms. Cubric said the door is blocked off and no longer utilized.

Mr. Marcy said they like enclosing their garbage containers and making them invisible. Up until now they thought the trash where it was currently was acceptable but now they will plan on the placing the trash at the east side of the patio and enclosing it. Ms. Cubric stated they typically have two containers one for recycling and one for trash.

Ms. Kiely Miller said that The Chocolate Factory (couple doors down) had to have had their trash at the rear door in the alley and that trash containers in that area couldn't be out of the ordinary.

Mr. Marcy said to not think of them as quite like a restaurant. They make a lot of their own products and have a tight handle on their inventory. They are more of a coffee café.

Mr. Wycklendt asked if the refuse containers have to go before the Design Review Board. Mr. Burris said yes. Mr. Wycklendt reinforced that the patio is the focus of the discussion more so than the refuse with a restaurant being a permitted use for the location. President Rozek said the added seating leads to added garbage that could impact decisions.

Ms. Kiely Miller stated the patio hours will be the same hours as the café and asked how that related to parklets and the restrictions placed on those. Attorney Bayer said the difference is that parklets are on public property whereas this patio is on private property.

President Rozek asked about the noise ordinance. Attorney Bayer stated that under Chapter 383 Noise it says that *a machine or device for the producing or reproducing of sound cannot be done in such manner as to unreasonably disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is*

reasonably necessary for convenient hearing... the operation of any such devices between the hours of 11 p.m. and 7 a.m. in such a manner to be plainly audible at a distance of 50 feet from the building structure or vehicle in which it is located is a violation of this subsection. President Rozek said that whether speakers are permitted or not they exist in the village. Mr. Couto asked if music will be played outside on the patio. Ms. Cubric said no live music but that there will be an ambiance music speaker at a low volume.

Ms. Kiely Miller asked about the safety of the fire pit on the patio and what screening will be present. Ms. Cubric said there is a glass enclosure around the fire pit.

Ms. Kiely Miller asked about the canvas wind blockers on the north side of the patio. Ms. Cubric said they are intended to block the wind and make the space cozier. President Rozek asked if the patio is open year round. Ms. Cubric stated no that it is weather permitting and most likely spring, summer and fall.

President Rozek asked if there will be outdoor heaters. Ms. Cubric said no only the fire pit.

President Rozek asked if a new survey was required. Mr. Burriss said no. President Rozek stated she would like to see that a survey is required in the future for improvements like this and other developments. Mr. Burriss said for Design Review Board the applicant would have to show the improvement is all on private property and sometimes older surveys are sufficient.

Ms. Klein asked if any other correspondences had been received from residents. Ms. Kopydlowski stated no.

Mr. Wycklendt moved to approve the conditional use permit application for Fiddlehead's Coffee to serve food or beverage outdoors at commercial property 4334 N. Oakland Avenue, based on meeting the conditions stipulated in 535-25C, subject to the receipt of a Parking Special Exception. Trustee Carpenter added an amendment stating that the plan is to include an addition of the enclosure of the two dumpsters on site. Seconded by President Rozek. Vote 7-0.

7. Consideration of Parking Special Exception for proposed restaurant/coffee shop at commercial property 4334 N. Oakland Avenue, business owner Fiddlehead's Coffee.

Building Inspector Burriss introduced the item per the memo that was provided to the Plan Commission.

President Rozek asked in regards to comparable uses (City Market, Starbucks, Colectivo, Stone Creek) if Fiddleheads had the same seating capacity. Mr. Burriss said he was not sure if the seating capacity was similar but that the patios were approximately the same size.

Trustee Carpenter commented about how many parking special exceptions have been granted and that with so many businesses needing them and knowing what data the transportation study provided questioned if the code was relevant any more. President Rozek added that the study identified pockets with parking challenges but overall the parking occupancy rates on Oakland Avenue were 28% at most times. Trustee Carpenter said at 2 p.m. on Oakland Avenue the parking occupancy rate was 28% and at 7 p.m. it was 26%.

Ms. Kiely Miller asked if there were any parking limitations on Oakland and Lake Bluff. Mr. Couto said there are no restrictions on Lake Bluff or Cramer to the east of Oakland Avenue. Mr. Wycklendt said there is two hour parking limits near Oakland.

Mr. Wycklendt asked how a residential block can work to get parking restrictions. President Rozek said there are two ways one is to be within the square around the University of Wisconsin – Milwaukee and the other is if you are outside of that area you can petition for a change and the police department has to monitor the area and the occupancy rate has to be more than 60% for the change to be considered. Ms. Kiely Miller said that the 4000 block of Downer Avenue petitioned for the 2 hour parking change because they were falling victim to the UWM staff, faculty and students who would park on their block all day and the walk or bike to campus.

Mr. David Schroeder (1819 E. Lake Bluff Blvd.) commented that the utilization on Oakland Avenue is low because of the two-hour parking limits. He said that with living right off of Oakland Avenue if a study was done in front of his house you'd find that the occupancy rate is pretty much 100%. He said his concern will be with workers who work all day and cannot park in two-hour parking spaces.

President Rozek said parking will affect the side streets.

Mr. Wycklendt said there is two-hour parking in front of the building.

Mr. Couto said his concern is for the intersection of Cramer and Lake Bluff because it is completely uncontrolled and is a major thoroughfare for students going to Lake Bluff. He said some sort of stop sign, yield sign or other control needs to be at that intersection. He said that often cars speed up to catch the light at Oakland and Lake Bluff too.

Trustee Carpenter said that during the transportation study stop signs on Olive were talked about as well as a few other intersections and stop signs were a recommendation for some spots.

Ms. Patel asked if the potential solution for residents that live near Oakland was to have two-hour parking. President Rozek said the neighborhood could petition for that but she prefers to actually designate spots. She said the previous village manager had allowed parking passes for employees (who worked in the Kensington Oakland area) to park in lots along Oakland. She said employee parking in general needs to be addressed because it comes up all the time. Mr. Burris said that most streets abutting Oakland Avenue have two-hour parking for a certain amount of feet.

Mr. Marcy stated that it should be expected that their employees will be taking public transportation, walking or biking. Their typical barista is of college age and employees will overwhelmingly not be parking for eight hours a day. He said most of their customers live or work within a mile to a mile and a half of the location and that they typically they do not draw customers from larger distances away who would need to park.

President Rozek mentioned that there is public parking in the structure at the Mosaic/Metro Market for employees.

Ms. Kiely Miller said that with Oakland Avenue having a coffee shop almost every intersection the customers will be spread out and with that she is not concerned with the parking.

Mr. Wycklendt moved to approve the parking special exception for proposed restaurant/coffee shop at commercial property 4334 N. Oakland Avenue, business owner Fiddlehead's Coffee, based on meeting the conditions stated in 535-51B. Seconded by Trustee Carpenter. Vote 7-0.

8. Schedule next meeting.

Currently, the Planning Department has not received any applications for a meeting in March. If a meeting would be needed the next meeting would be scheduled for March 24, 2020. President Rozek said that an update on the parking study that was completed should be added to the next meeting agenda. Ms. Kopydlowski informed the Commission that an application was received for the vacation of public right of way at 1821 E. Menlo Blvd. but the application is not complete and will not be placed on a March agenda.

9. Future agenda items.

President Rozek said she would like feedback on the suggestion to have the property owner and tenants sign off on conditional use permit applications.

10. Adjournment.

Mr. Couto moved to adjourn the meeting at 8:13 p.m., seconded by Mr. Wycklendt. Vote to adjourn 7-0.

Recorded by,



Crystal Kopydlowski
Planning Department Administrative Clerk

2/24/2020

Bart Grepentay
Planning and Development Director

I am unable to attend Tues. Feb 25 meeting. I own the building directly behind proposed occupancy of Fiddleheads

I object to their occupancy my concerns are parking, delivery trucks at 4AM + other times, noise ^{from patrons} traveling up my building into windows, debris which appears in my bushes + lawn, The tenants sneak garbage into my dumpster + I end up with extra expenses. We have put up with a lot with different tenants

Why doesn't Shorewood buy the old North Shore Bank + create a parking garage or area

I strongly object to this occupancy. Are they going to roast coffee there too The fumes are very toxic.

Any questions leave a message.
414 962-1123 Jay Frederick

(Property owner of 1809 E. Lake Bluff Blvd)