



Plan Commission Meeting Minutes

July 23, 2019

3930 N. Murray Ave Village of Shorewood, WI 53211

1. Call to order.

The meeting was called to order at 6:36 p.m.

2. Roll call.

President Allison Rozek	Aye (via phone)
Trustee Jessica Carpenter - Acting Chair	Aye
Leah Blankenship	No
Eric Couto	No
Tim Hansmann	No
Therese Klein	Aye
Barbara Kiely Miller	Aye
Sangeeta Patel	No
Daniel Wycklendt	Aye

3. Statement of Public Notice.

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

4. Approval of June 25, 2019 meeting minutes.

Ms. Kiely Miller noted grammatical changes and some rewording. She provided her changes to staff.

Mr. Wycklendt moved to approve the minutes with the changes, seconded by Ms. Kiely Miller.

Vote 5-0 to approve.

5. a). Public Hearing: Conditional use application to obtain a salvage license for commercial property 2521 E. Capitol Drive, business owner Downer Mobil LLC.

Planning Director Bart Griepentrog introduced the item per the memo that was provided to the Plan Commission.

Mr. Martin Omdahl (business owner) and Mr. Rick Schnake were present.

Mr. Wycklendt asked if a signature was needed on the owner's state application for the license to be issued. Mr. Griepentrog said yes and the application was included in the materials. He also confirmed with the State that Section Two of the application needed to be completed and requires the Village President's signature. The Planning Director has no authority to sign it.

President Rozek stated she has no problem with the existing use but asked if by saying yes to the proposed use change it would set precedent that this type of use would be allowed in the future. Attorney Bayer said not to any greater extent than when the Plan Commission approves a conditional use for any other property. The seven criteria in Section 535-25C that are evaluated when approving a conditional use are considered on a case by case basis for each applicant and can be different at each location. President

Rozek asked if they do not grant this what happens to the business. Without granting the conditional use it means the applicant would have to pay another business to tow/haul away the scrap metal etc. This approval has no impact on the business as it operates currently.

Ms. Kiely Miller asked if this was a one-time use or an ongoing portion of the business. Mr. Omdahl stated it is an ongoing thing and that this is not something they haven't been doing already. He said he is not trying to open a junk yard but is trying to help prevent bad people from coming in to remove the scrap and salvage. He explained that the law has recently changed and you cannot tow to scrap yards anymore without a license. Recently, metal has been incorporated into the same category as vehicles so you need this license to take metal to the scrap yard also.

Ms. Kiely Miller asked how frequently and what time of day they transport. Mr. Omdahl stated that the business closes at 10 p.m. but that nothing can be transported after 4 p.m. because the yards close at 3:45 p.m. They typically would transport between 8:30 a.m. and 3:30 p.m. and on an as needed basis.

Ms. Kiely Miller asked about the vehicles in the photos that were provided. Mr. Omdahl stated some of the vehicles were his own, some were waiting on parts and some are waiting on service to be performed.

Ms. Kiely Miller asked if any of Shorewood's other service stations have a similar license. Mr. Griepentrog stated no.

Mr. Wycklendt confirmed if all the Type 4 license allowed was for the business to keep records and a tow truck on site and to remove scrap material from the site not to operate a salvage yard. Mr. Griepentrog stated yes.

Ms. Kiely Miller asked about the U-Haul on site and not being allowed to store moving vehicles on site. Mr. Omdahl stated they were servicing the truck.

Trustee Carpenter opened the public hearing at 6:57 p.m. Hearing no comments the public hearing was closed at 6:59 p.m.

b). Consideration of conditional use application to obtain a salvage license for commercial property 2521 E. Capitol Drive, business owner Downer Mobil LLC.

Mr. Wycklendt moved to approve the conditional use application for a salvage license at commercial property 2521 E. Capitol Dr., based on meeting the conditions stipulated in 535-25C, subject to compliance with the requirements of 500-32 and the submission of a site plan showing the location of all proposed vehicle storage on the site, including the vehicle used for transporting materials, if any. Seconded by President Rozek. Vote 5-0 to approve.

6. Consideration of an amendment to the Planned Development District for the Village Municipal Complex particular to the North Shore Fire Department located at 3936 N. Murray Avenue.

Planning Director Bart Griepentrog introduced the item per the memo that was provided to the Plan Commission. Mr. Griepentrog explained that currently the fire station is part of a planned development district (PDD) that includes the village hall, village complex/library and parking lot. Planned development districts are great as they provide more flexibility for elements with multiple buildings on a site or shared parking. The difficulty with planned development districts is the administration of amendments to them because a PDD is guided by an approved development plan. Mr. Griepentrog provided

the commission with the ordinance and resolution for the planned development districts initial approval. There are planned changes to the fire department site including a new south entrance, demolition of a garage, an apparatus addition to the northeast corner of the building and a pedestrian walkway to the south of the building. The development plan that was originally approved would be modified slightly. The Village Code Section 535-22(4)(i) does identify how to approve a planned development district and how to amend one by stating that *“any changes or addition to the original approved development plan shall require resubmittal and approval by the Plan Commission, and if such changes or additions are substantial in the opinion of the Plan Commission, such plan as modified shall be considered as an original application, and the requirements for the same shall govern prior to final approval of such modifications”*. Mr. Griepentrog stated that the Plan Commission has to determine whether the proposed changes to the property are substantial and if not substantial then the Plan Commission shall review the modifications to ensure the original findings, as detailed in 535-22(a). Mr. Griepentrog stated he did not feel the changes were substantial enough to change the original intent of the Village Complex.

President Rozek clarified that the Plan Commission was first deciding zoning and second ownership/parcel boundaries. She continued stating that when a land sale is done an appraisal is received based on zoning. She added that if the fire station was not being sold then a planned development district amendment made sense as the Village still would own it. But with the property being sold and appraised as institutional she asked if it should have a new planned development district with a new owner. She stated if the property was being sold as institutional it should be re-zoned as institutional and not PDD. President Rozek understands an amendment to the PDD is acceptable but feels it is not the right thing to do. Mr. Griepentrog stated that if the property would be used for any other purpose they would need to seek an amendment and the Plan Commission would decide if the use change would be substantial. He suggested making the building a mixed use building would be a substantial change.

Ms. Kiely Miller stated that yes there are not substantial changes to the exterior of the fire station but is that the consideration or is it if there are substantial changes to the PDD. She stated that when looking at an overhead photo of the PDD that a portion of the PDD is being carved out. Mr. Griepentrog stated nothing is being carved out of the PDD and there can be different ownerships within a PDD.

President Rozek asked if the façade agreement was included in the packet. Mr. Griepentrog stated the façade agreement would be approved by the Village Board. She stated she wanted the façade agreement draft completed before approving the zoning.

Village Manager Rebecca Ewald stated that the zoning was an item covered earlier on in the process and that it is staff’s opinion that a PDD provides for more control over use and aesthetic changes to the property moving forward given the way the current ordinance is set which is why it was reviewed early in the process and recommended to come forward in this manner. With respect to the façade easement, Ms. Ewald understands that at the last Village Board meeting it was requested to review that documentation however it is not in the purview of review and approval by the Plan Commission but it is a document that will be reviewed and approved by the Village Board.

President Rozek asked if the Plan Commission reviews easements. Mr. Griepentrog stated that the Plan Commission does not review easements. They have approved CSMs that have had easements noted on them. New easements do not come before the Plan Commission.

Ms. Kiely Miller asked about why the landscape plan shows work being done on property that is owned by the Village especially because the Village already installed rain gardens where the plan is showing mixed perennials are being put in. Is this so the area will be a continuous nicely appearing area? Mr. Griepentrog explained that the area currently is a driveway and with that being removed it will be a pedestrian area and will render the eastern end of the driveway useless. So it was a matter of cleaning up the whole area while work was being performed. President Rozek asked whether the landscaping project would move forward if money is not approved. Ms. Ewald stated the landscaping is being bid as alternate within the scope of the plans when the fire station goes to bid. The landscaping is to provide a more aesthetically pleasing transition and to eliminate a lot of pavement that is no longer needed.

Ms. Kiely Miller commented about the easements noted on the survey; two utility easements and a proposed access easement. She asked about the location of the access easement and why it wasn't closer to the fire department. Ms. Ewald explained that there were three reasons. One reason was to have a functional straight line. The reason it is closer to Village Hall is to facilitate the straight line but also to accommodate for a required building code requirement. Within the easement it will cover the pedestrian access, a non-buildable permanent easement to accommodate for appropriate setbacks from the Village Hall building, a maintenance easement to allow a vehicle to enter the landscaped area for purposes of accessing the mechanicals which are on the roof of the village hall and to address any issues to the north façade of the village hall building. The Shorewood Historical Society also has an office in the lower level of the village hall with an exit that goes into the alley.

Trustee Carpenter asked if the amendment to the PDD would be approved tonight what the estimated timeframe is for when the façade easement would be provided and if the board does not approve the façade easement, what happens next? Mr. Griepentrog explained that if the development plan, which includes the changes to the fire department, does not change, the Plan Commission would not consider the item again.

President Rozek said that the PDD zoning code is a fairly new zoning category and was created to grant a lot of flexibility so that the more rigid zoning codes did not have to be changed. So instead of more stringent, a PDD can be more flexible. She does not view a fire department being a PDD; it is an institutional category. President Rozek said that with the land sale, keeping the property a PDD and not having the façade agreement she doesn't know how this is more stringent. Ms. Kiely Miller said that the original PDD that encompasses the whole village complex was approved in 2001 and asked whether debating if this was a good idea now is a moot point. President Rozek said because of the proposed change to the zoning (amending or new) the discussion is warranted.

Ms. Kiely Miller asked if the decisions made by the Plan Commission are recommendations to the Village Board. Mr. Griepentrog stated the Plan Commission's decision would be the final decision on the PDD amendment. Mr. Griepentrog explained that before any change in use (second floor) to the fire department building could move forward the Plan Commission would have to review the PDD and if the change was substantial, a brand new PDD would need Village Board approval.

Ms. Ewald added that the memorandum of understanding has parameters that speaks to if the property is not used for the principal use of a fire station that will require review by the Village. She said that from her understanding and based upon how the building is being proposed to be renovated there will be no tenant allowed on the second floor because of the requirement of the building to have an elevator which is not accommodated for within the structure. The second floor will be unutilized and will not be

code compliant for a user. The basement will be left for storage capabilities and is not being renovated to allow for habitable space. The fire department has only verbalized the intent to use the first floor and has only sought to maximize the first floor use.

President Rozek asked if the building is zoned institutional and the building burns down and the desire is to sell the land for a commercial use would the approval of the Plan Commission and the Village Board be required. Ms. Ewald stated that a deed or covenant that will run with the land is being recommended. That document will determine what the process would be for any new construction that would require Village Board approval. Mr. Griepentrog added that if the fire department would burn down and a new use would be proposed that would be considered a substantial change and would require Plan Commission and Village Board approval.

Attorney Nathan Bayer explained that the PDD was created in conjunction with the development of the library and the health department offices and included the fire station and the village hall. The village hall and fire department were already existing. As long as the buildings stay within the PDD there will never be an opportunity to do anything different with the buildings without express permission of the Village. The only reason it is before the Plan Commission is because of the changes/modifications to the site and because the PDD is so tight that it needs approval.

President Rozek stated that with creating a new CSM and selling the parcel with a specific use it should be zoned institutional not a PDD and asked what the downfall for zoning the parcel institutional would be? Mr. Griepentrog stated that multiple parcels can exist within a PDD and sees no issues with splitting the fire department off.

Ms. Kiely Miller added that when the Roundy's development was approved in 2014 it was three parcels within one PDD. After the construction was finished the developer sold off two of the three parcels but those were not re-zoned out of the PDD they remained in the PDD. Mr. Griepentrog stated that was correct because the uses did not change. Ms. Kiely Miller said that was similar to the topic being discussed as the use was not changing with the fire house.

Ms. Klein stated that the outcome did not matter if the parcel was zoned PDD or institutional but that it was easier to explain to the village if the parcel was institutional. Ms. Ewald said that the outcome is the same but re-zoning a property, from staff perspective, is not necessary. Ms. Klein asked if rezoning was more work. Mr. Griepentrog stated there would need to be public hearings, publications, mapping changes etc. Attorney Bayer stated that if a zoning change is made and a new use is consistent with the new zoning that is beyond the village's control that may not be able to be changed. Mr. Griepentrog stated a PDD is flexible until it is approved and then once approved it is very hard to change.

Ms. Kiely Miller asked when the CSM comes before the Village Board for approval if this will be when the façade easement will be approved also. Mr. Griepentrog state this is different and approved separately.

President Rozek stated that at the last Village Board meeting when the façade presentation occurred there was an agreement between the Board, the Village Manager, and the fire department on what the façade easement was going to be. She has a hard time approving the zoning and CSM without seeing the façade agreement. Ms. Ewald stated that it was not initially contemplated to bring the façade agreement to the Plan Commission because they were not an approving authority. She stated nothing has been rushed and the timeline has been verbalized and communicated on a number of

occasions. At the last meeting when the timeline was discussed it was noted the façade agreement would be coming back to the Village Board for approval.

Ms. Klein asked if there was a Memorandum of Understanding (MOU) for the sale of the property. Ms. Ewald stated that an MOU that sets aside a process in motion. So the next group to review the plans would be the Design Review Board and then the project goes to the Village Board for the façade agreement approval. Any approvals are subject to the closing of the property. Lastly, the plans and specifications will then be put out to bid and if the bids come in at the estimated budget, then the property is closed on. Mr. Griepentrog added that this step is necessary to confirm that the new plan is agreeable to the Plan Commission.

Trustee Carpenter asked if the plan moves forward to the Design Review Board, the plan is approved there and the façade easement does not agree with what is approved, what happens? Mr. Griepentrog stated no permits would be issued until the plan and easement are in agreement. She asked if the exterior plan that shows the side door being moved was done as part of a façade easement in mind. She added that the project shouldn't get so far along and then see the façade easement and something is missing or added that was not intended. Mr. Griepentrog stated that the Village Board would not approve the easement.

Ms. Kiely Miller asked what the Board's consensus was in regards to the discussion about keeping the fire department a part of the PDD versus a separate zoning distinction. President Rozek stated it was discussed in closed session. Trustee Carpenter stated she felt they were not operating in a vacuum and that multiple discussions have been had about the fire station. She stated her concern was with the façade easement because the community values the building and the design of the building. Ms. Kiely Miller asked if the decisions the Plan Commission is making is premature without all the ducks being in a row.

Attorney Bayer stated the decision before the Plan Commission was whether the physical changes reflected on the attached plan (removing the garage, adding the pedestrian walkway) are consistent enough with the existing PDD that you would say yes they are appropriate and consistent and approve the amendment.

Mr. Wycklendt asked if the Village was not selling the property and the Village was making these changes would approval be before the Plan Commission as well. Attorney Bayer stated yes. He asked if the Village Board will decide the façade conditions with the easement. President Rozek stated that the Design Review Board will approve the design first without the façade easement in place to adhere to. Trustee Carpenter stated the Design Review Board is approving the current plan that is being presented which is what the Village Board has already approved. Mr. Griepentrog stated that no façade changes will be done until the façade easement is finalized and the sale is complete.

Mr. Wycklendt asked if the Plan Commission is tasked with deciding if the current fire station is going to remain a fire station and if the changes proposed are ok. Attorney Bayer stated that yes if the changes are appropriate and consistent with the development plan.

Mr. Griepentrog added that nothing being proposed is a huge change to the site and the use is not changing.

President Rozek stated that early on she wanted to lease the land and not sell the land. She asked how to object to the PDD amendment versus a re-zoning of the parcel as institutional? She asked if the Plan Commission is the proper body to decide the zoning and if she feels the best zoning is institutional, can she vote no today?

Attorney Bayer stated he would never presume to inform any official how to vote but she makes a point of more than one reason to vote yes or no on the topic.

Ms. Kiely Miller asked if the Village Board discussed various options to for zoning this property. Trustee Carpenter stated no.

Ms. Klein asked who's role it would be to introduce the request for a zoning change?

Attorney Bayer stated that the conversation is getting off the agenda item and the best thing for the Commission to do is to evaluate the agenda item before it and whether the physical changes to the property are consistent with the PDD it exists within.

Mr. Wycklendt asked if they approve the amendment, does the Village Board have the ability to see it re-zoned and can they do this? Attorney Bayer stated the Village can amend its zoning pursuant to state statute and local ordinances as it sees appropriate completely independent of any issue related to a sale of a property.

Trustee Carpenter clarified that even if the Plan Commission approves the amendment tonight there is the opportunity to make a motion at the full board level to make a request to initiate the process to change the zoning for the property.

Ms. Kiely Miller asked if there are any safeguards/veto powers over the property after it sells to prevent the sale of it in the future. Ms. Ewald said that pursuant of the agreement that exists with the North Shore Fire Department, our community would have to agree to not have a firehouse in the village. Ms. Kiely Miller added that as a Commissioner they do not want to approve something that staff is all for and the majority of the Village Board is asking why this is not what we wanted. Trustee Carpenter said that some consensus is important but it does not have to be 100% consensus. She said she feels there are some safe holds moving forward where if something would change down the road the Board would have the opportunity to make changes if need be.

Trustee Carpenter added that some consensus at looking into what staff and the village attorney are recommending is important.

Mr. Wycklendt moved to approve the amendment to the Planned Development District for the Village Municipal Complex specific to the fire station as non-substantial and in compliance with the requirements of 535-22(a)[1]-[9]. Seconded by Ms. Klein. Vote 4-1 to approve. President Rozek voting nay.

7. Discussion and recommendation of certified survey map for the separation of a lot located at 3936 N. Murray Avenue for the North Shore Fire Department, property owner Village of Shorewood.

Planning Director Bart Griepentrog introduced the item per the memo that was provided to the Plan Commission.

Ms. Kiely Miller moved to recommend the approval by the Village Board of certified survey map for the separation of a lot located at 3936 N. Murray Avenue for the North Shore Fire Department, property owner Village of Shorewood, subject to approval to close on the real estate transaction between the Village and NSFD, seconded by Trustee Carpenter.

President Rozek asked if the property is still listed as owned by the Village and it is just showing the separation of the space within the PDD as three separate parcels? Mr. Griepentrog stated yes the property is still shown as owned by the Village and the survey shows the separation of the village hall and fire department into two parcels.

President Rozek asked about the plantings and stated that there is no budgetary line for them yet and if they are not budgeted for then whose property is that. Mr. Griepentrog stated the property to the east of the village hall is village owned property.

President Rozek asked if any portion of the parking lot would be owned by the fire department. Trustee Carpenter stated no.

Ms. Klein asked about the alleyway being paved. Mr. Griepentrog stated the alleyway would be owned by the fire department. Ms. Klein asked if the landscaping had any bearing on the decision tonight. Mr. Griepentrog stated no.

President Rozek asked if there was an easement in the packet and/or noted on the CSM for maintenance access? Mr. Griepentrog stated an easement has not drafted and recorded but is identified on the CSM that there will be one. The Village Board would need to approve the access easement separately.

President Rozek asked if the façade easement would be recorded on the CSM. Attorney Bayer stated no and that the CSM is only for establishing the boundaries of the physical properties? The façade easement will be a condition of the land and deed restriction that will run with the land/property.

Vote to approve 5-0.

8. Schedule next meeting.

Mr. Griepentrog explained that no applications have been received and there would be no need for a meeting in August. He did inform the commissioners that scheduling for the Census training is still being worked on and he will reengage the Commission when he has a date. The next meeting would be subject to applications being received.

Ms. Kiely Miller asked if the Village Board made a final decision on what will be done with the Comprehensive Plan. Mr. Griepentrog said the Comprehensive Plan was not submitted as a Village Board initiative but the Comprehensive Plan will be moving forward as a Plan Commission initiative. President Rozek stated that Trustee Warren moved to add the Comprehensive Plan as a Village Board initiative. Mr. Griepentrog explained that the next step will be to develop a scope that will be discussed at budget discussions.

Trustee Carpenter asked for the date of a meeting in September. The next meeting in September would be September 24th.

9. Future agenda items.

No future agenda items were discussed.

10. Adjournment.

Ms. Kiely Miller moved to adjourn the meeting at 8:21p.m., seconded by Trustee Carpenter.

Vote to adjourn 5-0.

Recorded by,



Crystal Kopydlowski
Planning Department Administrative Clerk