

**MINUTES OF THE PLANNING COMMISSION MEETING HELD AT THE
GREENFIELD CITY HALL ON TUESDAY, APRIL 8, 2014**

1. The meeting was called to order at 6:30 p.m. by Mayor Neitzke

ROLL CALL:	Mayor Michael Neitzke	Present
	Ald. Karl Kastner	Present
	Mr. Brian Weis	Absent
	Ms. Denise Collins	Present
	Mr. Frederick Hess	Present
	Ms. Christine Hallen	Excused
	Mr. Bradley Sponholz	Present
	Mr. Steve Rogers (alt.)	Present
	Mr. Don Carlson (alt.)	Present

ALSO PRESENT: Charles Erickson – Community Development Manager
Bruce Bailey – Alderperson Elect

2. Motion by Mr. Sponholz, seconded by Mr. Hess, to approve the March 11, 2014 minutes. Motion carried unanimously.

3. Discussion regarding the Common Council meeting held on March 18th & April 2nd. At the March 18th meeting there were no Plan Commission items. At the April 2nd meeting the Special Use was approved to open a Mexican restaurant at 7640 W. Forest Home Avenue. The public hearing was held for St. Vincent de Paul to go into the old Walmart at 4500 S. 108th. The request was not approved because the vote on the motion/second to approve was 2-3.

Mr. Carlson said he attended the Common Council meeting and spoke with St. Vincent de Paul staff and is disappointed it didn't get approved as it is a worthwhile organization. He feels with the restrictions at this site it will be a tough space to fill and hopes that a tenant can be found. Mr. Sponholz agreed with Mr. Carlson's statement.

4. Yumin Chen, Japanica Restaurant, 4918 S. 74th Street, Greenfield, WI 53220 requests a Special Use Review as the new owner of this business, Tax Key #617-9975-024.

1. Background: Yumin Chen, Japanica Restaurant, 4918 S. 74th Street, Greenfield, WI 53220 requests a Special Use Review as the new owner of this business. This restaurant was opened in 2002, and the last SU Review was in 2005. No operational changes are proposed.
2. Hours of Operation: Monday – Thursday: 11:30 a.m. – 10:00 p.m.; Friday, Saturday, and Sunday: 11:30 a.m. – 9:00 p.m.

Recommendation: Approve subject to Plan Commission and staff comments; consider this request to be a minor change not needing a public hearing; and authorize this item to be expedited to the April 15th Common Council meeting.

Yumin Chen was present to answer questions.

Motion by Mr. Hess, seconded by Ms. Collins to recommend approval of a Special Use Review for Yumin Chen as the new owner of Japanica Restaurant, 4918 S. 74th Street, subject to Plan Commission and staff comments, and authorize this item to be expedited to the April 15th Common Council meeting. Tax Key #617-9975-024. Motion carried unanimously.

5. **Christ United Methodist Church, 5200 S. 48th Street, Greenfield, WI, represented by George Pitman, Jr., 5468 Olympia Drive, Greendale, WI 53129 requests a Conceptual Project Review for a possible future request to split-off enough land from the north end of their 3.1 acre parcel to create two single-family lots, each of which would be at least 15,000 s.f. This property is zoned I-Institutional, and so a rezoning and Comprehensive Land Use Plan change would ultimately be needed. Tax Key #647-9980-012**

1. Background: Christ United Methodist Church (CU) has a 3.4 acre parcel, and the northerly portion is all open or a grassy area. For a number of years they have been considering the idea of whether or not to possibly split-off some of this north end for single-family lots.

They are now prepared to pursue that idea and because that type of request would trigger the need for both rezoning and a Comprehensive Land Use Plan change with those respective public notice/hearing processes, staff suggested that before starting that formal process, to at least introduce the concept.

Per the attached layout, the intent would be to create a 15,000 s.f. lot at the corner of Abbott and 48th Street, and a 19,500 s.f. lot just to the south of it that would front on 48th Street. The predominate adjacent zoning is R-2 Single-Family. Those guidelines look for parcels which are at least 15,000 s.f. and with 100' frontage. However, it should be noted that when a corner lot is being created in an R-2 area, the desired width (i.e. short-side of the lot) is 115', not 100'. But in this instance that width dimension is not available because of a 1985 Certified Survey Map (CSM) which split-off a 95' x 143' = 13,583 s.f. parcel from the then larger CU parcel; the 100' width (east to west) is all that remains for the westerly portion of the lot.

The corresponding Comprehensive Land Use Plan category change for this potential two lot area would be from 'Community Facilities' to 'Single-Family'.

2. Utilities: Sanitary/water/storm laterals have already been extended into the northern proposed lot from Abbott, and utility lateral extensions would be needed for the parcel fronting on S. 48th Street. Specifically, sanitary main is in the center of the street, water main is on the easterly side of the street, and a storm catch-basin is on the curb-line is in front of this proposed lot and there is a yard drain in this potential southern parcel's front yard.
3. Miscellaneous: If these mapping changes are eventually approved by the CC, CU would then need to submit a CSM to reflect the lot(s) creation

Recommendation: No formal action needed at this time, however, staff would be supportive of this type of request as proposed by Christ United.

George Pitman was present to answer questions.

Mayor Neitzke said back in the 1980's/1990's the Church tried to do this same thing however, there was concern that proceeds from the lot sales would go to the national organization as opposed to being kept at the local level. He asked Mr. Pitman if that is still the case to which he replied that that is currently being debated. Mr. Pitman said they've gone to the national level to let them know their financial status is very poor, and the reason to sell these lots is to alleviate that crunch, develop more income, and get their overall expenses more stabilized. They've basically told them that without this option they may have to close their doors within a year.

While the Plan Commission is not required to vote on this item the overall consensus was supportive.

Conceptual Review – No Action Required.

6. **Brad Riemann, Riemann Properties LLC, 298 Lac La Belle Drive, Oconomowoc, WI 53066 requests a PC Waiver to allow a residential use for his former office building at 6944 W. Forest Home Avenue on the ground floor of this single-story structure. The C-1 Commercial for the parcel does allow residential use but only on a second-floor, Tax Key 571-8977-001.**

1. Background: This parcel with its 1,200 s.f. single-story building was rezoned to C-1 Commercial in 2002 at the request of Mr. Riemann (i.e. it previously was zoned for multi-family use or MFR-1). He used it as a psych clinic from 2002–2012 per the attached 3/20/14 letter from him. This letter also includes his efforts to market/sale/lease the parcel since 2012.

[[It should be noted that his letter references requesting a ‘Special Use Permit’. This was the category that staff had initially suggested but when doing further ZC review, internally revised the request to be a ‘PC Waiver’ instead.]]

Residential use in the C-1 District is allowed but only on a second story, which naturally assumes the first floor is used for commercial purposes. It is also understood that there are a number of ‘legal, non-conforming’ uses along Forest Home that are zoned C-1 where the building is only used residentially. In this instance the waiver aspect of the request is to allow the residential use in a C-1 structure that doesn’t have a second floor.

Recommendation: Approve subject to Plan Commission comments and staff comments, and authorize this item to be expedited to the April 15th Common Council meeting.

Brad Riemann was present to answer questions. He spoke on how he has had this property on the market commercially for a while with no prospective buyers and now has been approached to rent it out as a single-family home. He feels that without seeking out this PC Waiver option it will continue to remain vacant for an indefinite amount of time.

Motion by Mr. Sponholz, seconded by Ms. Collins to recommend approval of a Plan Commission Waiver to allow a residential use for a former office building at 6944 W. Forest Home Avenue on the ground floor of this single-story structure, since the C-1 Commercial zoning for the parcel does allow residential use but only on a second-floor, subject to Plan Commission and staff comments, and authorize this item to be expedited to the April 15th Common Council meeting. Tax Key #571-8977-001. Motion carried unanimously.

7. **Kevin Kiefer, Enlightened Investments LLC, 10521 W. Layton Avenue, Suite 201, Greenfield, WI 53228, requests approval per Wis. Stats. 62.23(7)(i)(1) to build a new 8-bed CBRF structure which would be adjacent to the existing CBRF at 4900 S. 68th Street; this statute becomes applicable when two community living arrangements are proposed to be adjacent to one another. This request is a follow-up to a Certified Survey Map approved at the 2/4/14 Common Council meeting to combine their two existing tax key parcels at 4900 S. 68th Street and then re-split them to create two lots, each with 100’ of frontage on S. 68th Street and each sized at 1.5 acres. Tax Key #618-9982-002 and 618-9982-005. [[Follow-up from the January PC meeting]].**

1. Background: Castle Home Care (CHC) is seeking approval per Wis. Stats. 62.23(7)(i)(1) to build a new 8-bed Community Based Residential Facility (CBRF) structure which would be adjacent to the existing CBRF at 4900 S. 68th Street that CHC owns and operates.

City approval is needed to have two CBRFs next to one another given Wis. Stats. 62.23(7)(i)(1) which reads (see attached excerpt): “...No community living arrangement may be established after March 28, 1978 within 2,500’, or any lesser distance established by an ordinance of the city, of any other such facility. Agents of a facility may apply for an exception to this requirement, and such

exceptions may be granted at the discretion of the City. Two community living arrangements may be adjacent if the city authorizes that arrangement and if both facilities comprise essential components of a single program...". [[It's left to interpretation of what the phrase '...if both facilities comprise essential components of a single program...' really means in this context. Is that the same ownership or ____? Staff has interpreted 'single program' to mean in this context, the same owners or operators. And for further background purposes, it should be noted that in 1998 the United States District Court for the Eastern District of Wisconsin determined that the 2,500' separation requirement the City and the Village of Greendale had used to initially deny the placement of a CBRF back then, was not permissible/allowed.]]

An earlier aspect of this request started at the 1/14/14 PC meeting which pertained to a proposed Certified Survey Map (CSM), and that CSM (see attached) was later approved at the 2/4/14 Common Council meeting (see attached minutes excerpt). Basically it combined their two existing tax key parcels at 4900 S. 68th Street and then re-split them to create two lots, each with 100' of frontage on S. 68th Street and each sized at 1.5 acres. The R-2 District requirements for a minimum lot width are 100' and minimum lot size of 15,000 s.f.

Attached is a new site layout and building foot-print proposal from what had been presented in January. The building is just under 4,300 s.f. (instead of the initial proposal of approx. 4,900 s.f.) and part of the overall reduction enables the building avoid a WE Energies overhead line that goes thru the east half of their parcel. [[They have been asked to check with WE to see if the building still needs to be shifted westerly to accommodate an actual easement area, not just where the power-line is located.]]

Finally, no zoning change or Land Use Plan change is needed for a 'single-family' use. A CBRF that has the capacity for eight (8) or fewer persons is entitled per Wis. Stats. to be located in any residential zone.

2. Architectural Review/Exterior Materials: As had been indicated previously, what is unusual about this unique-type of request is that the design of a structure proposed for a single-family zoned area is never presented to the PC/CC for review/approval – that remains with the Building Inspector. But in this instance, the thought is that part of the 'adjacency' question can be broadly linked to a perspective of how compatible the structure may be, and so that can involve the design features of the proposed structure and site layout aspects.

For background purposes the proposed single –story structure meets the respective setback requirements for the R-2 District of Front yard: 35' (proposed: 150'); Rear yard: 25' (proposed: 165'); and Side: 10' (proposed is 25' on the north and 30' on the south at its closest point). The proposed structure the minimum 1-Story Dwelling Unit square footage: 1,500 s.f. (proposed: approx. 4,300 s.f.).

See attached Site Plan – sheet C1.0, proposed floor plan, and proposed colored building elevations. The building exterior materials are asphalt shingles, woodshake feature in the gable, lap siding, stone-type wainscoting, and shutters on each window; the colors are in the 'brown' and 'tan' earth-tones.

You will note that each of the eight individual rooms which includes a private bathroom are overall approx. 13.5' X 20' = 270 s.f. each. Also, there are general areas shown in the foot-print layout for sitting, dining, living room, kitchen, utility, employee restroom, beauty salon, and storage. A stairway to a partial basement – used for storage and HVAC purposes – is shown as well.

3. Parking/Traffic Flow/Access/Curbed Parking Lot: As noted on the Site Plan and on the CSM, the proposal is to retain the existing driveway location, but widen it out to 21' within the context of a Shared Access & Parking Easement that was part of the approved CSM proposing a shared driveway that would straddle a new 'inside' lot line instead of having two separate driveways to/from 68th Street. Furthermore, the circular feature of the existing driveway is retained but re-designed to take into account the proposed southern CBRF structure. And then a 10-stall shared parking area is created between the two buildings. This parking area will need to be curbed and include a catch-basin given the proposed grading plan which shows a 4'–5' grade difference where storm-runoff is directed from west-to-east at that location.
4. Storm Drainage/Grading (lot & building): See attached Site Grading/Drainage and Erosion Control Plan – sheet C2.0 and Site Utility Plan – sheet C3.0. These identify that a storm lateral is extended to collect any sump pump and downspout storm drainage from the proposed new building. Sheet C2.0 also shows the desire to use two culverts under the circular drive area to help capture/direct surface run-off. Also, where the proposed sanitary/storm/water laterals are to be located, this area is graded in a manner where surface run-off (i.e. from the parking area, drive area, and grass/open/landscaped area west of the buildings, and that the culverts are handling) is directed via a swale to a storm inlet/yard drain to be located just east of the sidewalk.

The combination of the depth of the swale and the height of the swale's southerly 'lip' should have a difference of a minimum of one foot (1') to a maximum of two feet (2') to better ensure that whatever run-off is occurring now is then better able to be 'captured' and redirected to the storm inlet instead of running directly to the south. The landscaping plan will need to be designed to take this feature into account. Similarly it should be noted that since the eastern 120 feet of the site will be undisturbed, the existing surface drainage flow will not change as a result of this project. This is particularly important because there is and always has been a significant grade change of at least 15' from north-to-south within the eastern portion of the CHC parcel(s).

5. Lighting (building & site): While no commercial parking lot lighting is proposed, it's believed that CHC will be doing some limited residential-type 'soft' lighting per a summary of a 2/29/14 meeting with some adjacent neighbors (see attached).
6. Utilities: See sheet C3.0 for location of a new 6" sanitary lateral and a new 2" water lateral which will require a road-cut into S. 68th Street, and because 68th St. is concrete, per the City Infrastructure & Development Design requirements, a 'full panel replacement(s)' will be needed. Also, CHC will need to work with We Energies on the existing overhead electric line that is over the east corner of the proposed southern building in order to verify if there is a need to factor in for some type of additional easement for the existing overhead wire which may affect the final building placement.
7. Signage: None proposed.
8. Dumpster/Screening/Gated (materials used): If there is outside storage of refuse and recycling containers, that location with a design for the required enclosure is still needed.
9. Landscaping/Buffer Yard: A preliminary landscaping plan is attached which essentially shows the intention of planting along the west/south/southwest perimeter some type of evergreen and/or arborvitae. This is in addition to working around the existing trees in these same respective areas. The City Forester will be asked to suggest appropriate planting species for these areas to enhance the screening capabilities. See also Item #4 as it pertains to the planting of appropriate materials on or near what would be the south 'lip' of the drainage swale in this area.
10. Landscaping Cash Deposit/Letter of Credit: If this proposal is approved and when a landscaping plan is submitted, the following are pertinent financial security requirements: 125% of the landscaping costs with 30% retained for two years after initial planting. Furthermore, an on-going condition of approval will be that the landscaping will be subject to annual review by the City to make sure all landscaping features are still being maintained, and that any dead/dying landscaping be replaced as necessary.

11. City Forester Site Inspection: This will be needed prior to any site work starting to quantify specimen tree 'caliper inches lost' as a result of this proposal, which are recovered via new planting inches per the City's Tree Preservation Ordinance.
12. Park Fees: \$1,498 for the creation of a new residential parcel for the CSM.
13. Hours of Operation: 24/7
14. Sidewalks: Public sidewalk already on the east side of S. 68th Street, and a private walk-way is on three sides of the proposed new building.
15. Fire Department: Current State law requires CBRFs to be sprinklered and the Utility Plan identifies that the 2" (two inch) water service will be big enough to meet that requirement.
16. Police Department: Per the Police Chief, CBRFs demand higher levels of service for police, fire, and EMS than residential properties.
17. Outside Agencies: State Dept. of Health Services ultimately approves a structure to be used as a CBRF. Obviously with new construction versus a conversion of an existing structure, those design requirements are taken into account upfront. Milwaukee Water Utility will be involved for the water main tap and lateral work to the lot line.
18. Erosion Control: Needed from the City Engineering Dept. prior to any site work starting.
19. Miscellaneous: Just a general observation as it relates to public involvement with this particular request:

- Castle Homes hosted a neighborhood info. meeting on Monday, Jan. 13th here at the City Hall. The mailer went to approx. 40 tax key parcels using the standard 400' radius dimension on January 2nd.
- Extensive discussion occurred at the 1/14/14 PC meeting.
- Extensive discussion occurred at the 2/4/14 CC meeting.
- Kiefer's separately have met with some adjacent neighbors on 2/19/14 and 3/24/14.

Recommendation: Approve authorizing a waiver to Wis. Stats. 62.23(7)(i)(1) to allow two CBRFs to be adjacent to one another as proposed subject to Plan Commission and staff comments, and forward a favorable recommendation to the May 6th Common Council meeting

Kevin Kiefer and Chris Kiefer were present to answer questions. Mr. Erickson gave some background information on this item. The determination of whether a CBRF can be in a single-family zoning is already in State statutes; that is not a debatable matter this evening. He stressed that the review of a single-family house is not something that would require coming before the Plan Commission, yet staff applied similar guidelines such as what does it look like, what the landscaping will be, what the grading will be, etc. He cited an earlier court case in 1998 that the City was involved in about the issue of having a 2,500 foot separation between CBRFs, which the City lost. He further said that two facilities may be adjacent to one another if the City authorizes it as referenced in the agenda.

Mayor Neitzke questioned the amount of nursing care currently being administered to each patient at the existing facility. Mr. Kiefer stated as it is more of an assisted living type arrangement there is not a registered nurse on duty 24/7, but mainly a staff of caregivers. The code provides for three hours a week of nursing care and most residents are under that allotment. Mayor Neitzke read from the State statutes the provisions on where facilities may be placed. Overall the city itself can decide on whether to allow two CBRFs to be adjacent to one another, provided both facilities provide the same essential components of a single program. Also, there is language in the same statute section that looks at elements of density and capacity so that community living arrangements do not exceed 25 or 1 percent of the city's population, whichever is greater on an overall basis, and there is similar language as it applies to aldermanic districts as well.

Mr. Kiefer said there is a great demand for these facilities. Mr. Kiefer cited several surrounding cities that have adjacent CBRFs; such as Milwaukee, New Berlin, Franklin, Wind Lake, and Oak Creek. It was questioned if new facilities were built in these instances or were existing homes used. Mr. Kiefer said that in these instances these were newly constructed, rather than using existing residences. The sizes of these facilities vary from 20-24 units, but said a facility must be in residential zoning if it is an 8-bed or less, which is what they are trying to get built at this site.

Mayor Neitzke said he has a concern with creating almost a type of “campus”. He said he has two CBRFs in his neighborhood, however, they look like regular houses. The proposed facility almost makes it a pseudo-institutional setting. The intent of the State law is to create a residential facility, but we are potentially creating what he believes is a campus. In regard to the Mayor’s comment on density, Mr. Kiefer referenced the nearby apartment complexes to the north, which are quite large and generate a lot of traffic. Mayor Neitzke said he understands that but pointed out the many surrounding single-family homes. Mr. Hess questioned reducing the building size to 4,000 sq. ft. to which Mr. Kiefer replied that they have tried several reductions from their original plans, but said they still need to meet State minimums for dining space, living space, etc. Mr. Kiefer said this plan is the least amount of square footage they require to still accomplish their goal. The proposed 8-bed structure is positioned so that it is half the width of the existing building so from the street, it won’t have that larger-scale perspective.

Mayor Neitzke acknowledged the citizens attending tonight’s meeting, stating that he had seen them before at previous meetings and is aware that they do not support the facility. He is concerned that tonight’s meeting will end up not following proper protocol and become a quasi-public hearing. It was decided to allow those in attendance to speak for two minutes apiece.

The following residents were present and spoke on the item.

Ron Pietraszewski - 4921 S. 67th Street. Mr. Pietraszewski stated he would like to correct what Mr. Erickson had discussed earlier; with Mr. Pietraszewski stating we are not talking about two CBRFs adjacent to one another, we are talking about two CBRFs adjacent to one another within 2,500 feet. Mayor Neitzke interjected that the 2,500 feet ruling was a matter of law, which the Court threw out. Mr. Pietraszewski said he would like a letter from the City stating that, to which Mayor Neitzke replied he would provide the City Attorney’s opinion. As the City lost that case, that portion of the Statute is not binding. The second portion of the Statute, regarding the adjacentness, is still law. Mr. Pietraszewski stated he has no problem with the existing home, but to add another into a residential area stands out like a white elephant. He also feels it would increase traffic, which he noted is already heavy due to the close proximity of Southridge Mall.

Merry Kusz – 4931 S. 68th Street. Ms. Kusz cited a friend of hers who purchased an existing home and converted it to a CBRF, stressing they used an existing home and did not buy the home next door to expand their business, which by law they could do. However, if they wanted to expand the structure it would be turning a residential home into a facility and then would who is a future buyer of this? She is opposed to the size and the building of a “facility” not a home. [[It was noted that her April 7, 2014 email to the Mayor on this topic had been distributed to the Plan Commission.]]

Terry Krell – 4914 S. 68 Street. Mr. Krell stated he feels there should be a public hearing held on the concept of two CBRFs side by side, to which Mayor Neitzke responded that the law does not require a public hearing for that but there had been extensive public input and discussion on this overall topic at the January 14th Plan Commission meeting and the February 4th Common Council meeting. Mr. Krell

is concerned with the possibility that a operator could buy up houses and convert them to CBRFs and they'd be all lined up in a row. He shares Ms. Kusz's opinion that down the road the only potential buyer of this would be another business; as it is a facility not a home. He cited legislation of possibly privatizing mental health care. That could affect the future sale of this facility down the road. He is concerned with being stuck having mental health patients in his backyard as they go in and out of the facility.

Mayor Neitzke stopped Mr. Krell at this point and then read the following from a Wisconsin Legislative Council memo on the 1998 federal court determination of the 2,500' separation matter: "...The court stated that the Wisconsin statute classifies people on the basis of disability. The Court went on to state the spacing requirements substantially limits meaningful access to housing for the developmentally disabled. Thus the subsections are an obstacle to the accomplishment and exclusion of the full purposes and objectives of Congress and to the extent they are pre-empted. The Court went on to determine that the City of Greenfield and the Village of Greendale failed to make reasonable accommodations as required by the Fair Housing Amendments Act and therefore were liable for any damages available under the act. The Court granted summary judgment to Oconomowoc Residential Programs on the issue of liability..."

Mayor Neitzke summarized that statement to say that federal law exists that says that people who are developmentally disabled are protected. Therefore, he will not engage in a conversation that someone might not want a "type" of protected class living in their neighborhood. Tonight's decision is not going to be based on the "type" of people who may be residing there. Tonight's decision is a land use issue of having two CBRFs located immediately adjacent to one another.

Mr. Krell stated that he would prefer then that the lot be sold as a residential lot and a single-family home built on it.

Laura Palmer – 4875 S. 68th Street. Ms. Palmer stated she lives directly across the street and feels this would be a strain on the neighbors. Based on the elevation of 68th Street these buildings are rather large and do not "blend in". She cited the amount of increased traffic she feels this additional building will bring.

Bruce Bailey – 4281 S. 81st Street. It was noted that Mr. Bailey is alderperson-elect for this district. He questioned if the City had ever granted a waiver for two CBRFs to be adjacent to one another, to which Mr. Erickson replied no. Mr. Bailey asked if doing so would set a precedent? Mr. Erickson said potentially yes.

Mr. Kiefer said he doesn't feel any precedent would be set. He stressed that whether we are in favor or not the reality is the population is aging and there are individuals with varying types of disabilities. The State is pushing for facilities like these; home-like settings located in neighborhoods, rather than institutions. Their goal is to not only accommodate the growing demand but to make it the best environment for the patients.

Mr. Carlson questioned the current traffic situation and what the future traffic situation may be. Mr. Kiefer said that because of the nature of their programming, most residents remain in the house. There are doctor appointments which are done via a transportation company who use a regular mini-van, not buses. Resident's family members will come and use their own cars, with probably three family members/friends making visits daily to the home. Ms. Collins said based on her personal experience with such facilities she feels she was grateful for these home-like facilities, rather than a larger, more impersonal setting.

Mr. Rogers questioned how visible the parking lot would be from the street to which Mr. Kiefer replied it wouldn't be very visible as it was designed to be tucked back between the two buildings.

Motion by Mr. Rogers, seconded by Mr. Carlson to recommend approval to authorize a waiver per Wis. Stats. 62.23(7)(i)(1) to allow the building of a new 8-bed CBRF structure, which would be adjacent to the existing CBRF at 4900 S. 68th Street, subject to Plan Commission and staff comments. Tax Key #618-9982-002 and 618-9982-005. Motion carried 5-2 with Ald. Kastner and Mayor Neitzke voting no.

8. Review/discuss staff recommendation regarding the vacation of a 20' wide remnant alley between S. Tuckaway Drive, S. 27th Street, and Abbott Avenue as platted in 1928 as part of 'Tuckaway Manor' subdivision. Tax Key #645-0001-001, 645-0005, 645-0007, and 645-0008. [[Item held over from March PC meeting.]]

1. Background: There is a 20' wide remnant alley between S. Tuckaway Drive, S. 27th Street, and Abbott Ave. Recently there was some hazard-type tree removal done by the DPW in this area, which has raised the question of "...Why does the City need this alley R-O-W anymore?...". In short, we don't because there aren't any underground utilities and the City will not be putting an alley in at this location, and so the staff perspective is to start this vacation process. The end result is split 20' area in half, and return 10' to each adjacent property owner.

There is an overhead electric line, but there isn't any water, sanitary, or storm utility easements within this 'alley'. If vacation proceeds, City can contact WE Energies to advise them to get an electric easement. This area is part of 'Tuckaway Manor' subdivision as platted in 1928.

2. Parking/Traffic Flow/Access/Curbed Parking Lot: One of the adjacent lots – 5175 S. 27th Street – has an approx. 12' wide asphalt driveway in this alley R-O-W. A review of any Key File or Address File data did not identify any timeframe from which any 'City paving permission' per se occurred, but a site plan from 1996 shows this paved driveway in place to at least back then. Part of the reason for making a reference to it now is that since there is 20' of alley R-O-W to potentially vacate, that typically means its split 10' to each adjacent owner. This paved area encroaches +/-5' (depending upon where measuring) into the western 10' that would eventually be vacated back to the adjacent parcel (Key #645-0007). Ultimately this is likely a moot issue since the owner of 645-0007 and 645-0008 are the same person.
3. Utilities: No utilities exist in the in alley except overhead electric lines.
4. Miscellaneous: A copy of this agenda and PC Notes were sent to the immediately adjacent property owners of Tax Key #'s 645-0001-001, 645-0005, 645-007, and 645-0008.

Recommendation: Approve subject to Plan Commission and staff comments, forward to the Board of Public Works for their review/recommendation to the Common Council, and authorize the public hearing process to get started after the Board of Public Works makes its recommendation. It's anticipated the formal public hearing before the Common Council would be approx. 6 – 8 months from now.

Mr. Erickson said that over the next several months the DPW will be working at clearing out the brush in the City-owned portion and the trees that have been deemed hazardous by the City Forester, so that upon approval of the vacation many months from now the area will be cleared of these types of trees and not become a future problem that is "shifted" to the adjacent property owners as a result of this process.

Discussion on the layout of the lots and that it would make sense for the Scuttlebutt Lounge and the west lot to work out a lot split prior to the vacation process happening.

Motion by Ald. Kastner, seconded by Mayor Neitzke to recommend approval of a vacation of a 20' wide remnant alley between S. Tuckaway Drive, S. 27th Street, and Abbott Avenue as platted in 1928 as part of 'Tuckaway Manor' subdivision, subject to Plan Commission and staff comments, and authorize this item to be forwarded on to the Board of Public Works. Tax Key #645-0001-001, 645-0005, 645-0007, and 645-0008. Motion carried unanimously.

9. Review staff recommendations to amend the Zoning Code text to better enable 'green infrastructure' elements to be included in proposed developments; also there are some 'house-keeping' text modifications being suggested as well.

1. Background: Last summer MMSD hired a consulting group to review the Zoning Code(s) and Stormwater Management ordinance(s) of the municipalities in the Menomonee River Watershed area with the intent of making revisions to be more 'user friendly' by enabling the ability for 'green infrastructure' features to be incorporated in these respective Municipal Code chapters on a more formalized basis if the site development opportunity(ies) presented itself in the future for more 'green'.

Staff had an initial meeting with these individuals back then, with a follow-up meeting in October where they had taken entire portions of Chp. 21 (ZC) and Chp. 30 (Storm Mgt.) and did the usual ~~strike-out~~ version (i.e. deletions) and *Italics* version (i.e. new) for tracking the proposed text changes. See attached 10/18/13 memo from Julie Beth Hinds – Birchline Planning LLC. Internally then, we did further review/editing and the attached represent the condensed version of those changes where the text that is shown to reflect **only where actually changes are occurring**; so that is why the reader may notice that there will not always be a precise numerical or alphabetical sequence within the body of the attached DRAFT ordinance.

The specific ZC sections which were edited for the 'green infrastructure' elements were in the following categories:

- Traffic & Off-Street Parking
- Required Landscaping
- Special Uses – Non-Residential Standards

In addition, staff has taken the opportunity of while these 'green infrastructure' changes are being considered, of also suggesting some additional 'house-keeping' text changes. So with that in mind, there will be proposed revisions which have nothing to do with 'green infrastructure' elements included in the overall proposed changes, and those will also use the same ~~strike-out~~ and *Italics* formatting.

2. Miscellaneous: The Chap. 30 – Stormwater ord. changes are going to the same April 21st Legislative Committee referenced below.

Recommendation: Approve subject to Plan Commission and staff comments, and forward this matter to the April 21st Legislative Committee mtg. for further review and recommendation to the Common Council. Zoning Code text changes also require a public notice/hearing process, and so staff would also request authorization to initiate the public hearing process after the Legislative Committee has forwarded its recommendation onto the Council.

Under discussion it was decided to hold this item over to the May 13th Plan Commission meeting to allow further review/editing.

10. Community Development Manager Report.

None.

**11. Motion by Mr. Carlson, seconded by Mr. Sponholz to adjourn the meeting at 8:15 p.m.
Motion carried unanimously.**

Respectfully submitted,

Alison J. Meyer
Administrative Assistant

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