

CITY OF OCONOMOWOC
COMMON COUNCIL MEETING

December 20, 2005

7:30 p.m. Public Hearing re: Petition of Michael Krill, Icon Development, to rezone property to a PD (Planned Development Overlay District) on the City's Zoning Map.

Mayor Sullivan declared the public hearing open at approximately 7:30 p.m. and asked Mr. Krill to make a brief presentation.

Mr. Krill stated that this is a condominium development with residential on the north side of the road and commercial on the south side, on the lake. There will be 36 total residential units, single units of 2-family units and a commercial unit across the street which is the existing Beach House, with a parking lot across the street which is consistent with County and Department of Natural Resources regulations. He pointed out they are proposing only 14 boat slips, although the County would allow up to 28 boat slips. Regarding the restaurant, they will be applying for a Conditional Use Permit at a later date to renovate that property. Up to 50% of the fair market value of the existing property may be invested in structural changes to the building, which he stated he will be prepared to address in greater detail at the time the Conditional Use Permit is before you.

Mr. Mike Trego, Architect with Visionary, pointed out that Tony Pepito saw the property and felt it would be an ideal location for a Sicilian Restaurant. Mr. Pepito has operated an Italian restaurant in the Milwaukee area for many years. Mr. Trego pointed out there are many upgrades necessary to the restaurant building to bring it up to today's standards. Among the 36 residential units, there will be 10 different floor plans, and they will all be brought together in different combinations in a Mediterranean style. Landscaping is proposed to withstand Wisconsin climate, yet in keeping with the Sicilian style. Ms. Ann Hasselkus, Landscape Architect, has accomplished this.

The question of traffic was questioned, to which Mr. Krill responded that it has been worked out with Waukesha County by narrowing the road so traffic will slow down. There will be marked crosswalks. He pointed out that both Waukesha County and their engineer have recommended this type of traffic calming technique.

Mayor Sullivan asked for public input. Mr. Jay Potter, 3322 N. Silver Lake Dr., stated that he lives east of the proposed condominiums and northeast of the Beach House. He referred to a communication dated August 9, 2005 from Mr. Dick Mace, of Waukesha County Park and Land Use Department, to the Plan Commission and the Common Council, pointing out that the Beach House property is extremely non-conforming structurally and being only 17' from the highwater mark of Silver Lake. A 100' setback from the highwater mark is required. The proposed addition will be only 25' from the right-of-way of County Trunk Hwy. B, which is 25' short of County requirements. He further stated that the non-conforming structure is being renovated in excess of 50% of its value, so it would take a variance to proceed. He pointed out that should the present building burn down, it could not be replaced because of its non-conforming status, unless

the Board of Appeals would grant a variance. Mr. Potter went on to say that Mr. Mace also pointed out that the value of the building is determined on evaluating the structure, not its location. With regard to traffic on Hwy. B, although it has a 25 mph speed limit, very few cars observe it, and with the proposed crosswalk at the base of the hill, it would be a very dangerous situation for pedestrians crossing Hwy. B to go to and from the restaurant.

Ms. Natalie Zellmer, 37428 Indian Mound Rd., read a letter she had sent to the Plan Commission asking that the developer consider reducing the size of the restaurant to 1.5% of its proposed size and that any noise levels of music be curtailed. She asked that boat traffic be kept to a minimum so that Silver Lake can continue to be one that our community can be proud of.

There being no further public input, the hearing adjourned at approximately 7:46 p.m.

7:15 p.m. Public Hearing – Public Hearing re: Create §17.903(11) of the Municipal Code (the Zoning Code) relating to the amendment of the zoning map and annexations

Mayor Sullivan declared the public hearing open at 7:46 p.m., and asked the City Attorney to speak to the proposed ordinance.

City Attorney Chapman explained that due to a relatively recent law, whenever land is annexed, the City must pay to the township from which it is being detached, 5 years of the Town portion of the real estate taxes for the amount of the year in which it is being annexed for that property. Adoption of this ordinance will allow the City to pass that cost on to the person petitioning for the annexation.

There being no public input, the hearing adjourned at 7:47 p.m.

Mayor Sullivan called the regular Common Council meeting to order at 7:48 p.m., and announced that we have a new staff member present this evening. Mr. Ray Maurer will be presented for Council confirmation as our Park, Recreation and Forestry Director, and he asked Mr. Maurer to lead in the Pledge of Allegiance.

Mr. Maurer led in the **Pledge of Allegiance**.

Roll Call: Aldermen present – Hollatz, Jones, Snyder, Morgan, Gross, Larsen, Antonneau and Cochrane (all present)

Staff in Attendance: Lamp, Sugden, Severson, Kitsebel, Duffy, Schmidt, Frye, Maurer, Scharfenberg, Senfleben, Gard and Attorney Chapman

Minutes of previous meeting: Common Council meeting of December 6, 2005. Moved by Ald. Snyder, seconded by Ald. Cochrane to approve the minutes of the December 6, 2005 Common Council meeting, as written. Voice vote carried with no dissenting votes.

Comments and suggestions from citizens – The following people spoke in favor of the Badgerland Waterski Show for 2006: Debbie and Matt Farra, W268 N2750 Platt St., Pewaukee; and Joy Kruschel, N51 W22227 Lisbon Rd., Sussex. Among their comments were the fact that they will be downsizing their shows to 6 this year and will not be installing a pier. They understand some of the concerns that citizens have, but they would like to continue putting on a quality show. This is a wholesome family show for the citizens of Oconomowoc to bring their family to enjoy. They have participated in City events such as the Christmas Parade, and worked with the Park & Recreation Department in sponsoring a “Learn to Ski “ program. Their show has been welcomed in many other communities, such as Pewaukee, Waukesha, Muskego and many more. Mr. Farra pointed out that they have hosted their “Think Tank” week-end @ the Olympia Resort in February for several years which brings many people to this Community.

Consent Agenda: 1) Licenses and 2) Treasurer’s Report – Moved by Ald. Hollatz, seconded by Ald. Cochrane to approve the Consent Agenda. Voice vote carried with no dissenting votes.

Committee Reports:

- A. Finance – no report
- B. Personnel – no report
- C. Protection and Welfare – no report
- D. Public Services – no report
- E. Utility – no report

Plan Commission recommendations

- A. Consider/act on approving General Development Plan for Vespera at Porticello – Ald. Gross reported that there was a public hearing before the Plan Commission on December 14th and comes with their recommendation.

Motion was made by Ald. Gross, seconded by Ald. Snyder to approve the General Development Plan for Vespera at Porticello.

Ald. Antonneau wanted clarification on the distance the building will be from the water. Attorney Chapman responded that there is a 10’ porch on the lake side which they will remove. It was pointed out earlier that the building was only 17’ from the water and if that is true, this will make it 27’ from the water. Attorney Chapman stated they have met to go over the general intent of remodeling and came up with a total estimated figure of \$972,500, using the County guidelines (Maris vs. City of Cedarburg). He pointed out that the cost for structural improvements would be \$297,000, to which the 50% rule applies (50% of fair market value of the property) and they would not be exceeding that. Non structural improvements, such as replacement of windows, roofs, ceilings, decorating, etc. is not considered in the 50%. He also took issue with Mr. Potter’s comment which implied that the location of the structure could not be part of the consideration. Attorney Chapman felt that this building on a lake is more valuable than the building sitting in a farm field. Mr. Krill will get an appraisal at the time he applies for a Conditional Use Permit. Wherever County & City jurisdiction exists, we must comply with the

more restrictive of the two. There was further discussion as to the possibility of moving the restaurant across the road, which had been discussed, but would not be feasible; their proposed landscape plans exceed City requirements; concern about pedestrians crossing over to and from the restaurant and whether a narrower road will actually slow traffic down. Attorney Chapman stated he and the developer have met with Mr. Wayne Higgins from Traffic Engineering Services, Inc. who stated this does have a calming effect on traffic, and further suggested narrowing the road and put in curb & gutter. The crosswalks will be paved and well signed in both directions. A comment was made that we don't need any more restaurants in Oconomowoc. The request for no loud music was asked by a resident, and Ald. Gross stated that this will be handled through the Conditional Use Permit, and that there won't be any loud music or outdoor entertainment. Mr. Krill also stated that this is a very unique development, with units selling for between \$700,000 and \$1.2 Million and there will be significant controls in the Declaration of Restrictions. He also pointed out that the beach area is solely for the use of the condo owners and their guests.

Motion to approve the General Development Plan for Vespera at Porticello carried with Aldermen Larsen and Morgan voting against it.

- B. An Ordinance to Create a Planned Development on Certified Survey Map No. 7326, located generally at the intersection of Valley Rd. (CTH "B") AND St. Andrews Drive, City of Oconomowoc, Waukesha County, Wisconsin, to be designated Vespera at Porticello and Club Porticello Restaurant Planned Development (PD-7-05), per public hearing - due to the length of the Ordinance, the following motion was made:

Moved by Ald. Snyder, seconded by Ald. Cochrane to suspend the rules and allow the first reading of the Ordinance by summary by the City Attorney. Roll call vote carried with Ald. Larsen voting "no".

Moved by Ald. Gross, seconded by Ald. Hollatz to give the Ordinance its first reading.

Attorney Chapman reported that all of the requirements of the Planned Development procedure have been met. There was a public hearing before the Plan Commission on August 10, 2005, but action was postponed due to highway access. There was another public hearing before the Plan Commission on December 14, 2005 for the General Development Plan and this Ordinance, and they recommend its adoption. He pointed out that there will be underlying zoning of Urban Commercial for the restaurant portion, and U-10 for the residential. If this ordinance is approved, the Developer can present a Precise Implementation Plan (PIP) which the Plan Commission will proceed with as they would for a Conditional Use Permit. The City may waive certain requirements that are not applicable, and pointed out that the City is waiving the County's reference to pyramiding. This development is not pyramiding or backlot development. It was pointed out that this is Step 3 in the Planned Development procedure, and the PIP is Step 4 and will include the condo plat, street construction plans and lighting, signage, training, grading and landscape plans, and staging plans which must be submitted for review and approval within one

year of adoption of this ordinance. Waukesha County must approve the design for pedestrian crossings on CTH "B" (Valley Rd.), and they must rezone the residential portion of the development. (It is presently B-3). There are different sizes of units, both 1 and 2 stories, and all must have 2 or 3 car garages, and the exterior must be either stone, brick or stucco w/wood detailing. Everything will be done according to City Code. The beach area is for the use of the condo owners and guests, but if they have more than 50 people at one gathering, they must apply to the City for a Special Use Permit. Only 14 boat slips will be allowed and no overnight mooring will be allowed. The developer must construct road improvements as proposed by the plan, and all applicable fees. The development must be completed within 5 years. Under the County's Shoreland and Floodland Protection Ordinance, the condominium development will be developed under County section 4(g)20. Architectural review is required by the Plan Commission and must be approved by the Common Council upon enactment of this Planned Development Ordinance. The City's Architectural Commission is also required to approve the building plans. This ordinance is more restrictive than the Waukesha County Shoreland and Floodland Protection Ordinance.

Attorney Chapman stated that if any member of the public wishes to see the ordinance in its entirety, to call his office and he will provide it to them.

Motion for the first reading of the ordinance carried, with Ald. Larsen voting "no".

C. Ordinance to Create §17.903(11) of the Municipal Code of the City of Oconomowoc (the Zoning Code) relating to the amendment of the zoning map and annexations, per public hearing – Moved by Ald. Gross, seconded by Ald. Cochrane to give the Ordinance its first reading. Carried unanimously.

Unfinished Business

A. An Ordinance to Amend §5.12(3)(b) and (4) of the Municipal Code of the City of Oconomowoc Relating to Expendable Equipment Charges – 2nd reading. Moved by Ald. Cochrane, seconded by Ald. Hollatz to give the ordinance its second reading by title only. Carried unanimously.

Moved by Ald. Cochrane, seconded by Ald. Hollatz that the Ordinance become law. Roll call vote carried unanimously.

B. An Ordinance to Amend §27.09(3)(b), (4)(b), (5)(b) and (c), (6)(b) and (c), (7)(b) and (c), and (8)(c) of the Municipal Code of the City of Oconomowoc Relating to the North Interceptor Impact Fee, the North Water Tower Impact Fee, and Impact Fees for Highways and other Transportation Facilities, Law Enforcement Facilities, Fire Protection and Emergency Medical Facilities, and Playgrounds and other Recreational Facilities – 2nd reading. Moved by Ald. Cochrane, seconded by Ald. Hollatz to give the ordinance its second reading by title only. Carried unanimously.

Moved by Ald. Snyder, seconded by Ald. Cochrane that the Ordinance become law. Roll call vote carried unanimously.

C. An Ordinance to Amend §18.03(5)(a)2.d. of the Municipal Code of the City of Oconomowoc Relating to the Park Fee in Lieu of Dedication – 2nd reading. Moved by Ald. Cochrane, seconded by Ald. Hollatz to give the ordinance its second reading by title only. Carried unanimously.

Moved by Ald. Snyder, seconded by Ald. Cochrane that the Ordinance become law. Roll call vote carried unanimously.

D. An Ordinance to Amend Section 13.63(3)(a) of the Municipal Code of the City of Oconomowoc Relating to sewer Availability Charges – 2nd reading. Moved by Ald. Cochrane, seconded by Ald. Gross to give the ordinance its second reading by title only. Carried unanimously.

Moved by Ald. Snyder, seconded by Ald. Cochrane that the Ordinance become law. Roll call vote carried unanimously.

E. An Ordinance to Amend the General Ordinances of the City of Oconomowoc – 2nd reading. Moved by Ald. Antonneau, seconded by Ald. Cochrane to give the ordinance its second reading by title only. Carried unanimously.

Moved by Ald. Snyder, seconded by Ald. Cochrane that the Ordinance become law. Roll call vote carried unanimously.

New Business

A. Consider/act on accepting replacement mortgage from Pabst Farms Land Company in the sum of \$1,700,000.00. Attorney Chapman pointed out that the fourth amendment to the Tax Incremental District Developer's Agreement provides that based upon the amount of development that has occurred to date, the current \$5 million mortgage was to be reduced to approximately \$1.5 million on a 19-acre parcel. The developer has executed a \$1.7 million replacement mortgage, and he recommended that the City accept the replacement mortgage in the sum of \$1.7 million.

Moved by Ald. Gross, seconded by Ald. Cochrane to accept the replacement mortgage from Pabst Farms Land Company in the sum of \$1.7 million. Carried unanimously.

B. Consider/act on satisfying Pabst Farms Land Company mortgage for \$5,000,000.00. Attorney Chapman stated it is necessary to satisfy the \$5 Million mortgage.

Moved by Ald. Cochrane, seconded by Ald. Gross to approve the Satisfaction for the \$5 Million mortgage. Carried unanimously.

C. Consider/act on request for approval of assignment of Pabst Farms Development LLC's interest in the TIF Developer's Agreement to Pabst Farms Development, Inc. – Attorney Chapman stated that Mr. Bill Niemann, of Pabst Farms, requested this assignment, and the TIF Developer's Agreement provides for assignments.

Moved by Ald. Antonneau, seconded by Ald. Cochrane to approve the assignment of Pabst Farms Development LLC's interest in the TIF Developer's Agreement to Pabst Farms Development, Inc. Carried unanimously.

D. Consider/act on Easement from Pabst Farms Development LLC to the Pabst Farms Joint Stormwater Utility District over Outlot 13 of Eastlake Village Subdivision – Attorney Chapman explained that the City has a stormwater easement over Outlot 13, which runs along the west side of Eastlake Village Subdivision. It is appropriate that the Pabst Farms Joint Stormwater Utility District also have an easement for possible future maintenance, and it is necessary that the City approve the easement running to the stormwater district.

Moved by Ald. Antonneau, seconded by Ald. Cochrane to approve the easement from Pabst Farms Development LLC to the Pabst Farms Joint Stormwater Utility District over Outlot 13 of Eastlake Village Subdivision. Carried unanimously.

E. An Ordinance to Amend §12.01(3)(a) and (b), §12.01(8)(e)1. and 2., and §12.01(9)(a) and (b) of the Municipal Code of the City of Oconomowoc Relating to License Fees for Amusement Devices and Amusement Operators, Fermented Malt Beverage Operators, and Intoxicating Liquor – 1st reading. Moved by Ald. Antonneau, seconded by Ald. Cochrane to give the Ordinance its first reading. Carried unanimously.

F. Consider/act on Badgerland Waterski Shows for 2006 – Mr. Tom Ziety of the Badgerland Waterski Show, stated that this has been before the Parks & Recreation Board. They are asking for 6 shows, 4 in July and 2 the first two Thursdays in August. Ms. Gard, City Administrator, stated that 2 motions to approve the waterski show for 2006, failed. One motion was for 6 shows and the other was for 5 shows.

Motion was made by Ald. Snyder, seconded by Ald. Cochrane to approve 6 waterski shows for the 2006 season. Motion carried, with Aldermen Larsen and Antonneau voting “no”.

G. Mayoral appointment of Parks & Recreation Director, with Council confirmation – Ms. Gard stated that 33 applications were received for this position, and 6 candidates were interviewed. Two were chosen for second interviews, and background checks and references were checked. Mr. Ray Maurer is our top candidate. He has been the Parks & Recreation Director in Cedarburg and the past 8 years. Ms. Gard stated that she spent several hours with him in Cedarburg and was impressed regarding their operation and the positive comments from his staff and superiors. He comes to us with very good experience in the field. She pointed out that the Mayor has gone through the process, and recommends the appointment of Ray Maurer as Director of our Parks, Recreation & Forestry Department.

Moved by Ald. Cochrane, seconded by Ald. Antonneau to confirm the Mayor's appointment of Ray Maurer as Director of our Parks, Recreation & Forestry department. Carried unanimously.

Mr. Maurer thanked the Mayor and Council for this opportunity and is anxious to join our team and looks forward to working with us for many years.

Mayoral appointments to Boards and/or Commissions, with Council confirmation – no further appointments.

Staff Reports: A. Administrator – Ms. Gard thanked all department heads and staff for all their work during a very busy year. She thanked the Council and Mayor for their leadership during the past year, and wished everyone a Happy Holiday.

B. Other – Ms. Kitsemel, Finance Director, gave tax collection times. City Hall offices will be closed Friday, the 23rd and Monday, the 26th; Friday, the 30th and Monday, the 2nd. Offices will be open on Saturday, the 31st, from 8:30 a.m. until 12:00 noon for tax collection purposes only. Access to City Hall on the 31st will be from the St. Paul entrance only.

Announcements and Communications – none

Reports and comments from the Aldermen – Ald. Hollatz said with all the snow, people are very slow at cleaning their walks, and he hoped staff was keeping an eye on that. Lt. Schmidt stated that they have been working on that, and will continue.

Reports and comments from the Mayor – Mayor Sullivan wished everyone Happy Holidays.

A motion to go into closed session was moved by Ald. Antonneau, seconded by Ald. Cochrane, per Wis. Stats. 19.85(1)(c) "Consider . . . compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility." (salaries for specific non-represented employees) and Report on union negotiations. Roll call vote carried unanimously.

Mayor Sullivan pointed out that following the closed session, there will be a motion to re-convene in open session to act on the 2006 Salary Resolution. (9:05 p.m.)

Re-convened in open session at 9:35 p.m. All members present.

Consider/act on Resolution re: 2006 Salaries for non-represented employees – Moved by Ald. Gross, seconded by Ald. Cochrane to approve the resolution.

Ald. Morgan made a motion to amend the motion to separate the it and act on the Park & Recreation area separately. Motion was seconded by Ald. Gross. Roll call vote failed, with Ald. Morgan voting "aye".

Vote on motion to approve the salary resolution carried with Ald. Morgan voting “no”.

There being no further business to properly come before this body a motion to adjourn was made by Ald. Cochrane, seconded by Ald. Antonneau, and carried. (9:42 p.m.)

Ardyce Senfleben, City Clerk