

**Minutes
Plan Commission Meeting
October 24, 2016
7:00pm**

Chair Busse called the meeting of the City of Monona Plan Commission to order at 7:06 pm.

Present: Chair Alder Jim Busse, Mr. Grif Dorschel, Mr. Chris Homburg, Ms. Susan Fox, Alder Brian Holmquist and Mr. Dale Ganser

Excused: Ms. Kathy Thomas and Mr. Robert Stein

Also present: City Planner & Economic Development Director Sonja Reichertz

Approval of Minutes

A motion by Mr. Dorschel, seconded by Mr. Ganser, to approve the minutes of October 10, 2016 carried with no corrections.

Appearances

There were no appearances.

Unfinished Business

A. Public Hearing on Request by La Rae Richard, The Cozy Home, for a Zoning Permit and Façade Improvement Grant Application for the Property at 6328 Monona Drive.

La Rae Richard, The Cozy Home, explained that she is relocating her business to 6328 Monona Drive from the Lake Edge shopping center 12 months. Ms. Richard explained that the existing building at 6328 Monona Drive is not consistent with the look and feel of her business and a Façade Grant would help with the substantial exterior improvements they have planned. Ms. Richard stated that nothing in the plans has changed since the previous meeting.

B. Consideration of Action on Request by La Rae Richard, The Cozy Home, for a Zoning Permit and Façade Improvement Grant Application for the Property at 6328 Monona Drive.

Planner Reichertz recommended approval. Mr. Homburg clarified that this is also an approval of a zoning permit for use, not just building alterations and façade improvements, as written in the report.

A motion was made by Mr. Homburg and seconded by Ms. Fox to approve a zoning permit for building use, building alterations, and approval of a façade improvement grant application, as proposed, and according to Section 13-1-180 of the Monona Municipal Code of Ordinances, for the property at 6328 Monona Drive, with the following findings of fact and conditions of approval:

Findings of Fact:

1. The property at 6328 Monona Drive is an eligible property to receive funding under the Façade Improvement Grant Program.

2. The Plan Commission determined that the proposed plans and designs conform to the Urban Design Guidelines for Monona Drive and that the proposed improvements are eligible projects as listed in the Façade Improvement Program guide.
3. The Finance and Personnel Committee reviewed the grant request on 10/17/2016 and approved funding in the amount of \$10,000.

Conditions of Approval:

1. All required building permits from state and local agencies shall be obtained.
2. The project shall be completed within 12 months of Plan Commission approval.
3. Upon project completion, the applicant shall notify the City planner to inspect the project for full compliance with the documents and approvals granted, and the City Planner and applicant will sign a Close-Out Form acknowledging successful completion and that the applicant has complied with all terms of the agreement with the City.
4. Upon receipt of the Close-Out Form, the applicant may submit the Reimbursement Request Form to the City Planner along with necessary documentation such as paid invoices, and if found to be in compliance, the City will issue a reimbursement check to the applicant for the grant amount approved.
5. Any future sign permit applicants shall be submitted for review and approval by the Plan Commission.
6. Installation of an alarm system and Knox box is required, as noted by the Fire Chief and Building Inspector.
7. Any work in the City Right-Of-Way (ROW) requires approval of a ROW Permit and submittal of a ROW Permit fee of \$50.00.
8. Residential units on the second floor are not approved at this time.

The motion carried.

New Business

A. Public Hearing on Request by Plan Force Group, Representing Owners Border Foods of Wisconsin, LLC and Marvin Development of South Dakota, LLC for a Zoning Permit for Exterior Alterations to the Taco Bell at 100 E Broadway.

Barbara Schneider, Border Foods of Wisconsin, LLC, said it is time for an exterior refresh at the restaurant. Ms. Schneider said that because of the East Broadway Design Standards, this is not the typical design that Taco Bell approves. She gave the example of the new Taco Bells on Commerce and Washington in Madison as more prototypical designs. Ms. Schneider noted that there are no proposed site changes. The architectural changes include squared towers and the color purple. The purple color will serve as a backdrop to a metal slat wall that provides definition to the building and will have LED lighting behind it. The plans show an added a tower on the north elevation so the slat wall would have something to tie into. Ms. Schneider stated that Red Robin, Buffalo Wild Wings, and Staples have introduced new colors to the district.

B. Prehearing Conference on Request by Plan Force Group, Representing Property Owner Border Foods of Wisconsin, LLC, and Marvin Development of South Dakota, LLC for a Zoning Permit for Exterior Alterations to the Taco Bell at 100 E Broadway.

Planner Reichertz explained that the property is located in the Pier 37 East Broadway Commercial Center, which follows a General Development Plan with specific design guidelines, which include sloped roofs and earth toned colors. A zoning permit is required for substantial building alterations.

Mr. Homburg said that the design meets the intent of the guidelines, since the remaining sloped roof on the building is still prominent and the color purple does not bother him. He noted it appears that more signage has been added to the building. Ms. Schneider stated that they are not proposing any signage at this time, and will come back at the next meeting with their proposals. Staff clarified that more than one sign may be allowed if the building fronts on more than one street.

Alder Holmquist said that the overall design is good. He noted that one of the towers is completely blank in the proposed designs. It currently has signage on it. He wondered if there was another design element that would break up the blank space.

Mr. Ganser asked if all three proposed colors are corporate colors because the current cream color on the restaurant ties into the rest of the shopping center and wanted to know if it would be possible to maintain that color.

Mr. Ganser also asked about the LED lighting. Ms. Schneider stated that Taco Bell has LED lights in about twenty locations and they have not received any complaints about it being too bright.

Ms. Fox said that the purple color can be an extrapolation of burgundy and a mural could be a cool concept on the blank wall. Mr. Dorschel had no problem with the design.

Unfinished Business

C. Plan Commission Review and Recommendation to City Council on Recodification Summary by General Code Regarding Land Use Legislation Sections of the Monona Municipal Code of Ordinances.

Alder Mary O'Connor, 5103 Winnequah Road, spoke to clarify that when she initiated the impervious surface discussion, the intentions were to reduce water runoff and address aesthetic concerns.

The Plan Commission first discussed the proposed grading ordinance. The ordinance ties the natural grade to the finished grade. The difference between the two elevations shall not exceed more than 2 feet by right, but a special exception may be granted by the Plan Commission for up to 8 feet of change. Any request over 8 feet would go to ZBA. Chair Busse asked for an example of when the grade would change 8 ft. Mr. Homburg said that there could be a situation where an older house is sunk and it would be a favorable improvement, or a vacant lot that needs to be built up to be at the street grade. Mr. Homburg also stated that the word "cumulative" needs to be in the ordinance to keep people from coming back for requests to further raise the grade. Ms. Fox asked how the cumulative grade change will be monitored. Staff said the information will be kept in the property file and a table will track the grade change over time.

The Commission discussed proposed definition changes including height, grading plan, lot coverage, impervious surface, finished and natural grade, and a revised definition of family. In the family definition, the phrase domestic partnership is defined by a 2007 City of Monona Resolution. The Commission discussed the height definition and where to start the measurement on the property. Staff explained height is currently measured from mean ground level in front of the

structure. The proposed height measurement starts from any point of the finished elevation along the structure. There was discussion about changing the starting point of measurement to the lowest point so a stepped back roof line could not be built, which could end up with more than 35 feet as viewed from the street, but only 35 when measured from its associated point of finished grade. The Commission agreed to have the measurement start at the lowest point of the finished grade adjacent to the structure at any point along the foundation.

Mr. Homburg stated that the impervious surface definition should be measured to the ordinary high water line instead of the water's edge, since it is a point identified by the DNR. Alder Holmquist stated that there is already an impervious surface definition in the stormwater utility section of the Code (Sec. 9-4-4) and thought we might want to keep the two definitions consistent. The Commission agreed the proposed definition by staff is more appropriate than the one in Sec. 9-4-4. There was consensus that the proposed definition should include gravel under non-permeable surfaces.

Staff provided resources on purposes of regulating impervious surface. There was general consensus that regulating impervious surface could improve water quality, mitigate water runoff concerns, and aesthetic concerns. The most recent draft ordinance has a tired approach and allows for a special exception permit from the Plan Commission in specific topographic situations, like if there was a depressed surface on the property and the homeowner needed a longer driveway to get around it. Mr. Homburg stated that referencing topographic conditions is not a reasonable condition because it is more applicable to grading. The Commission also requested the addition of the word "substantial" when referring to "no negative impact."

Staff introduced information on short-term rentals. The City Council referred this item to the Plan Commission in order to first establish a clearer policy direction and possibly amend the ordinance accordingly. The current interpretation of the zoning code is that any rental less than 30 days is not consistent with single family residential neighborhoods. Staff explained that Cedarburg, WI had a similar ordinance interpretation and when it was challenged, they lost with the courts stating that the ordinance was ambiguous and should therefore be construed in favor of private property rights. Staff discussed the pros and cons of short-term rentals, and added that she has not received any complaints for short-term rentals that appear to be operating in Monona currently.

There were questions about the distinction between a bed-and-breakfast and a short-term rental. The Commission's consensus was that there are fair reasons on both sides of why a short-term rental should be permitted or prohibited. The Commission felt that if they became more popular in the future, we could revisit an ordinance that would permit them with regulations. Since there have been no complaints, they are not very common, and the Plan Commission did not believe they would become substantially more common in the future, that there was no need to amend the ordinance at this time. The Commission noted that if there are many short-term rentals operating in the future that room-tax should be collected.

Staff reviewed changes to the historic conservation ordinance as recommended by the Landmarks Commission. Because it is a part of the zoning code, the Plan Commission must review it and make a recommendation to the Council. The proposed ordinance starts with a nomination form and when complete the City Planner refers it to the Landmarks Commission for a public notice and hearing. The Council ultimately decides designation. Currently, if there is a proposed change to a landmark it is referred to the Landmarks Commission and then to the Plan Commission. If the Plan Commission deems it appropriate they will then refer it to Council. Staff noted proposed changes would simplify the process by replacing the Plan Commission with Landmarks.

Mr. Dorschel asked if anyone can petition a property to become a landmark, even without the owner's permission. There are many detrimental effects of receiving a designation and the fact that

anyone could start the process is a little disturbing. Planner Reichertz explained that the state law requires that the owner be notified but does not require their consent. Mr. Homburg stated that he does not want the Plan Commission completely taken out of the ordinance, because the Commission still controls the zoning regulations. Staff explained that the historic conservation ordinance does not change the Plan Commission's zoning authority in any way.

There was further discussion on the nomination process and the designation effects for property owners. Alder O'Connor spoke on behalf of the Landmarks Commission and stated that in Monona's case, designation is more of a way to explain Monona's history than restrict alterations. The ultimate consensus was to recommend approval of the ordinance to Council as written, but add a statement to clarify that this section shall not prohibit compliance with other zoning permit review by the Plan Commission.

A motion was made by Mr. Homburg, seconded by Mr. Ganser, to recommend approval to the City Council of the land use legislation sections of the Monona Municipal Code of Ordinances with the amendments as discussed and agreed upon by the Plan Commission and as written below:

Maximum Impervious Surface:

- (1) **Lots over 10,000 Square Feet. 65%.** A special exception permit may be granted by the Plan Commission up to 70% impervious surface if the applicant demonstrates there is no substantial negative impact caused by the additional impervious surface to the adjoining water bodies or adjacent parcels as a result of stormwater runoff.
- (2) **Lots less than 10,000 Square Feet. 70%.** A special exception permit may be granted by the Plan Commission up to 75% impervious surface if the applicant demonstrates there is no substantial negative impact caused by the additional impervious surface to the adjoining water bodies or adjacent parcels as a result of stormwater runoff.
- (3) Any request above and beyond the special exceptions allowed in sub (1) and sub (2) shall be reviewed as a variance request by the Zoning Board of Appeals.

Grading Requirements: The difference between the natural grade of the property and the finished grade of the property shall not cumulatively exceed 2 feet at any point on the lot, as shown on a submitted grading plan certified by a professional landscape architect, engineer, or surveyor. A special exception permit may be granted by the Plan Commission for a grade change of up to 8 feet if the applicant demonstrates there is no substantial negative impact to adjoining water bodies or adjacent parcels. These regulations shall not prohibit compliance with floodplain development regulations. Any request above 8 feet shall be reviewed as a variance request by the Zoning Board of Appeals.

Height. A distance to be measured from the lowest point of the finished grade to any point along the structure's foundation to the deck line of a mansard roof, the midpoint of a shed roof, to the highest point of a flat, round or arch-type roof, or to the midpoint of the highest gable on a pitched or hip roof.

Impervious Surface. Any area covered by building footprints and paved surfaces including principal buildings, accessory buildings, driveways, walkways, patios, and parking areas, including any non-permeable gravel, concrete, or asphalt surfaces. For waterfront properties, the lot area used to calculate impervious surface shall include any land between the meander line and the ordinary high water mark.

Lot Coverage. Area of the lot covered by all structures including but not limited to detached garages, carports, gazebos, screen enclosures, patios, decks, storage buildings, sheds & enclosures, pet houses.

Grading Plan. A plan that generally documents the natural grade and finished grade at important reference points such as property boundaries, building edges, building entrances, driveway entrances and top and bottom of retaining walls.

Natural Grade. Refers to the elevation (height) of the ground prior to any land alteration or construction, as measured at any point on the property.

Finished Grade. Refers to the finished elevation (height) of the ground following construction or land altering activities, as measured at any point on the property.

Family. One or more persons related by blood, marriage, domestic partnership, or adoption, including foster children, to a member of the family occupying the dwelling unit.

Sec. 13-1-64 Historic Conservation.

(a) **Purpose and Intent.** The protection, enhancement, perpetuation and use of improvements of special character or special historical interest or value are in the public interest. The purpose of historic conservation is to:

- 1) Protect, enhance and perpetuate improvements and districts which represent or reflect elements of the city's cultural, social, economic, political and architectural history;
- 2) Safeguard the city's historic and cultural heritage, as embodied and reflected in such landmarks and historic districts;
- 3) Stabilize and improve property values;
- 4) Foster civic pride in the beauty and noble accomplishments of the past;
- 5) Protect and enhance the city's attractions to residents, tourist and visitors, and serve as a support and stimulus to business and industry;
- 6) Strengthen the economy of the city; and
- 7) Promote the use of historic districts and landmarks for the education, pleasure and welfare of the people of the city.

(b) **Definitions**

- (1) **Landmark.** Any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the city, state or nation, and which has been designated as a landmark pursuant to the provisions of this Chapter.
- (2) **Landmark Site.** Any parcel of land of historic significance due to a substantial value in tracing the history of aboriginal people, or upon which an historic event has occurred, and which has been designated as a landmark site under this Chapter, or a parcel, or part thereof, on which is situated a landmark.

(c) **Designation.** The Common Council, after considering the recommendation of the Landmarks Commission under sub. (g) below, may designate a landmark according to this section.

(d) **Landmarks and Landmark Sites Designation Criteria.** The Landmarks Commission may designate as a landmark or landmark site any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historical, architectural or cultural significance to the city, such as historic structures or sites which:

- (1) Exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or
- (2) Are associated with the lives of important persons or with important events in national, state or local history; or

- (3) Embody the distinguishing characteristics of an architectural type inherently valuable for a study of a period, style, method of construction or of indigenous materials or craftsmanship; or
 - (4) Are representative of the notable work of a master builder, designer, or architect; or.
 - (5) Exhibit important archaeological or anthropological significance.
- (e) **Nomination.** Any person may nominate a site, improvement, or site with improvements for designation as a landmark. The person shall submit the nomination to the City Planning Division, to the attention of the City Planner, on a nomination form approved by the Landmarks Commission. The nomination shall clearly identify the proposed landmark, landmark site, and document why it qualifies under sub. (d). The City Planner may ask the person to submit additional information and documentation as needed to complete or clarify the nomination. When the City Planner determines that the nomination is complete, the City Planner shall refer the nomination to the Landmarks Commission. Any property nominated for landmark status located within a redevelopment area or tax increment financing district shall also be referred to the Community Development Authority for review and recommendation prior to Common Council Action.
- (f) **Landmarks Commission Review and Public Hearing.** Whenever the Landmarks Commission receives a complete, accurate nomination under sub. (e), the Commission shall review the nomination. As part of its review, the Commission shall hold a public hearing on the nomination, preceded by a Class 2 notice and notice to each owner of record on each lot on which the proposed landmark is located, and to each owner of record of each lot located within two hundred (200) feet of the lot on which the proposed landmark is located. The Commission may also conduct its own investigation of the facts, as it deems necessary.
- (g) **Landmarks Action.** After the Landmarks Commission holds a public hearing and completes its review under sub. (f), the Commission shall report to the Common Council a recommendation supporting or opposing the proposed landmark designation. The Commission shall send notice of the recommendation to each owner of record on each lot on which the proposed landmark is located, and to each owner of record of each lot located within two hundred (200) feet of any lot on which the site or structure is located, at least 10 days before any meeting at which the Common Council may act on the Commission's recommendation.
- (h) **Common Council Action.** After considering the Landmark Commission's report recommendation under sub. (g), and based on the standards under sub. (d), the Common Council shall vote to designate or decline to designate the property as a landmark. The City Clerk shall promptly notify the Building Inspector of each landmark designation. The City Clerk shall record the designation with the Dane County Register of Deeds at the City's expense.
- (i) **Voluntary Supplemental Restrictions.** The Common Council may at any time supplement the terms of a landmark designation, pursuant to an agreement between the landmark owner and the Landmarks Commission, to enhance the preservation and protection of the landmark.
- (j) **Recognition of Landmarks.** Whenever the Common Council designates a landmark under sub. (h), the Landmarks Commission shall affix a plaque identifying the property as a landmark to the landmark or landmark site with the permission of the owner, or in the absence of permission in the public right of way as approved by the Public Works Director. The plaque shall be placed so that it is easily visible to passing pedestrians. In the case of a landmark structure, the plaque shall include the accepted name of the landmark, the date of its construction, and other information that the Landmarks Commission considers appropriate. In the case of a landmark that is not a structure, the plaque shall include the common name of the landmark and other information that the

Commission considers appropriate. If the Commission determines that because the landmark is ecologically or culturally sensitive a plaque would be inappropriate, no plaque is required. No person may remove or modify a plaque without approval of the City Planner.

- (k) **Amending a Landmark Designation.** Any person may petition the Landmarks Commission to amend a Landmark Designation. The process for amending a landmark shall be the same as for designating a landmark under subsections e-h above.
- (l) **Determination of Effect on Proposed Use or Improvement.** If an application for a zoning, building or demolition permit under this Code involves a landmark or landmark site designated as such, the Landmarks Commission shall determine:
 - (1) Whether the proposed work would detrimentally change, destroy, or adversely affect any architectural feature of the landmark; and
 - (2) In the case of a new construction, whether the exterior or such construction would be in harmony with the external appearance of other landmarks on the site or nearby; and
 - (3) Whether the proposal would significantly alter or destroy the historic characteristics of the landmark or the landmark site.
- (m) **Action on Permit Application.** The permit application shall be first referred to the Landmarks Commission for consideration. The Landmarks Commission shall make a determination as to the matters referred to in subsection (l), and shall forward its determination to the appropriate body for action in accordance with section 13-1-182 (Zoning Permits in Single-Family and Two-Family Residence District), 13-1-183 (Zoning Permits in all other Districts), 15-1-23 (Building Permits), and 15-1-83 (Demolition Permits). Notwithstanding the previous sentence, upon the recommendation of the Landmarks Commission, and after consideration of the purpose and intent of this section, the Landmarks Commission shall refer the application with an advisory report to the Common Council for consideration of acquisition or preservation of the landmark or landmark site. The City Planner shall provide notice to the state historic preservation officer of any proposed action which would affect a designated landmark in accordance with section 66.1111, Stats.

The motion carried.

Reports of Staff and Commission Members

- A. **Staff Report Regarding Status of Development Project Proposals.** The next meeting is November 14, 2016. The November 28, 2016 meeting is canceled and there will most likely be only one meeting in December on the 12th.
- B. **Plan Commission Requests for Information Concerning Development Projects.** Alder Holmquist said he has been asked if there is a rule that regulates when and how businesses can have a sidewalk and/or yard sale. Planner Reichertz said there is no specific regulation under retail zoning, but could be in the property maintenance section. Alder Holmquist stated that property maintenance is more tied to single family, and is concerned that this may not fall under any ruling. Staff also said it could be with outdoor storage regulations. Alder Holmquist explained that some businesses bring items for sale out on their property and they do not have the same neat and orderly appearance.

Adjournment

A motion by Mr. Dorschel, seconded by Ms. Fox to adjourn was carried. (9:00 pm)
Respectfully submitted by: Sonja Reichertz, City Planner & Economic Development Director