

**CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES**

Call to Order

Attwell called the Wednesday, July 31, 2019 Plan Commission meeting to order at 7:00PM.

Pledge of Allegiance

The Pledge of Allegiance was recited.

Roll Call for the Wednesday, July 31, 2019 Plan Commission meeting:

Present

Absent

Kent Attwell, Mayor

Tim Aicher, Ald.

Dave Greenway

Dan Jashinsky

Ed Marek

Jim Reiher

Laura Schult

Robert Weiler

Roger Dupler, Planner

Scott Hussinger, Building Inspector

PUBLIC HEARINGS:

**PUBLIC HEARING #1:**

**Conditional Use**

**TAX KEY/ADDRESS:**

**DELC 0798.098.001-004, 319 –337 Division Street, Delafield**

**OWNER:**

**Berhend Property LLC.**

**APPLICANT:**

**Condo Development Inc.**

**MATTER:**

**Consider a Conditional Use Permit, Site Plan and Architecture to allow for eight multifamily dwelling units in the CBD-2 Central Business District.**

Attwell opened the Public Hearing at 7:01PM.

**Richard Pavlon 715 Division Street**, questioned whether the entire alleyway easement between Lake Street and Oneida Street could be divided equally and distributed to all property owners so all adjoining property owners would gain 7.5 feet at the backs of their lots.

Hearing no one come forward to provide comment at this time, Public Hearing #1 was closed at 7:02PM.

1. Approve Plan Commission meeting minutes of the [June 26, 2019](#) meeting.

**JASHINSKY MOVED TO APPROVE THE JUNE 26, 2019 PLAN COMMISSION MEETING MINUTES AS PRESENTED. AICHER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

2. City of Delafield Citizen's Comments pertaining to subjects on the Consent Agenda.

Hearing no comments pertaining to subjects on the Consent Agenda, Citizen's Comments pertaining to subjects on the Consent Agenda were closed.

3. Consent Agenda

- a. **DELT 0831.049, N2 W31747 Twin Oaks Drive, Town of Delafield. Owner: Peter Kafkas. Applicant: Paul Hilmer.** Applicant seeks approval of an Extraterritorial Certified Survey Map to

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- divide one residential parcel into two and recommend to the Common Council of the same. Kafkas CSM waiting on forms.
- b. **DELC 0807.985.012, 3776 Kettle Court East, Delafield. Owner: KB Investments. Applicant: Stuffed Puffs LLC** Applicant seeks approval of an Amended Business Plan of Operation for Stuffed Puffs, a confectioner. Hours of Operation are twenty-four hours per day, all days, with 40 full-time employees.
  - c. **DELC0748.998.002, 2565 Genesee Street, Delafield. Owner/Applicant: St. Michaels Anglican Church, Inc.** Applicant seeks approval of an amended Business Plan of Operation to relocate from 612 Milwaukee Street to the proposed location. Hours of Operation are 7:00 A.M. to 11:00 P.M. all days, with one full-time and three part-time employees.
  - d. **DELC 0798.045, 710 Milwaukee Street, Delafield. Owner: Delafield Auto Specialists. Applicant: Lance Drum.** Applicant seeks approval of a Business Plan of Operation for Lake Country Detail Specialists, an auto detailing service. Hours of Operation are Monday through Friday 8:00 A.M. to 7:00 P.M., Saturday 9:00 A.M. to 4:00 P.M., with two full-time employees.
  - e. **DELC 0793.014.038, 603 Genesee Street, Delafield. Owner: Hendricks Commercial Properties LLC. Applicant Tyler Reed.** Applicant seeks approval of a Business Plan of Operation for Delafield Family Chiropractic, Ltd. Hours of operation are Monday through Saturday 6:00 A.M. to 7:00 P.M., with two full-time employees.
  - f. **DELC0804.993.003, 3030 Golf Road, Delafield. Owner/Applicant J & S Real Estate Holdings LLC.** Applicant seeks approval of an amended site plan for Holiday Inn Express to relocate their existing sign.

**JASHINSKY MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED. AICHER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

4. City of Delafield Citizen's Comments pertaining to items on or off this Agenda.

**Lyn Holton, 485 Lillian Court**, objected to the Planner's Report for this meeting due to an inaccurate depiction of the actions taken at the June 26, 2019 Plan Commission meeting. Several items were cited as being incorrect in the report. It was time to stop this recurring problem. No action could be taken on Item 7a on this agenda because it was for discussion only. It was important to note that the rezoning was a city generated rezoning request, not a request from the Hendricks proposal. When discussing this matter, it was important to keep the redevelopment of the entire downtown in mind, including infrastructure and service needs. Holton reviewed several options and related action items that should be considered. If rezoning must be done, it should be done minimally. If special exceptions were written, they should be contained to the CBD1 District and kept minor in scope. Careful review of density and uses desired in the CBD1 District should be determined and listed as an allowable use in the ordinance. Specifically stated dimensional allowances and limits with points of grade for measurement should be included in any rezoning language. She requested the Commission take time to get things correctly completed.

**Scott Koss, 243 E Laurel Circle**, was present to support the Hendricks project moving forward including the steps being used to move through rezoning to provide allowances for the project. The parking spaces and green space were some changes that would allow this building to move forward.

**David Simon, 180 N. Fieldstone Road**, was a member of Delafield Citizens for Responsible Growth (DCRG). Rezoning was an appropriate way to advance DCRG coalition goals that wanted reasonable balanced and sensible growth in the City. Adding to the height was appropriate and made projects more viable. It was important that this happened in a timely manner. When he left the Commission in March, 2018, the Hendricks project had come before the Commission twice. This was taking a very

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long time and he appreciated the patient developer who was committed to the City. He encouraged the Commission to make appropriate long term decisions for the zoning in the City.

**Rick Lieblang, 312 Evelyn Ave., and downtown business owner**, supported the proposed Hendricks project and thought it was needed. He was concerned that if the height requirements were changed relative to setback requirements, all four sides would be negatively impacted and proposed parking stalls would be lost. It was important to consider all setbacks in this matter.

Hearing no other comments pertaining to items on or off this Agenda, Citizen's Comments were closed.

5. Unfinished Business.

- a. **DELC 0733.998.002, 3067 Village Square Drive, Hartland. Owner: Delafield Station LLC. Applicant Stephanie Lempke.** Applicant seeks approval of a Business Plan of Operation for Soothing Sense LLC. a specialty retail store. The hours of operation are 6:00 A.M. to 11:00 P.M. all days, with 1 full-time employee and 3 part-time employees.

**Stephanie Lempke, applicant**, explained she would not be selling any products to minors. A sign had been purchased that would be posted on the door of her store advising all that no products would be sold to minors.

**SCHULT MOVED TO APPROVE A BUSINESS PLAN OF OPERATION FOR SOOTHING SENSE LLC., A SPECIALTY RETAIL STORE. THE HOURS OF OPERATION ARE 6:00 A.M. TO 11:00 P.M. ALL DAYS, WITH 1 FULL-TIME EMPLOYEE AND 3 PART-TIME EMPLOYEES FOR DELC 0733.998.002, 3067 VILLAGE SQUARE DRIVE, HARTLAND. OWNER: DELAFIELD STATION LLC. APPLICANT: STEPHANIE LEMPKE. REIHER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

- b. **Review and discussion:** Proposed floor area and basement calculations.

Information on this item provided in the epacket for this meeting was an attempt to create a solution to answer/clarify ambiguities in the existing City ordinances pertaining to floor area and basement calculations. The proposed information determined a formula to accommodate future build-out of basement spaces and limiting the head room of attic spaces. The proposed changes would include diagrams to assist in clarification of the issue. It was also noted that approximately twenty citizens in the building industry had reviewed the proposed changes. Feedback provided indicated that despite there being "pros and cons", the proposed changes would be helpful to all considering additional construction in these areas. Discussion ensued. The formula provided would allow simple math to define interior space. Staff discussions had indicated an increase of 20%-30% would be appropriate in the floor area ratio and would still respect the building envelope, setbacks and height restrictions for each district. A public hearing would be scheduled for the next Plan Commission meeting including language noting an increase of 25% in the floor area ratio. Public feedback would be received at that hearing and changes could be made after the hearing to the proposed floor area and basement calculations if necessary. It was also noted that the proposed changes would be to all applicable zoning districts.

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6. New Business

- a. **DELIC 0745.983, 2827 Nagawicka Road, Hartland. Owner/Applicant: David and Rosina Frank.** Applicant seeks approval of an oversized accessory building.

***PLEASE SEE PLANNER'S REPORT IN THE EPACKET FOR THIS MEETING TO LOCATE DETAILED INFORMATION ON THIS ITEM.***

**David Frank, 2872 Nagawicka Road,** explained his application to construct a second home on the property had been denied in the past. He still planned to do that in the future but for now requested consideration of an oversized accessory building to store his personal property, including two cars, trailers and mower. This was not a dwelling; however, the architectural style was designed to match long term housing plans. The 2,249 sf proposed building would be built on a slab and without a basement. Discussion ensued regarding options available for approval including deed restrictions such as omitting sewer and water. Dupler noted information pertaining to this item was included in the epacket for this meeting and explained the possible restrictions relative to prohibiting the use of the building as a residential dwelling, prohibiting sewer linkage, septic system, business use, and any land division. Frank noted there were several other buildings like the proposed that were permitted with deed restrictions in the City. Additional discussion ensued. Marek noted workshops often have water and it would make sense to allow that in this case. Jashinsky agreed. Concern was expressed regarding enforcement of prohibited items and whether the building could simply be converted into a dwelling internally in the future.

**AICHER MOVED TO APPROVE AN OVERSIZED ACCESSORY BUILDING FOR DELIC 0745.983, 2827 NAGAWICKA ROAD, HARTLAND. OWNER/APPLICANT: DAVID AND ROSINA FRANK CONTINGENT UPON DRAFTING AND RECORDING A DEED RESTRICTION TO PROHIBIT THE USE OF THIS BUILDING AS A RESIDENTIAL DWELLING OR BUSINESS/COMMERCIAL USE BUILDING. REIHER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. SIX WERE IN FAVOR. MOTION CARRIED WITH SCHULT VOTING NAY.**

- b. **DELIC 0786.053.002, 2224 West Shore Drive, Delafield. Owner: Michael D. Alber and Susan J. Alber. Applicant: Seasonal Services, Nellie Mogge.** Applicant seeks approval of a retaining wall in the side yard of a RL-2 residential property.

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**Brady Achtenhagen, S43W34465 Forest Court, Dousman, WI., on behalf of the applicants,** explained approval of a retaining wall in the side yard was necessary due to the topography surrounding the house on the lot. Two three foot high walls would be constructed in the setback to flatten the grade and assist in keeping the drainage flow on the property. Neighboring property owners to the north and south were in support of the proposal. A visual rendering was provided at this time to the Commission showing the proposed location of the walls and current water flow on the property.

**GREENWAY MOVED TO APPROVE A RETAINING WALL IN THE SIDE YARD OF A RL-2 RESIDENTIAL PROPERTY FOR DELIC 0786.053.002, 2224 WEST SHORE DRIVE, DELAFIELD. OWNER: MICHAEL D. ALBER AND SUSAN J. ALBER. APPLICANT:**

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**SEASONAL SERVICES, NELLIE MOGGE. REIHER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

- c. **DELC 0825.987, 601 Maple Avenue, Delafield. Owner: Ben M. Askren and Amy Askren. Applicant: Cameron Bence.** Applicant seeks approval of a Certified Survey Map to divide a B-6 parcel into two five acre parcels and recommend same to the Common Council.

***PLEASE SEE PLANNER'S REPORT IN THE EPACKET FOR THIS MEETING TO LOCATE DETAILED INFORMATION ON THIS ITEM.***

Information had been provided on this matter in the epacket. Disproportionate lot configurations were unavoidable because the parent lot did not conform to the recommendations of width to depth ratios. The northern commercial lot constituted a flag lot with the larger bulk of the lot in the rear portion. The narrow frontage on Maple Avenue was wide enough to satisfy the B-6 minimum lot width requirement. A surveyor's letter dated July 25, 2019 included issues that still required resolution.

**Ben Askren, applicant, and Cameron Bence, 1301 West Canal Street, Milwaukee, WI.,** were present. Two issues had arisen since approval of this matter two months ago. The neighbors had decided to sell their property so the easement needed to be changed. The City was being given a utility easement for future property development with the adjoining property owner. All easements had been resolved with appropriate owners. Nothing had changed with the lot.

**JASHINSKY MOVED TO APPROVE CERTIFIED SURVEY MAP TO DIVIDE A B-6 PARCEL INTO TWO FIVE ACRE PARCELS FOR DELC 0825.987, 601 MAPLE AVENUE, DELAFIELD. OWNER: BEN M. ASKREN AND AMY ASKREN. APPLICANT: CAMERON BENCE, CONTINGENT UPON RESOLUTION OF THE ITEMS IDENTIFIED IN THE SURVEYOR'S LETTER OF JULY 25, 2019 AND TO RECOMMEND TO THE COMMON COUNCIL THE SAME. GREENWAY SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. SIX WERE IN FAVOR. MOTION CARRIED WITH AICHER VOTING NAY.**

- d. **DELC 0825.987, 601 Maple Avenue, Delafield. Owner: Ben M. Askren and Amy Askren. Applicant: Cameron Bence.** Applicant seeks approval of Specific Implementation Plan for a B-6 commercial building to house Askren Wrestling Academy and recommend to the Common Council of the same.

***PLEASE SEE PLANNER'S REPORT IN THE EPACKET FOR THIS MEETING TO LOCATE DETAILED INFORMATION ON THIS ITEM.***

Several issues required resolution or clarification as noted in the Planner's Report in the epacket for this meeting. This items should be resolved prior to approval or a condition of approval and included a shared driveway access easement, extension of the full drive aisle to Maple Avenue, design and materials included in the retaining wall east of the detention facility including a railing if the wall was over three feet, landscaping screening across the north side of the parking lot for future separation, landscaping plans with tree replacement and grass mixes, identification and placement of HVAC units with appropriate screening, and internal trash maintenance. Additional necessary approvals required prior to occupancy were shared with the applicant as noted in the epacket for this item.

**AICHER MOVED TO APPROVE A SPECIFIC IMPLEMENTATION PLAN FOR A B-6 COMMERCIAL BUILDING TO HOUSE ASKREN WRESTLING ACADEMY FOR DELC**

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**0825.987, 601 MAPLE AVENUE, DELAFIELD. OWNER: BEN M. ASKREN AND AMY ASKREN; APPLICANT: CAMERON BENCE, SUBJECT TO COMMON COUNCIL APPROVAL OF THE CERTIFIED SURVEY MAP, AND CONTINGENT UPON STAFF APPROVAL OF THE RETAINING WALL DESIGN AND MATERIALS, HVAC UNITS AND SCREENING, INTERNAL TRASH MAINTENANCE AND RESOLUTION OF ITEMS IDENTIFIED IN THE ENGINEER'S REVIEW LETTER OF JULY 25, 2019, INCLUDING STAFF VERIFICATION OF THE WIDENING OF THE SHARED DRIVEWAY AND TO RECOMMEND TO THE COMMON COUNCIL THE SAME. GREENWAY SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

- e. **DELCO 0798.098.001-004, 319 –337 Division Street, Delafield. Owner: Berhend Property LLC. Applicant: Condo Development Inc.** Applicant seeks approval for a Certified Survey Map to consolidate four CBD-2 lots into one parcel and recommend to the Common Council of the same.

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Items 6e, 6f, and 6g were discussed concurrently.

**Greg James, 318 North Lake Road, Oconomowoc, WI - applicant's representative,** was present. Commissioners discussed the vacation of the alleyway as part of this project. The alleyway could be vacated and split down the middle so that entre alley on the north and south sides of the existing alley from Lake Street to Oneida Street, but not including Lake Street, could be attributed to each property owner along the alley west of the subject property. This would remove the alley from the City's maintenance responsibility. The bike path would remain City property and an easement provided from the applicant for maintenance. A sidewalk should be provided across the face of the proposed lots along Division Street from the west property line to the Lake Street bike path to provide a direct pedestrian link to the City Hall and downtown area.

**JASHINSKY MOVED TO APPROVE A CERTIFIED SURVEY MAP TO CONSOLIDATE FOUR CBD-2 LOTS INTO ONE PARCEL FOR DELCO 0798.098.001-004, 319 –337 DIVISION STREET, DELAFIELD. OWNER: BERHEND PROPERTY LLC. APPLICANT: CONDO DEVELOPMENT INC, CONTINGENT UPON RESOLUTION OF ITEMS IDENTIFIED IN THE SURVEYOR'S LETTER DATED JULY 22, 2019, WITH EXTENSION OF THE ALLEY ON THE WEST PROPERTY LINE TO ONEIDA STREET AND VACATING THE ALLEY FROM LAKE STREET TO ONEIDA STREET SUBJECT TO COMMON COUNCIL ACTION ON THE VACATION OF THE ASSOCIATE RIGHTS OF WAY AND TO RECOMMEND TO THE COMMON COUNCIL THE SAME. GREENWAY SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

- f. **DELCO 0798.098.001-004, 319 –337 Division Street, Delafield. Owner: Berhend Property LLC. Applicant: Condo Development Inc.** Applicant seeks approval for a Plat of Vacation to convert a portion of Lake Street and alleyway from public right-of-way to private ownership and recommend to the Common Council of the same.

**AICHER MOVED TO CONVERT A PORTION OF LAKE STREET AND THE ALLEYWAY FROM PUBLIC RIGHT-OF-WAY TO PRIVATE OWNERSHIP FROM LAKE STREET TO ONEIDA STREET WITH THE ENTIRE ALLEY BEING VACATED AND TO REQUEST THE APPLICANT TO REVISE THE PLAT OF VACATION AS DISCUSSED AT THIS MEETING AND TO RECOMMEND TO THE COMMON COUNCIL THE SAME. GREENWAY**

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**SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

- g. **DELC 0798.098.001-004, 319 –337 Division Street, Delafield. Owner: Berhend Property LLC. Applicant: Condo Development Inc.** Applicant seeks approval of a Conditional Use Permit and Development Plans for two four-unit multifamily dwellings in the CBD-2 district and recommend to the Common Council of the same.

***PLEASE SEE PLANNER'S REPORT IN THE EPACKET FOR THIS MEETING TO LOCATE DETAILED INFORMATION ON THIS ITEM.***

Several items required revision as noted in the epacket for this meeting pertaining to the Conditional Use Permit and Development Plans for the project. Revised plans were needed prior to proceeding. The applicant agreed to return in the future with revised plans.

7. Zoning and Ordinance Revision.
- a. Discussion regarding proposed zoning text amendments to create Plan Commission authority to approve special exceptions relating to building height, location, number of floors, and setback versus zoning text amendments to modify the CBD-1 zoning district bulk regulations regarding building height, location, number of floors and setback.

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Information had been prepared to assist the Plan Commission in consideration of providing Special Exceptions (SE) to allow the CBD-1 to have the ability to exercise Special Exceptions when considered appropriate by the Plan Commission. The Common Council had deliberated previous recommendations from the Plan Commission at the last Council meeting and had requested the Plan Commission conduct public hearings on three options, noted in the epacket for this meeting, including granting power to the Plan Commission for Special Exceptions, revising bulk regulations for the CBD-1 and a third option to create a new district, with boundary, that would implement the amendments of the second option. The third option would identify an overlay district or create a new district to allow for taller, larger, buildings with additional density within a specific boundary district. The Plan Commission currently had the ability to grant special exceptions; however, this was related to substandard lots. The City Attorney had prepared language to open discussions with limited application. Specific special factors were identified in the conceptual text to allow for discussion relative to the overall rezoning options rather than one specific proposal. Modifications to the ordinance would be applicable within the boundaries of a district. Atwell outlined a process on how to move forward including public input.

Discussion ensued regarding the number of floors discussed in Zoning Code Section 17.91 in the epacket for this item. Increasing the number of floors by percentage required adjustment in the verbiage because 20% or less could not be achieved. Having a percentage was preferable as opposed to a specific number in the Zoning Code.

Discussion ensued. Option One was considered too broad and was difficult to explain to applicants in a consistent manner. This would allow unintended consequences and the City could be compelled to allow a Special Exception when it was not desired due to compilation of percentages. The third option seemed to portray spot zoning and this should not be done. Zoning changes should be broad and should not apply to only a few blocks without unique characteristics in comparison with other nearby blocks of the downtown. Option Two would

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provide clear simple rules that would apply to all in CBD-1. Changing the bulk regulation would remove Special Exceptions and apply to all in that district. It was noted that most Special Exceptions were mainly in commercial districts and were minor with small percentages such as 3%. Special Exceptions were to be used in unique situations and as a minor “tweak.” In researching other municipal ordinances, the height determined number of stories. In past City of Delafield documents, density was limited by the number of floors. An update providing parking would alleviate issues that came with extra density for surrounding businesses. The number of parking spaces would be related to specific uses. Discussion ensued regarding setback and building height. Examples were provided of setback distances relative to type of street, property lines, and building height. Consensus was indicated for Option 2 with revisions to bulk regulations within a zoning district. Revisions should allow the height to determine the number of stories in a building. A separate height could be provided for buildings with underground parking. Height determination needed to be a consistent measurable point that would be defined in the future. Commissioners were asked to consider specific measurements desired relative to building height, setbacks and measurement. The Commission would hold public hearings to gather input from residents in the next few months.

8. Reports of City Officials:

- a. Clerk
  - 1. Plan Commission Meeting Dates & Deadlines
    - a. Meeting August 28, 2019
    - b. Meeting Submittal Deadline August 13, 2019
    - c. Public Hearing Submittal Deadline July 29, 2019.
  - 2. Correspondence – None.
- b. Planner – No report.
- c. Building Inspector.

There were 38 total permits with four commercial permits this month.

9. Adjournment.

There was no further business; therefore, the Wednesday, July 31, 2019 Plan Commission meeting adjourned at 9:21PM.