

Minutes of Plan Commission Meeting October 16, 2018

Call to Order – Phil Wedekind called the meeting of the Commission to order at 5:15 PM.

Roll Call – Present were Phil Wedekind, Pat Liston, Jim O’Neill, Tom Kolb, and Roy Franzen arrived at 5:30 p.m.. Dennis Thurow and Kate Fitzwilliams were absent.

Also in attendance were Administrator Geick, Tom Pinion, Attorney Truman, Bekah Hargraves, Brian Pierce, Dan & Adelina Hellenbrand Dan Goff, Caroline Wastlund, Bill Ryan, Becky Jackson, Rebecca Hoppe, Dwayne Zawistowski, Dan Goff, Mike Carbonara, and Bren Bromley.

Call to Order

- a. Note compliance with the Open Meeting Law. Wedekind noted compliance with the Open Meeting Law.
- b. Agenda Approval: It was moved by Kolb, seconded by O’Neill to approve the agenda as posted. Motion carried unanimously.
- c. Minutes Approval: It was moved by O’Neill, seconded by Kolb to approve the minutes of the August 21, 2018 meeting. Motion carried unanimously.

Public Invited to Speak (*Any citizen has the right to speak on any item of business that is on the agenda for Commission action if recognized by the presiding officer.*) – There were no speakers.

Public Hearings:

- a. Public Hearing to Consider the request of Sherry & Dwayne Zawistowski, d/b/a DEZ Tactical Arms, Inc. for a Conditional Use Permit to allow the construction of a retail firearms store with an indoor shooting range on a 10-acre parcel in the E¼ of the NW¼ of the SE¼ of Section 3, T11N, R6E, in a B-3 Highway Oriented Business zoning district, located in the Conditional Use Overlay District at 1223 South Blvd., City of Baraboo – Rebecca Hoppe, 840 Bascom Hill Drive (Home), 1243 South Blvd. (Business) addressed the Commission. Hoppe stated that she has heard many times that this is the “Gateway to Baraboo” and she feels having a gun shop here sends the wrong message. She stated that she has tried for 19 years to convince her children that they were safe going to school here, the school district and State has done many things to ensure the public that their kids are safe here. She feels that by placing an assault weapons manufacturing facility or even a retail facility here contradicts that message. She said that she feels that the City would be inviting a little bit of political discourse. She said that there are plenty of people in this State that are more than willing to protest anything that they don’t like, and she thinks this invites “Left Wing Mob” that we have been hearing about lately. There being no other speakers, the hearing was declared closed.
- b. Public Hearing to consider request of Rabeka Hargraves and Jordan Darrow for a Conditional Use Permit to allow a beauty shop in the existing single-family residence on the 2-acre parcel on the east side of Vine Street in the NE¼ of the SE¼ of Section 2, T11N, R6E, in an NRO Neighborhood Office zoning district, at 729 Vine Street, City of Baraboo – There being no speakers, the hearing was declared closed.
- c. Public Hearing to consider request of BP Operators LLC for a Conditional Use Permit to allow a variable message sign for Pierce’s Express Market in a B-3 Highway Oriented Business zoning district, located in the SW¼ of the NE¼ of Section 36, T12N, R6E, City of Baraboo, Sauk County, Wisconsin at 935 8th Street – There being no speakers, the hearing was declared closed.

New Business

- a. Consideration of Sherry & Dwayne Zawistowski’s, d/b/a DEZ Tactical Arms, Inc., request for a Conditional Use Permit to allow the construction of a retail firearms store with an indoor shooting range on a 10-acre parcel in the E¼ of the NW¼ of the SE¼ of Section 3, T11N, R6E in a B-3 Highway Oriented Business zoning district, located in the Conditional Use Overlay District at 1223 South Blvd., City of Baraboo – Brian Zawistowski, 4617 Leo Drive, Madison introduced himself to the Commission. Engineer Pinion said this parcel is immediately east of Glacier Valley Ford, directly across the street from MSA. He said that Brian and his parents have an accepted offer to purchase the property, contingent upon zoning. He said their proposal is to construct a building that would be a retail establishment to sell the firearms that they manufacture and assemble on-site. The rough site plan, building, and floor plan was presented and discussed. Attorney Truman said that given the recent change at the State level regarding municipalities’ right to put conditions or to deny a conditional use request, the burden is now on the city to be able to show objectively rather than subjectively a reason to put conditions or to deny the conditional use permit. She said that in addition, the State law does place significant restrictions municipalities’ regulation of indoor, outdoor shooting ranges. Ultimately, if a municipality has an ordinance on the books

at the time that the plans are approved, that ordinance holds. However, if there is no ordinance on the books that means that a municipality really cannot regulate it. She said that at this time the City does not have an ordinance specifically prohibiting indoor or outdoor shooting ranges, at least within this area of the City. She said that this is not to say that the City has absolutely no recourse, but at this point, in time, it is limited. Kolb asked if this would be the same type of store as Gander Outdoor. Brian Zawistowski gave an overview of what and who they are to the Commission. He said that they have a small retail store in Wisconsin Dells, and the company itself has been in business since 2004, and they have been a manufacturer ever since. He said that the retail side is relatively new to them as far as having a physical establishment. He said that their plans are to have a shooting range to go along with what they are already doing. He said that the idea is to serve the public, and there is a very large interest in firearms, and shooting sports in this area. Kolb asked what types of firearms would be manufactured. Zawistowski said that they would be manufacturing semi-automatic rifles, and offer all types of bolt action for sale. Gunsmithing would also be offered. Zawistowski said that at this time they do not offer any type of training; however, is hoping to do so in the future. Pinion stated that if approved, they would have to come back with full site plan, building elevations, landscaping, stormwater management plan, and site lighting plan. Liston said that he is not enthusiastic about this; however, he feels that the Commission has no options according to State law. Liston moved, Franzen seconded to approve the requested conditional use permit. Kolb questioned noise issues. Zawistowski stated that it is not very close to densely residential area. He said that the proposed building would be a solid concrete building with a capped roof. He said that the range inside is a ballistic rubber range, which has the sound deafening properties built into it. Liston asked Attorney Truman if decibel level is one that the Commission can control by law. Truman answered that decibel level is one that the Commission cannot regulate by State Statutes. Kolb asked what the Commission could regulate. Truman said that the Commission could regulate the site plan, lighting, elevations, etc. Kolb said that perhaps as part of the Conditional Use Permit, the Commission could look at health and safety issues. Truman said that she does not want to mislead the Commission in any way and say that this is an absolute State requirement. She said that there are still avenues that the State Statutes allow a municipality to create an ordinance; however, there is not such an ordinance on the City books at this time. Therefore, it would require the City to create an ordinance to regulate the new construction of a shooting range based on public health and safety issues. Zawistowski then mentioned that they do service law enforcement in the area. On roll call vote for the motion, Ayes – Franzen, Liston, O’Neill, and Wedekind. Nay – Kolb. Motion carried 4-1.

- b. Consideration of Rabeka Hargraves and Jordan Darrow request for a Conditional Use Permit to allow a beauty shop in the existing single-family residence on the 2-acre parcel on the east side of Vine Street in the NE ¼ of the SE ¼ of Section 2, T11N, R6E, in an NRO Neighborhood Residential Office zoning district, at 729 Vine Street, City of Baraboo – Kolb moved, Franzen seconded to approve the Conditional Use Permit request as presented. On roll call vote for the motion, Ayes – Liston, O’Neill, Kolb, Wedekind, and Franzen. Nay – 0, motion carried 5-0.
- c. Consideration of BP Operators LLC’s request for a Conditional Use Permit to allow a variable message sign for Pierce’s Express Market in a B-3 Highway Oriented Business zoning district, located in the SW¼ of the NE ¼ of Section 36, T12N, R6E, City of Baraboo, Sauk County, Wisconsin at 935 8th Street – Brian Pierce introduced himself to the Commission. Pinion presented the background for this request to the Commission. Liston moved, Franzen seconded to approve the requested conditional use permit for a variable message sign. On roll call vote for the motion, Ayes – O’Neill, Kolb, Wedekind, Franzen, and Liston. Nay – 0, motion carried 5-1.
- d. Consideration of request to rezone the 0.26-acre parcel on the northwest corner of the intersection of South Parkway and Quarry Street being part of the SW ¼ of the NE ¼ of Section 2, T11N, R6E, located at 404 South Parkway, from R-1A Single Family Residential to NRO Neighborhood Residential Office classification by Daniel J and Adelina Hellenbrand to allow the operation of a beauty shop in the existing single-family residence – Daniel Hellenbrand introduced himself and his wife to the Commission. Pinion presented the background to the Commission. It was moved by Liston, seconded by Kolb to recommend rezoning the property at 404 South Parkway from R-1A to NRO. On roll call vote for the motion, Ayes – Kolb, Wedekind, Franzen, Liston, and O’Neill. Nay – 0, motion carried 5-0
- e. Consideration of request to vacate the portion of the unimproved right-of-way of Crestview Drive (formerly Lorna Drive) lying north of 2nd Street between Lot 8 of Rehbein’s Addition to the City of Baraboo and Outlot 1 of Sauk County Certified Survey Map No. 4973 – Becky Jackson introduced herself to the Commission. Pinion presented the background to the Commission. He that the Commission members that are on the Council saw this once already and declared the intent to pursue this vacation of this unimproved right-of-way. He said that Mr. Jackson is looking to build new home on Lot 8, and according to City ordinance, in order to get occupancy, it has to be on a fully improved right-of-way. Pinion said that Jackson owns property on all three sides of this proposed vacation. It was moved by O’Neill, seconded by Kolb to recommend the vacation as requested. On roll call for the motion, Ayes – Wedekind, Franzen, Liston, O’Neill, and Kolb. Nay – 0, motion carried 5-0.

- f. Review Concept Plan for a Proposed Amendment to the General Development Plan & Specific Implementation for Oak Park Place, a multi-family residential senior living complex at 800 Waldo Street – Bill Ryan, Architectural Designs, representing Oak Park Place introduced himself to the Commission. Ryan said they recently added on to the independent living portion of the project, which the Commission had approved. He said the project was 95% complete; however, within the knuckle of where the independent living and the new addition was they ended up with some common space on all levels, and when Oak Park Place realized how much space was not being utilized, they decided to reconsider what was going to be a sitting room on all levels to decide on two of the levels to create two studio apartments, and then leave the top floor with the view of Devils Lake, and the bottom floor as large seating spaces. It was the consensus of the Commission for the project to move forward.
- g. Review Conceptual Plan for a 7-unit Condominium Development on a 2.46-acre parcel on the north side of Inverness Trail for Vintage Investments – Dan Goff introduced himself to the Commission. Pinion presented the plans to the Commission. He said that Goff is proposing to create a stand-alone condominium plat. He said the original one contemplated as many as 14 units, 7 duplexes. He said the current proposal is for seven single-family homes. It was the consensus of the Commission to have Goff move forward on his proposal.
- h. Discussion and possible recommendation to eliminate certain Conditional Uses in the Conditional Use Overlay District – Pinion said that the minutes from the last meeting summarized the discussion, and Atty. Truman has prepared the document that included the definitions that the Commission requested. Kolb has an issue under amusement and recreation services in the proposed definition, eliminating rental of rowboats and canoes. He feels that at this time, that area includes the Riverfront, and he would hate to eliminate a retail building that would sell or rent rowboats and canoes for river. Truman said that the definitions could be tailored, and her suggestion for this would be to specifically say that this is excluded from the definition. Kolb said that the definition should say “excluding rental of rowboats and canoes. Kolb then said under Indoor Institutional it includes gyms, swimming pools, and convention centers. Truman suggested stating, “excluding gyms, swimming pools, and convention centers.” It was moved by Kolb, seconded by Franzen to forward to Council with the proposed changes. Truman pointed out that in the current proposed definition for Amusement and Recreational Services does include shooting galleries. She asked the Commission if they wanted her to clarify this further; however, the Commission was okay with the current definition. On roll call vote for Franzen, Liston, O’Neill, Kolb, and Wedekind. Nay – 0, motion carried 5-0.

Adjournment - It was moved by Liston, seconded by Kolb to adjourn at 6:10 p.m. The motion carried unanimously.

Phil Wedekind, Mayor Designee