

**MINUTES OF THE PLANNING COMMISSION MEETING HELD AT THE
GREENFIELD CITY HALL ON TUESDAY, JANUARY 14, 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	Present
	Ms. Denise Collins	Present
	Mr. Frederick Hess	Present
	Ms. Christine Hallen	Present
	Mr. Bradley Sponholz	Present
	Mr. Steve Rogers (alt.)	Present

ALSO PRESENT: Charles Erickson – Community Development Manager
Ald. Tom Pietrowski

2. Motion by Ald. Kastner, seconded by Mr. Weis, to approve the December 10, 2013 minutes. Motion carried unanimously.

3. Discussion regarding the Common Council meeting held on December 18th and January 7th.
At the December 18th meeting the Special Use Review for change in the business owner/operator of Ultimate Truck (3515 S. 108 Street) was approved as presented. The public hearing for the Special Use for Laser Tag Pro (4260 S. 76 Street) is scheduled for the January 21st Common Council meeting. The public hearing for the Lakeland College project is scheduled for the February 4th Common Council meeting.

There were no Plan Commission items at the January 7th Common Council meeting.

4. Carisch, Inc., owner of the Arby's at 4841 S. 27th Street, represented by Brian Cooley & Associate's, LLC., S65 W25345 Verta Vista Drive, Waukesha, WI 53189 requests a Special Use Amendment and Site/Building Review for proposed alterations to the current building exterior at this location, Tax Key #622-9988-014.

1. Background: The owner of Arby's is proposing to do alterations to the current building exterior. The Arby's chain has been at this site since 1988.
2. Architectural Review/Exterior Materials: The existing EIFS (Exterior Insulation & Finish Systems) will be re-done. See attached color and design comparison pictures of the existing and the proposed. As noted, the existing major 'red banding' is being changed to more lighter tones (i.e. lighter/darker Gray and White EIFS), with the a Red coping or trim feature just on the upper element of the façade. Also, some existing circular column features are 'boxed' and some additional decorative wall sconce lighting is done.

When reviewing the color pictures and the Color Legend, it may seem that the terminology versus 'what the eye catches' is different, but according to Mr. Cooley that is the Arby corporate phrases. For instance, the color picture looks to be Red, White, and then a darker Gray and a lighter Gray. The Legend still lists the use of Red and White, but then an 'Arby's Dark Tan' (i.e. Macadamia) and an 'Arby's Light Tan' (i.e. Navajo White).

3. Parking/Traffic Flow/Access/Curbed Parking Lot: Per the attached site plan, there are 40 on-site parking stalls, which provide sufficient parking for the fast-food restaurant with drive-thru use.
4. Lighting (building & site): Existing free-standing lights are down-lighting with 'shoe-box' fixtures. Attached is the cut-sheet for the decorative wall sconces.

5. HVAC/Utility Box Screening: Existing parapet roof is retained to provide screening of the roof-top HVAC unit from 27th Street.
6. Signage: As part of the exterior re-facing, the existing wall signs (3' x 6' = 18 safe) are proposed to be re-installed in their general present location. However, the problem noted with both a site visit and a review of the pictures of the current building is that there are four (4) wall signs; typically two (2) would be the limit. The Sign Code calculation formula of using the building width (40') multiplied by a factor of 1.5 will equal 60 safe available total for the site. The monument sign able area is 50 safe itself which doesn't leave much remaining square footage when the wall signage amount totals 72 safe (4 x 18 safe). Given its location, if there is still a desire for four wall signs, then some smaller versions may be needed, or there may be a need to eliminate one or two wall signs. [[Minor item: add the '4841' to the base on both sides of the monument for further site identification; this doesn't count against sign able area total.]]
7. Dumpster/Screening/Gated (materials used): Existing wooden fence dumpster enclosure at the SW corner of the lot remains unchanged.
8. Landscaping/Buffer Yard: There are foundation plantings next to the building, but the area in front of the building where the free standing sign is just grass. Some lower-growth plantings and/or flower bed in a portion of this front area would help enhance that front area some more but without screening the building from 27th Street.
9. Street Trees: Already along S. 27th Street.
10. Hours of Operation: No change.

Recommendation: Approve subject to Plan Commission and staff comments, and forward this item to the February 4th Council meeting.

Brian Cooley was present to answer questions. Mr. Erickson gave a review of the proposal. Discussion occurred on how Mr. Cooley should work with staff to get some landscaping in the middle of the front grassy area, and address the signage matter as referenced above.

Motion by Mr. Weis, seconded by Ms. Collins to recommend the approval of a Special Use Amendment and Site/Building Review for proposed alterations to Arby's at 4841 S. 27th Street, subject to Plan Commission and staff comments, and forward this item forward to the February 4th Common Council meeting. Tax Key #622-9988-014. Motion carried unanimously.

5. **Kevin Kiefer, Enlightened Investments LLC, 10521 W. Layton Avenue, Suite 201, Greenfield, WI 53228 requests a Certified Survey Map (CSM) 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. Besides evaluating this proposed CSM under the lot dimension requirements for the underlying R-2 Single-Family zoning, in this situation the proposed use of one of the new lots to build a new 8-bed CBRF structure which would then be adjacent to the existing CBRF at 4900 S. 68th Street, initiates further review per Wis. Stats. 62.23(7)(i)(1). This statute becomes applicable when two community living arrangements are proposed to be adjacent to one another. The proposed CSM also identifies the provisions of a shared access and parking easement between the two parcels. No rezoning nor Comprehensive Land Use Plan changes are needed for this request. Tax Key #618-9982-002 and 618-9982-005.**
1. Background: Castle Homes @ 4900 S. 68th is proposing to combine their two existing tax key parcels (i.e. 3 ac. total) and then re-split them to create two lots which each would have 100' of frontage per R-2 zoning requirements, and each parcel would be about 1.5 acre or 68K s.f. (i.e. minimum R-2 lot size is 15K s.f.). Typically the City review/approval of a Certified Survey Map (CSM) deals with the basics of '...Are the minimum lot frontage and minimum lot square footages provided for given the underlying zoning?...'. See attached CSM.

In this instance those R-2 dimensions are met, but it's their proposed use that is creating another element, admittedly uncommon here, to review/consider. Their proposal is to construct a new house on the southern lot designed as an 8-person Community Based Residential Facility (CBRF), while the existing house used as a CBRF on the northern lot would remain as is, but have some significant interior improvements done. The new structure would be at least 150' back from 68th Street similar to the existing house. They also will be proposing a shared driveway that would straddle a new 'inside' lot line instead of having two separate driveways to/from 68th Street.

City approval will be needed to have two CBRFs next to one another given Wis. Stats. 62.23(7)(i)(1) which reads (also 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 ____? And for further background purposes, it should be noted that in 1998 a Federal District Court 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.]]

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 locate in any residential zone.

2. Architectural Review/Exterior Materials: 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 for background purposes the proposed single –story structure meets the respective setback requirements for the R-2 District of Front: 35' (proposed: 150'); Rear: 25' (proposed: 155'); and Side: 10' (proposed is 22' on the north and 28' on the south at its closest point). The proposed structure exceeds the minimum 1-Story Dwelling Unit square footage of 1,500 s.f. [[proposed: approx. 4,900 s.f.]]. See attached Site Plan – sheet C1.0.
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 instead of having two driveways, but widen it out to 24' within the context of a Shared Access & Parking Easement. 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.
4. Storm Drainage/Grading (lot & building): See attached Site Grading/Drainage and Erosion Control Plan – sheet C2.0. As shown on the Site Utility Plan – sheet C3.0, a storm lateral is extended to the building to collect any sump pump and downspout storm drainage. Also, where the proposed sanitary and water laterals are to be located, this area is graded in a manner where surface run-off is directed to a storm inlet/yard drain.
5. Utilities: See sheet C3.0 for location of a 6" sanitary lateral and a 2" water lateral. Castle Homes will need to work with We Energies on the existing overhead electric line that is over the proposed southern building location.
6. City Forester Site Inspection: 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.
7. Park Fees: \$1498 for the creation of a new residential parcel.
8. Hours of Operation: 24/7
9. Fire Department: Current State law requires CBRFs to be sprinklered.

10. 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. The CSM is being reviewed by Milwaukee County Register of Deeds, and City Engineering staff. All corrections, if any, must be completed before recording. The applicant needs to be informed of the following: provided that a) the necessary approvals have been obtained; b) the original CSM map is in order; and c) all applicable charges have been paid, applicant must submit a final signed and notarized CSM to the Engineering Dept. for recording. The City requires a minimum of seven (7) working days to perform its final processing and recording of the CSM. If the applicant requires the CSM to be recorded on, or by a specific date, plan for appropriate lead-time to be sure to submit the necessary materials to the City allowing for its processing time. Failure to submit the necessary materials with the CSM for recording may cause additional recording delays.
11. Erosion Control: Needed from the City Engineering Dept. prior to any site work starting.
12. Miscellaneous: 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.

Recommendation: Subject to PC and staff comments, forward a favorable recommendation to the February 4th Council meeting that includes the following approvals:

- CSM with the proposed shared access and parking easement
- Authorizing a waiver to Wis. Stats. 62.23(7)(i)(1) to allow two CBRFs to be adjacent to each as proposed.

Kevin Kiefer and Chris Kiefer with Enlightened Investments were present to answer questions on their proposal. Mr. Erickson gave a review of the project.

Mayor Neitzke went over the various aspects of the proposal and options possible at this site. If the lot were not subdivided, then there are no questions to ask. The City could say this is an R-2 zoned piece of property and we feel that it is appropriate, if given its overall dimensions, for the potential of 4-5 single-family lots in the future. The City has the discretion to say that would be in the City's best interest, as it conforms with the sizes of the homes on the adjacent properties.

Mayor Neitzke then read the section of the law pertaining to this situation that Mr. Erickson provided. Another option is the City could subdivide the lot, regardless of the CBRF issue, and all discussion would stop there as it is now a lot which could legally have a large home built on it that could someday become a CBRF. State and Federal guidelines regulate CBRF's; the City does not. If a property owner decided to convert their home to a CBRF the City has very little say in the matter.

There are basically three options for the City here: reject the CSM and not move on; accept the CSM and not move on; or accept the CSM, approve this basic site layout, and concurrently move to the second step to develop the lot.

Mayor Neitzke stated that the Kiefers are basically finessing the Zoning Code to create a "care campus" in the middle of a residential neighborhood. The proper way to go about this is to rezone the property so that the use is consistent with what's being proposed. He said the City's opinion of the Kiefers is that they are good business operators. It was also noted that there would be a loss of landscape which is unfortunate. While the proposed building will have more of a residential look, Mayor Neitzke said he can't support the lot division as proposed (two lots) because of evidence that the proposed building will be used as a "care campus" vs. a potential four to five lot subdivision, which also may not be the best option for the site.

Mayor Neitzke commented as the Plan Commission chair on how he planned on handling tonight's meeting because it is not a formal public hearing, and how he is going to allow those residents in attendance to ask a few questions and/or make comments. He is choosing to do this so that the residents and the Kiefers have an opportunity for discussion, yet wants to make clear that he must keep the City's best interest in mind as that is his role, yet extending this opportunity for conversation and discussion outside of a noticed public hearing forum.

The Kiefers gave their business history, stating their company has been in business for 20 years; a business which their parents started. Chris Kiefer stated he is a registered nurse and said that they do a good job providing needed health services. Their focus is seniors, and involves providing care to elderly and disabled individuals. This type of option allows these individuals to get the care they need in a residential setting.

Kevin Kiefer then spoke on the proposals they've made to the City over the years, beginning in 2008. Their market study showed this site could support two 20 bed units in a boomerang shaped layout with a retention pond. At their first Neighborhood Information Meeting they held, neighbors expressed concern that too many trees would be removed. Also, neighbors found the combined size of the buildings (20,000 sq. ft.) too large, did not feel they had a residential look, and had concerns about the need for rezoning. A couple of years later they presented a layout with a 20 bed CBRF in the northeast corner of the parcel; again the neighbors had the same concerns as at the 2008 meeting. A few more years have passed and they designed new plans, this time seeking input from the four adjacent neighbors. They ended up meeting with two of those four and presented a PUD design with a 20 bed CBRF that could be located on multiple spots on the property, along with an option showing a cul-de-sac and five single-family buildings. The reaction they received was negativity to the 20 bed design. Tonight's proposal takes into consideration the past years' comments, with it basically splitting the land in half and trying to preserve as many trees as possible. They want to make sure they provide a buffer around the neighbors, it would stay residential, and the appearance would fit in with the neighborhood. While it is larger than the other houses in the neighborhood, they do have the largest parcel and the house is set back the furthest from the road. It is also "tilted" so the full frontage is not visible from the street.

Ald. Kastner questioned if anyone knew the size of the house next to Reiman Publications in Greendale, as that is a very large home. Ald. Pietrowski said a search of the Assessor's records shows Greenfield's largest home at 6,822 sq. ft. Also there are 18 homes on the west end of town at approximately 4,400 sq. ft. each. Mr. Weis questioned the size of the CBRF in the 8800 block of Forest Home to which Mayor Neitzke said that may not be pertinent to what is being discussed tonight. Mr. Sponholz asked for clarification of a CBRF designation to which Mayor Neitzke said it's simply providing care in a community-based setting. Mr. Weis said tonight's design has the least impact physically on neighbors vs. a 4-5 lot subdivision with a cul-de-sac which would require a road going into the site.

Ron Pietraszewski - 4921 S. 67th Street. He questioned if anyone on the Plan Commission has ever been to the site and are they aware of grade difference? Mayor Neitzke said there are processes to fill and improve the grade done before building would start to alleviate past problems and prevent future problems. Mr. Pietraszewski stated there is no where in Wisconsin where two CBRFs are allowed next to one another one lot. Mayor Neitzke clarified that State law allows two CBRFs to be together if a city, at its discretion, allows it. Therefore, Greenfield would not be "changing" the law; we would be following the law if this project gains approval from the City. Mayor Neitzke said that at one time the City was sued for trying to prevent a CBRF and a Federal Court Judge said the 2,500 foot restriction was illegal. Mr. Pietraszewski stated the Kiefers own a 27 acre lot in New Berlin and why not build this there, to which Mayor Neitzke said it is not our intention to discuss issues in other cities.

Mayor Neitzke asked Mr. Pietraszewski what if the roles were reversed? The Kiefers own the land and have the right to develop/build on the site. Mr. Pietraszewski again brought up his water problem and Mayor Neitzke again brought up that upon building they would have an engineer create the proper grade which would in turn help with Mr. Pietraszewski's water problem.

Denise Kunz – 5021 S. 68th Street. Ms. Kunz expressed concern over the size and questioned who buys it in the future? Will the State someday buy it for sex offenders or will it be used for the County for recently released prison population? Putting this in causes the neighborhood to lose its residential feel.

Jim Palmer – 4875 S. 68th Street. Mr. Palmer stated he lives directly across the street and hopes that the Kiefer's work with the neighborhood to limit the disruption to the neighbors. The best option would be to reduce the size and he hopes to not see 4-5 single family homes built either, as that would align the roadway needed for that with his picture window.

Terry Krell – 4914 S. 68 Street. Mr. Krell stated his concerns on the 5,000 sq. ft. size.

Ald. Pietrowski said that the size of the existing CBRF at this site is about 2,900 sq. ft.

Merry Kusz – 4931 S. 68th Street. Ms. Kusz said she is in the Edgerton Heights subdivision and has lived there for 29 years. She mentioned that the widening of 68th Street some time ago took away their neighborhood atmosphere. She is concerned that now their neighborhood is taking on a more business-like atmosphere, as what they are building is a business and who's to say that there won't be more and more of these entering their neighborhood or any neighborhood for that matter. These are business facilities, not homes.

Mayor Neitzke said he was going to make a motion to approve but actually vote "no" based on his earlier comments when discussion on this item got started. He believes there are two items to consider: 1) CSM and, 2) CBRF's adjacent to one another. The outcome of the vote on the CSM will determine if the Plan Commission will even act on the second item. If the first item is recommended for approval, then "yes" we act on the second question. If the first item is not recommend for approval, then any Plan Commission review is deferred until such time as the Common Council makes its determination on the CSM matter. If the Common Council says "yes" on the CSM, then the "adjacent" matter is acted upon at the next Plan Commission meeting. If the Common Council says "no" on the CSM aspect, then no further action is needed by the Plan Commission.

Motion by Mayor Neitzke, seconded by Ald. Kastner to recommend approval of a Certified Survey Map (CSM) 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, subject to Plan Commission and staff comments, and authorize this item to be forwarded to the February 4th Common Council meeting. Tax Key #618-9982-002 and 618-9982-005. On a roll call vote motion failed 3-4 with Mr. Hess, Mr. Weis and Ald. Kastner voting yes to approve the lot split, and Mr. Sponholz, Ms. Hallen, Ms. Collins, and Mayor Neitzke voting no.

Discussion occurred on how the next step is the Common Council voting on this item. They will be voting on approving the Certified Survey Map which would create two parcels. Mayor Neitzke reiterated that once that is done then the Kiefers can approach the City with their plans for that second parcel. They own the property and this split will give them the right to develop on it. The Plan Commission is simply a recommending body where input and opinion are given, but the final approval or disapproval rests with the five alderpersons making up the Common Council.

Mr. Erickson stated the proposed Certified Survey Map met the minimum size requirements for both lots in this zoning district and therefore if we are consistent in applying our basic standards, this CSM couldn't be denied.

Mr. Hess said he understands this is a sensitive situation for all involved but it is really a matter of the lesser of two evils; a large single-family CBRF or perhaps 4-5 single family homes; both of which would involve clear-cutting the existing trees, which he is not in favor of.

Further discussion occurred amongst the residents in attendance where it was further reiterated that the next step is this request for a Certified Survey Map will occur at the February 4th Common Council meeting. A favorable vote would mean that the Kiefers would then come back to the Plan Commission/Common Council with the building "adjacent" proposal, which if approved would allow them to build in accordance with the required setbacks for the lot size.

6. Community Development Manager Report.

Mr. Erickson had no report. Mayor Neitzke reported that he had a discussion with Moody's regarding bond ratings and it appears that our bond rating is "holding", which reflects positively on the City. Also, there are several projects that will be progressing in the future. There is talk about a potential contract extension with the State on the Park & Ride lot at I-894 and Loomis. The Mt. Carmel site has had commercial realtor interest working with owners on its future use options. The Spring Mall has a possible user for the site. The Chapman School site will be discussed by the School District at their upcoming meeting as to a possible sale. The Kmart on 27th Street has announced they are closing this location, which is on a very valuable site. All in all things are turning around and development potential is picking up.

**7. Motion by Mr. Weis, seconded by Mr. Sponholz to adjourn the meeting at 8:10 p.m.
Motion carried unanimously.**

Respectfully submitted,

Alison J. Meyer
Administrative Assistant

Distributed January 27, 2014