

**TOWN OF BROOKFIELD
PLAN COMMISSION MINUTES
APRIL 26, 2022**

A meeting of the Plan Commission of the Town of Brookfield was called to order by Chairman Keith Henderson at 7:00pm on Tuesday, April 26, 2022, at the Town of Brookfield Town Hall, 645 North Janacek Road, Brookfield, Wisconsin. Also present at the meeting were Town Attorney Michael Van Kleunen, Town Planner Hembrook, Amy Barrows (assisting Town Planner), and Commissioners Jeremy Watson, William Neville, Gordon Gaeth, Kevin Riordan, and Len Smeltzer. Supervisor Schmitt was absent and excused. Applicants for each of the items were also in attendance.

CONFIRMATION OF MEETING NOTICE

Town Planner Bryce Hembrook reported that the agenda was noticed and posted as required.

MINUTES

Chairman Henderson mentioned that there are several minutes to approve from March Plan Commission meetings. Commissioner Smeltzer moved to approve the minutes of the regular March 22, 2022 Plan Commission meeting as presented. The motion was seconded by Commissioner Watson, voted on, and carried unanimously.

Commissioner Watson moved to approve the minutes of the March 29, 2022 Joint Public Hearing for the Plan Commission, Town Board, and Waukesha County as presented. The motion was seconded by Commissioner Smeltzer, voted on, and carried unanimously.

Commissioner Watson moved to approve the minutes of the March 29, 2022 Joint Public Hearing for the Plan Commission and Town Board as presented. The motion was seconded by Commissioner Riordan, voted on, and carried unanimously.

Commissioner Watson moved to approve the minutes of the March 29, 2022 Special Plan Commission meeting as presented. The motion was seconded by Commissioner Riordan, voted on, and carried unanimously.

JASON KNUTH ON REQUEST FOR A RECOMMENDATION TO CERTIFY A NON-CONFORMING STRUCTURE TO BECOME A LEGAL, CONFORMING STRUCTURE FOR THE RESIDENTIAL HOUSE LOCATED AT 17315 EVERGREEN COURT

Town Planner Hembrook described that the applicant's principal structure is non-conforming because the front setback does not meet the 50' front setback requirement. The applicant is unable to apply for building permits since the structure is non-conforming. The applicant wants to add on to the principal structure and attached garage. The zoning code allows for a non-conforming structure to be certified as a legal conforming structure with Plan Commission and Town Board approval. Hembrook mentioned that neighbors were notified of the request and Hembrook did not receive any objections. Commissioner Watson asked if the house was conforming at the time of construction and why the requirement changed. Hembrook replied that the house was conforming at the time of construction and that the Town must have increased the front setback requirement over time and this must have affected a number of properties, since there is process established in the municipal code that is tailored for this type of request for becoming a legal, conforming structure.

Commissioner Riordan moved to **recommend certifying** the principal structure, located at 17315 Evergreen Court, as a legal conforming structure to the Town Board. The motion was seconded by Commissioner Watson and carried unanimously.

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DONALD HAFFNER ON REQUEST TO SCHEDULE A PUBLIC HEARING FOR A CONDITIONAL USE PERMIT FOR A SECOND DETACHED ACCESSORY BUILDING LOCATED AT 20705 BROOK PARK DRIVE

Town Planner Hembrook presented the item and stated that the applicant intends to build a gazebo on his deck and, according to the zoning code, is required to receive a conditional use permit in order to have 2 detached accessory building on the property. Commissioner Gaeth excused himself from discussion and voting because he is the applicant's neighbor. Commissioner Smeltzer asked why a gazebo is considered an accessory building. Hembrook explained that gazebos are specifically mentioned as an accessory building; however, the code is not clear on if there is a difference between an accessory structure and accessory building.

Commissioner Watson moved to recommend setting the public hearing date for the May 24th Plan Commission meeting. The motion was seconded by Commission Smeltzer and carried. Commissioner Gaeth abstained.

NICHOLAS WIMMER/POPLAR CREEK CLUB II LLC IS REQUESTING A RECOMMENDATION FOR FINAL APPROVAL OF A MIXED-USE DEVELOPMENT ON LANDS AT THE NORTHEAST CORNER OF BLUEMOUND ROAD AND BARKER ROAD

Town Planner Hembrook presented the request and provided a summary of the staff report that was included in the packet. Hembrook outlined the background of the project, past approvals, required criteria for approval, and a summary of the proposed setbacks, building heights, proposed parking stalls etc. Applicant Nick Wimmer provided a general overview of the proposed development and discussed proposed building and green space elements. Lead Architect Doug Buster discussed the architectural styles for each building and mentioned that the buildings were carefully designed to take advantage of the 50-foot difference in elevation that occurs throughout the site. Buster mentioned that there are about 1,050 underground parking spaces and 450 surface parking spaces.

Nick Wimmer addressed the concerns that were mentioned during the public hearing meeting and a summary letter was sent to the Plan Commission members prior to the meeting that explained the developer's response in further detail. Wimmer mentioned that the new plans will include a sidewalk extension, located in the current Barker Road right-of-way, from the Poplar Creek Parkway and extend to the northern property line of the NorthBrook parcel. Wimmer also mentioned that there will still be a public pedestrian access easement provided along Poplar Creek Parkway. Commissioner Smeltzer questioned if there will be a sidewalk provided along Barker Road to the south of the proposed sidewalk termination. Town Attorney Van Kleunen responded that the Town Engineer indicated that an ADA sidewalk is a feasible option and there is a recommended condition in the staff report that would require this ADA sidewalk to be added. Van Kluenen also mentioned that this will also be addressed in the Developer's Agreement.

Chairman Henderson had some questions for the developer regarding the demolition plan and turning radius concerns. Henderson mentioned that he would like to see a turning radius symbol shown on the final plans that show the turning route for a truck entering the roundabout from the east and exiting the roundabout to the south. Commissioner Riordan questioned if there was any consideration given to reducing the building height for building 8. Wimmer responded that the final design includes a two- and three-floor concept that was designed intentionally to blend in with nearby residential homes.

Town Planner Hembrook read the recommended conditions that were listed in the staff report and the Commission began their discussion regarding the conditions. Commissioner Riordan questioned what

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would happen if a building was not constructed in 5 years and Town Attorney Van Kleunen responded that the development timeline will be addressed in the development agreement. Van Kleunen also mentioned that “reviewed and approved” shall be added to condition #7. Nick Wimmer informed the Commission that he has concerns with several of the recommended conditions. Regarding condition 11, he prefers to not extend the fence to the property line for aesthetic purposes and he believes that a sufficient amount of landscaping is being proposed. Chairman Henderson suggested that this item could be sent back to the Architectural Control Committee for final review and approval. Regarding condition 10, Wimmer said that he has no issues reviewing the lighting plan for the Marriot Center, but is concerned about having all three committees review the plan. Van Kleunen asked the Commission if they wanted to review this plan and, if so, the deadline for review and approval could be December 31, 2022. The Plan Commission determined that they are not interested in reviewing the plan; thus, the review and approval shall be completed by the Architectural Control Committee and the Town Board by December 31, 2022. Nick Wimmer stated that the recommended deadline is appropriate.

Nick Wimmer also had concerns with condition 6, regarding the pedestrian bridge. Wimmer expressed his concern that the wording is too vague and that he is not comfortable agreeing to the condition as stated. Wimmer mentioned that he would not object if a pedestrian bridge were to be constructed entirely in a right-of-way and if it were to not block the view of the Marriot Center. Wimmer stated that they would not be supportive of any plans that require acquisition of their land or that directly impact the development. Town Attorney Van Kleunen explained that the County and State have expressed increased interest in constructing a pedestrian bridge and that the Town would like the developer to discuss the potential project in a good faith effort. Van Kleunen explained that the specific language can be included in the developer’s agreement. Van Kleunen mentioned that the language is vague, but this is because the development timeline is condensed and there has not been an adequate amount of time provided to discuss this type of project.

Regarding condition 5, Nick Wimmer mentioned that he was surprised to see that an ADA compliant sidewalk is to be required without seeing any plans. Wimmer stated that he thought that the Town Engineer was looking into the feasibility of the sidewalk and create plans. Lead Engineer Chris Jackson stated that he explored the possibility of adding the ADA sidewalk and determined that it may be too difficult. Wimmer explained that he is not opposed to adding a sidewalk, but he is opposed to adding an ADA compliant sidewalk.

Town Attorney Van Kleunen provided an example of a possible motion based on the feedback during discussion and Commissioner Smeltzer moved to recommend final approval to the Town Board, with conditions presented in the Town Planner’s memo, with the following revisions (shown in italics):

- Condition 5: “An ADA compliant sidewalk that benefits the public shall be constructed that connects the existing sidewalk on Bluemound Road to the proposed sidewalk at Poplar Creek Parkway, *as set forth in the Developer’s Agreement by the Town and the Developer*. Any revised plans depicting the sidewalk shall be submitted for review and approval by the Town Engineer and *Waukesha County*. If the revised plans result in significant changes to the site and landscape plans, the revised plans shall be reviewed and approved by the Architectural Control Committee, Plan Commission, and Town Board.”
- Condition 6: “The developer agrees to cooperate and support the construction of a pedestrian bridge that crosses over Bluemound Road, *as set forth in the Developer’s Agreement by the Town and the Developer*, if pursued by the Town, County, or State.”
- Condition 7: “Final approval of the civil plans, architectural plans, landscape plans, lighting plans, and any other plans, *reviewed and approved* by Town Staff. Any changes to the approved plans and

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specifications shall comply with the procedures for modifications and amendments specified in the Town's Code".

- Condition 10: "A lighting plan for the Marriott Center parking garage shall be submitted for *review and approval by December 31, 2022, by the Architectural Control Committee and Town Board.*" (Note: Plan Commission decided to remove the requirement that Plan Commission will review and approve this plan as originally stated.)"
- Condition 11: "A privacy fence shall be installed along the entire north property line between the Barker Road right-of-way and far end of building 8 and associated parking lot; *plans, length, and specifications shall be reviewed and approved by the Architectural Control Committee to determine how far west the fence will extend compared to the proposed fence location.* The proposed landscaping proposed along the north lot line adjacent to the proposed parking lot shall be installed as part of Phase I so that it has an opportunity to mature prior to development of the site."
- Condition 16 (new condition): "*Confirmation of WB-50 turning radius showing all traffic patterns around the roundabout shall be shown on final plans*".

The motion was seconded by Chairman Henderson and motioned carried (3-2 vote). Commissioners Watson and Neville voted no stating that they are opposed to the proposed increase in density.

NICOLAS WIMMER/ POLAR CREEK CLUB II LLC IS REQUESTING APPROVAL OF THE PROPOSED CERTIFIED SURVEY MAP FOR THE PROPOSED MIXED-USE DEVELOPMENT ON LANDS AT THE NORTHEAST CORNER OF BLUEMOUND ROAD AND BARKER ROAD
Town Planner Hembrook explained that the applicant is proposing three certified survey maps in order to reestablish the property lines throughout the new development. Chris Jackson, Lead Engineer for the Poplar Creek project, explained that the certified survey maps will divide the four main lots, include the latest right-of-way dedication to the County, and the third certified survey map includes the outlots for Poplar Creek Parkway.

There being no further discussions or questions, Commissioner Neville moved to recommend approval of the three certified survey maps to the Town Board, as presented, on the condition that the Engineer's comments have been addressed. The motion was seconded by Commissioner Gaeth and motion carried unanimously.

NICOLAS WIMMER/ POPLAR CREEK CLUB II LLC IS REQUESTING A COMPACT DEVELOPMENT FORM CONDITIONAL USE PERMIT UNDER THE TOWN OF BROOKFIELD MUNICIPAL CODE FOR A MIXED-USE DEVELOPMENT ON LANDS LOCATED AT THE NORTHEAST CORNER OF BLUEMOUND ROAD AND BARKER ROAD
Town Planner informed the Committee that the same information that was presented during the final approval item applies to this item. Hembrook mentioned that this item is separate just for record keeping purposes. Hembrook suggested that the Commission should recommend the same conditions that were approved in the final approval motion, if the Commission votes to approve the request.

There being no further discussions or questions, Commissioner Watson moved to recommend denial of the Compact Development Form Conditional Use Permit to the Town Board, due to concerns with the increased density. The motion was seconded by Commission Neville, but the motion failed (2-3 vote).

Commission Smeltzer moved to recommend approval of the Compact Development Form Conditional Use Permit to the Town Board with the amended conditions listed in the final approval motion. The motion was seconded by Chairman Henderson and motion carried (3-2 vote).

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CORRESPONDENCE AND ANNOUNCEMENTS

Town Planner Hembrook mentioned that town staff will likely discuss potential code amendments with the Commission in upcoming months. One of those topics will be regarding accessory structures, similar to the discussion on the gazebo earlier in the meeting.

ADJOURN

There being no further business, Commissioner Watson made a motion to adjourn the meeting. The motion was seconded by Commissioner Smeltzer, voted on, and carried unanimously. Chairman Henderson closed the meeting at 9:22pm.

Respectfully submitted,
Bryce Hembrook