

**MINUTES OF THE PLAN COMMISSION MEETING HELD AT THE
GREENFIELD CITY HALL ON TUESDAY, MARCH 14 2023**

1. The meeting was called to order at 6:03 p.m. by Mayor Neitzke

ROLL CALL:	Mayor Michael Neitzke	Present
	Ald. Karl Kastner	Present
	Mr. Brian Weis	Excused
	Mr. Steve Rogers	Excused
	Mr. Don Carlson	Present
	Mr. Zak Marshall	Excused
	Mr. Robert Krenz	Present
	Mr. Michael Braswell (alt.)	Present
	Ms. Danielle Wojak (alt.)	Excused

ALSO PRESENT: Kristi Porter – Community Development Manager

2. Approval of the minutes from the February 14, 2023 meeting.

Motion by Mr. Carlson, seconded by Mr. Braswell, to approve the February 14, 2023 meeting minutes. Motion carried unanimously.

3. Discussion regarding last Common Council meetings.

None

4. Temporary Signage Plan Appeal for the former Sears Auto building located at 5200 S. 76 St., submitted by Scott Miller, d/b/a FASTSIGNS Greenfield and Helen Kutach, d/b/a FASTSIGNS Houston. (Tax Key No. 650-9990-039)

FASTSIGNS Greenfield, on behalf of commercial leasing company Fidelis, is seeking a signage variance requesting temporary signage beyond what the Sign Code allows for at the former Sears Auto building at 5200 S. 76 St. According to the Sign Code, a temporary sign/banner shall not exceed 32 sq. ft. in area and the permit for the temporary sign shall expire after 30 days, with a maximum of four (4) temporary permits allowed per year. FASTSIGNS' proposal includes two (2) temporary signs, each with an area of 140 sq. ft., to be located on the west and south walls of the former Sears Auto building. The signs would remain installed until the building was leased.

Recommendation: Recommend approval of the Temporary Signage Plan Appeal for the former Sears Auto building located at 5200 S. 76 St., submitted by Scott Miller, d/b/a FASTSIGNS Greenfield and Helen Kutach, d/b/a FASTSIGNS Houston. (Tax Key No. 650-9990-039)

Motion to deny by Ald. Kastner, no second, motion does not carry. Motion to approve by Mr. Carlson, seconded by Mr. Krenz to approve the Temporary Signage Plan Appeal for the former Sears Auto building located at 5200 S. 76 St., submitted by Scott Miller, d/b/a FASTSIGNS Greenfield and Helen Kutach, d/b/a FASTSIGNS Houston (Tax Key No. 650-9990-039), for a period of time limited to six (6) months. Motion carried 4:1 with Mayor Neitzke, Mr. Carlson, Mr. Krenz and Mr. Braswell voting yes, and Ald. Kastner voting no.

- 5A. **Special Use Permit for Weatherization Services, LLC, a proposed weatherization contractor business to be located at 10941 W. Layton Ave., submitted by Devin Hawthorne d/b/a Weatherization Services, LLC. (Tax Key No. 612-8998-001)**
- 5B. **Site, Landscaping and Architectural Plans for Weatherization Services, LLC, a proposed weatherization contractor business to be located at 10941 W. Layton Ave., submitted by Devin Hawthorne d/b/a Weatherization Services, LLC. (Tax Key No. 612-8998-001)**

Items 5A and 5B may be considered together.

Overview and Zoning

At the December 13, 2022 Plan Commission meeting, the Plan Commission tabled the request for a Special Use Permit for Weatherization Services, a proposed weatherization contractor business to be located at 10941 W. Layton Ave. The applicant has updated their site, architectural, and landscape plans based on feedback provided at that meeting. The property features 3,876 sq. ft. of office space and 10,962 sq. ft. of warehouse space. The applicant, Mr. Hawthorne, started Weatherization Services, LLC in 2008 and has over 20 years of management experience, and has purchased the property. The business specializes in insulation, window and door installation, lead abatement and inspection services. The proposed hours of operation are 7am-5pm, daily. They anticipate having 47 employees and servicing 1-2 clients per day. The property is zoned C-4 Regional and Highway Business District, which allows "Drywall and Insulation Contractors" as a Special Use. A public hearing could be scheduled as soon as April 18, 2023.

Site, Landscaping and Architectural Plans

The applicant has provided revised site, landscaping, and architectural plans incorporating improvements discussed at the December 2022 Plan Commission meeting. The revised site plan includes curbed landscaped beds that bump out adjacent to the building and driveway in order to provide additional screening of the warehouse portion of the building from W. Layton Ave. The vast majority of the parking lot surface will be redone in asphalt, with repaired and replaced concrete adjacent to the loading docks on the building. The existing gravel area behind the building will be paved in asphalt at this time. A large area of existing asphalt and gravel behind the building is not needed by the business and is proposed to be removed and restored to a lawn with landscaping. A deteriorated sidewalk along the western portion of the office will be removed and replaced in-kind and additional sidewalk added adjacent to three new parking spaces to the northwest of the office. The entire parking lot will have curb and gutter.

Additional site improvements proposed include removal of dead trees along the eastern and western property lines, removal of a failed portion of the retaining wall along the west parking lot, removal of exposed steel and wooden boards from the retaining wall, removal of trash throughout the site, removal of a steel fence along the western rear parking lot, angling the light fixtures in the parking lot down to 90 degrees, and removal of noncompliant light fixtures on the building with no-cut light packs. A new concrete slab and board-on-board refuse enclosure with personnel door are proposed behind the building. Staff recommends replacement of the deteriorated retaining wall, and the addition of another concrete panel to the south to decrease erosion and runoff from the hill to the west. There is also electrical conduit running along the retaining wall. If this will not be needed with their proposal, staff recommends its removal.

Fifty (50) off-street parking spaces are proposed for the site, included two (2) ADA parking spaces. Fourteen (14) parking spaces are required per code.

As proposed, the site would drain to the south along the western portion of the building and would drain to W. Layton Ave. along the northeastern portion of the parking lot, with the majority of the rear lot draining through curb cuts with rip rap to the east. Given the history of flooding on properties located to the east of the subject property, Engineering staff highly recommends storm sewer be added along the east property line to catch and divert runoff from this portion of the parking lot.

The proposed landscape plan shows an increase of 12" for the landscape bed along W. Layton Ave. This bed would be placed over an existing water main and sanitary line. The Engineering Division will require an easement agreement to allow the City access to these lines in the future. The landscape bed should not be installed over the existing manholes. An increased landscape bed will also be added along the eastern property line. Overall site landscaping will consist of a mix of canopy trees, evergreens, ornamental trees, shrubs, perennials, and ornamental grasses.

No major changes are proposed architecturally. The primary change will be the replacement of all 34 overhead doors with new ribbed white overhead doors with windows. The only other architectural change proposed is the repainting of the white CMU block on the loading docks to black. The existing brick and aluminum cladding will be washed and cleaned, as needed.

The applicant stated at the December 2022 Plan Commission meeting that there would not be semi-trailers parked on site and there would not be outdoor storage on site. The Zoning Ordinance requires that contractor-type businesses must identify outdoor storage on an approved site plan. Since none is identified on the submitted site plan, outdoor storage of any kind, including of trucks, will not be permitted on site. If circumstances change, the applicant shall submit a revised plan for Plan Commission review and approval.

Recommendation: Recommend Common Council approval of the Special Use Permit and Site, Landscaping and Architectural Plans for Weatherization Services, LLC, a proposed weatherization contractor business to be located at 10941 W. Layton Ave., submitted by Devin Hawthorne d/b/a Weatherization Services, LLC (Tax Key No. 612-8998-001), subject to Plan Commission, staff comments, and the following conditions:

(Items 1 through 5 are required to be satisfied prior to the issuance of permits associated with the proposed work reviewed by the Plan Commission. Contractors applying for permits should be advised accordingly.)

1. Revised site, landscaping and architectural plans being submitted to the Community Development Division showing the following: (a) replacement of the deteriorated concrete retaining wall and the additional concrete retaining wall added to the south; (b) notation indicating the removal of the electrical conduit along the western parking lot, if applicable; (c) storm sewer and inlets added to the eastern portion of the property; and, (d) any landscaping specie/quantity recommendations as provided by the City Forester.

2. An estimated cost of landscaping and screening being submitted to the Community Development Division for approval.
3. A letter of credit or other form of security as required under 21.06.0304 of the Municipal Code in the amount of 125% of the estimated cost of landscaping and screening.
4. An easement agreement between the property owner and the City to allow maintenance of the existing water main and sanitary sewer lines.

Mr. Michael Kenyon, representing The Sigma Group on behalf of the owner, requested to have continued conversations with the Engineering Division on the staff recommendation to construct a storm sewer line and inlets along the east property line, and the replacement of the retaining wall along the west property line. The owner was concerned about the financial burden of constructing the storm sewer along the east property line. The Mayor mentioned that the property cannot continue to sheet-drain to the east, as it has in the past. Mr. Kenyon stated that the curb and gutter will concentrate water flow, and the Mayor stated that that would probably make the existing problem worse, which is why they probably need to construct storm sewer. The Plan Commission agreed that the project is a significant improvement and the plans look good, and that the applicant and his engineering representatives should continue the conversations with the Engineering Division about the best way to move forward with the storm sewer recommendation. The Plan Commission stated that they would like the storm sewer plans/solution to be concluded prior to the public hearing scheduled for April 18, 2023. The Plan Commission also agreed that the retaining wall replacement requirement can be removed, and the applicant can slope the dirt appropriately, with the Engineering Division's review of a grading plan.

Motion by Ald. Kastner, seconded by Mr. Carlson, to recommend Common Council approval of the Special Use Permit and Site, Landscaping and Architectural Plans for Weatherization Services, LLC, a proposed weatherization contractor business to be located at 10941 W. Layton Ave., submitted by Devin Hawthorne d/b/a Weatherization Services, LLC (Tax Key No. 612-8998-001), subject to addressing the storm water issue to the east per Plan Commission, staff comments, and authorize a public hearing to be scheduled for April 18, 2023. Motion carried unanimously.

6. **Site and Architectural Plans for a proposed drive-up ATM to be located at 6205 S. 27 St., submitted by Carolina Moreno d/b/a Implementation Solution Services Inc. and Brian Adamson d/b/a College Venture, JVLLC (Tax Key No. 691-9841-016)**

Overview and Zoning

The applicants are proposing to install a drive-up Wells Fargo ATM machine within the parking lot of the S. 27th & W. College shopping center, located at 6205 S. 27 St. The ATM will be available 24/7 to the general public. The property is zoned PUD Planned Unit Development District.

Site and Architectural Plans

The ATM is proposed to be located on the footprint of nine (9) existing parking stalls just east of the multi-tenant commercial building in the northern parking lot of the property. The ATM will

convert those 9 spaces into the ATM machine on a raised concrete platform, utility platform, light fixture, and painted lane striping and directional arrows. Six (6) deterrent bollards are proposed around the equipment on the concrete platform, to prevent vehicles from damaging the equipment. The entire complex requires 277 off-street parking spaces. With the removal of the nine (9) spaces for this project, there will be 322 parking spaces provided onsite.

Staff has no concerns on the general proposal but recommends the project area be shifted 10 feet to the east to minimize the chance of doors from the adjacent refuse enclosure either blocking the drive lane or damaging vehicles, if the doors of the refuse enclosure are left ajar.

Recommendation: Recommend Common Council approval of the Site and Architectural Plans for a proposed drive-up ATM to be located at 6205 S. 27 St., submitted by Carolina Moreno d/b/a Implementation Solution Services Inc. and Brian Adamson d/b/a College Venture, JVLLC (Tax Key No. 691-9841-016), subject to Plan Commission, staff comments, and the following conditions:

(Item 1 is required to be satisfied prior to the issuance of building permits and/or Certificate of Occupancy associated with the proposed work reviewed by the Plan Commission. Contractors applying for permits should be advised accordingly.)

1. Revised Site and Architectural Plans being submitted to the Community Development Division to show the following: (a) the ATM, concrete platform, and associated parking lot striping being relocated 10 feet to the east

Mayor Neitzke stated that he does not believe there are any stand-alone ATM machines in the City and had concern about setting a precedent to allow these without a corresponding financial institution situated next to it, that pays property taxes. He stated that as a matter of policy, he wasn't in favor of stand-alone ATMs.

Motion by Mayor Neitzke, seconded by Ald. Kastner, to deny Common Council approval of the Site and Architectural Plans for a proposed drive-up ATM to be located at 6205 S. 27 St., submitted by Carolina Moreno d/b/a Implementation Solution Services Inc. and Brian Adamson d/b/a College Venture, JVLLC (Tax Key No. 691-9841-016). Motion carried unanimously to recommend denial.

- 7A. **Special Use Permit for Granny Smith Tattoo, a proposed tattoo business to located at 5170 S. 76 St., submitted by Jonathan Zyga, d/b/a Granny Smith Art Collective LLC and John Weiss d/b/a My Salon Suite of Greenfield. (Tax Key No. 650-8998-009)**
- 7B. **Site Plan Review for Granny Smith Tattoo, a proposed tattoo business to located at 5170 S. 76 St., submitted by Jonathan Zyga, d/b/a Granny Smith Art Collective LLC and John Weiss d/b/a My Salon Suite of Greenfield. (Tax Key No. 650-8998-009)**

Items 7A and 7B may be considered together.

Overview and Zoning

The applicant, Mr. Zyga, is proposing to establish Granny Smith Tattoo, a tattoo business to be located in a 138 sq. ft. suite within the My Salon Suites located at 5170 S, 76 St. The property is

zoned C-4 Regional Highway Business, which permits “Other Personal Care Services” (i.e. tattoo parlors) as a Special Use. A public hearing would be required and could be scheduled as early as April 18, 2023, with Plan Commission approval for the project to move forward.

The applicant is proposing to offer hand-poked and machine tattooing. The My Salon Suites building is open 24/7 but the applicant is proposing hours of operation of 10 a.m. to 8 p.m., daily. The applicant has many years of tattooing experience and has most recently worked full-time in two (2) different shops over the last three (3) years. He will be the sole operator of the business.

Site Plan

A site plan was not submitted, but the site is subject to review when the Plan Commission and Common Council consider Special Use Permits. Overall, the site was in good condition when staff conducted a site visit. The only issues staff observed were numerous light fixtures angled up and a trailer parked within the refuse enclosure, causing the enclosure doors to not be able to be closed. The property owner has indicated he will take care of both these issues immediately.

Off-street parking required per code for Granny Smith Tattoo = 2 (1 spaces per chair, plus 1 space per employee)

Off-street parking required for all other uses: 101

TOTAL off-street parking provided (based off of site plan) = 47

Common Council can waive the parking shortage.

Staff recommends that a public hearing be scheduled for this item as soon as April 18, 2023.

Recommendation: Recommend Common Council approval of the Special Use Permit and Site Plan Review for Granny Smith Tattoo, a proposed tattoo business to located at 5170 S. 76 St., submitted by Jonathan Zyga, d/b/a Granny Smith Art Collective LLC and John Weiss d/b/a My Salon Suite of Greenfield (Tax Key No. 650-8998-009), subject to Plan Commission and staff comments, and the following conditions:

(Item 1 is required to be satisfied prior to the issuance of building permits and/or Certificate of Occupancy associated with the proposed work reviewed by the Plan Commission. Contractors applying for permits should be advised accordingly.)

1. A letter being submitted to the Community Development Division from the property owner stating that the parking lot lights have been angled down and the trailer has been removed from the property.

Motion by Mayor Neitzke, seconded by Mr. Carlson, to recommend Common Council approval of the Special Use Permit and Site Plan Review for Granny Smith Tattoo, a proposed tattoo business to located at 5170 S. 76 St., submitted by Jonathan Zyga, d/b/a Granny Smith Art Collective LLC and John Weiss d/b/a My Salon Suite of Greenfield (Tax Key No. 650-8998-009), subject to Plan Commission and staff comments, and authorize a public hearing to be scheduled for April 18, 2023. Motion carried unanimously.

- 8A. Special Use Permit for Firefly Therapeutic Massage, a proposed massage therapy business to located at 5170 S. 76 St., submitted by Carrie Premetz, CMT, d/b/a Firefly Therapeutic Massage and John Weiss d/b/a My Salon Suite of Greenfield. (Tax Key No. 650-8998-009)**
- 8B. Site Plan Review for Firefly Therapeutic Massage, a proposed massage therapy business to located at 5170 S. 76 St., submitted by Carrie Premetz, CMT, d/b/a Firefly Therapeutic Massage and John Weiss d/b/a My Salon Suite of Greenfield. (Tax Key No. 650-8998-009)**

Items 8A and 8B may be considered together.

Overview and Zoning

The applicant, Ms. Premetz, is proposing to establish Firefly Therapeutic Massage, a proposed massage business to be located in a 120 sq. ft. suite within the My Salon Suites located at 5170 S, 76 St. The property is zoned C-4 Regional Highway Business, which permits "Other Personal Care Services (massage parlors)" as a Special Use. A public hearing would be required and could be scheduled as early as April 18, 2023, with Plan Commission approval for the project to move forward.

The applicant will offer therapeutic massage services. She has over 16 years of professional experience and has previously worked in a large physical therapy clinic. The My Salon Suites building is open 24/7 but the applicant would operate by appointment only between the hours of 8 a.m. to 8 p.m., daily.

Site Plan

A site plan was not submitted, but the site is subject to review when the Plan Commission and Common Council consider Special Use Permits. As mentioned with the previous agenda item, the only issues staff observed were numerous light fixtures angled up and a trailer parked within the refuse enclosure, causing the enclosure doors to not be able to be closed. The property owner has indicated he will take care of both these issues immediately.

Off-street parking required per code for Firefly Therapeutic Massage = 2 (1 spaces per chair, plus 1 space per employee)

Off-street parking required for all other uses: 101

TOTAL off-street parking provided (based off of site plan) = 47

Common Council can waive the parking shortage.

Staff recommends that a public hearing be scheduled for this item as soon as April 18, 2023.

Recommendation: Recommend Common Council approval of the Special Use Permit and Site Plan Review for Firefly Therapeutic Massage, a proposed massage therapy business to located at 5170 S. 76 St., submitted by Carrie Premetz, CMT, d/b/a Firefly Therapeutic Massage and John Weiss d/b/a My Salon Suite of Greenfield (Tax Key No. 650-8998-009), subject to Plan Commission and staff comments, and the following conditions:

(Item 1 is required to be satisfied prior to the issuance of building permits and/or Certificate of Occupancy associated with the proposed work reviewed by the Plan Commission. Contractors applying for permits should be advised accordingly.)

1. A letter being submitted to the Community Development Division from the property owner stating that the parking lot lights have been angled down and the trailer has been removed from the property.

Motion by Mayor Neitzke, seconded by Mr. Carlson, to recommend Common Council approval of the Special Use Permit and Site Plan Review for Firefly Therapeutic Massage, a proposed massage therapy business to located at 5170 S. 76 St., submitted by Carrie Premetz, CMT, d/b/a Firefly Therapeutic Massage and John Weiss d/b/a My Salon Suite of Greenfield (Tax Key No. 650-8998-009), subject to Plan Commission and staff comments, and authorize a public hearing to be scheduled for April 18, 2023. Motion carried unanimously.

- 9A. Special Use Review for Auto Glass Now, a business to located at 8333 W. Layton Ave., submitted by Jeannette Lucas, d/b/a Auto Glass Now and Bilal Amjad d/b/a Ali's Group, Inc. (Tax Key No. 616-8987-004)**
- 9B. Site Plan Review for Auto Glass Now, a business to located at 8333 W. Layton Ave., submitted by Jeannette Lucas, d/b/a Auto Glass Now and Bilal Amjad d/b/a Ali's Group, Inc. (Tax Key No. 616-8987-004)**

Items 9A and 9B may be considered together.

Ms. Porter stated that for the record, there was a typo on the agenda for a Special Use Permit, when in fact, this application was for a Special Use Review.

Overview and Zoning

The applicant has accepted a seven-year lease of the 4,320 sq. ft. former Welk's Auto Service business located at 8333 W. Layton Ave. for a proposed auto glass replacement and repair business, Auto Glass Now. The property is zoned C-3 Highway and Commercial Business Service District, which permits auto glass replacement and general automotive repair as a Special Use. The proposed hours of operation are Monday – Friday, 8:00 am – 6:00 pm and Saturday, 8:00 am – 2:00 pm. The applicant anticipates having four (4) employees. Auto Glass Now is a nationwide leader in auto glass repair and has nearly 100 locations.

Site and Architectural Plans

A site plan was not submitted, but the site is subject to review when the Plan Commission and Common Council consider Special Use reviews. The site is in fair condition and some site maintenance and cleanup is required. There are two (2) temporary banners installed on the building without permits. When staff conducted a site visit, there was a dumpster onsite outside of the approved refuse enclosure. A number of the lighting fixtures in the parking lot are angled up and need to be brought down to parallel with the ground. Outdoor storage of firewood and an ice machine were also observed outside of the convenience store. Staff recommends the exterior of the building be repainted where the previously installed Welk's wall signs have discolored the exterior of the building. Staff has spoken with the property owner, who indicated the additional dumpster will be removed, he will move the firewood inside, and he will work on angling down the lights. The property owner did express his desire to keep the ice chest outside of the store but staff recommends the ice chest be brought inside the store to be compliant with the zoning code. No other changes are proposed for the exterior of the site.

This item may be expedited to the March 21st Common Council meeting.

Recommendation: Recommend Common Council approval of the Special Use Permit and Site Plan Review for Auto Glass Now, a business to located at 8333 W. Layton Ave., submitted by Jeannette Lucas, d/b/a Auto Glass Now and Bilal Amjad d/b/a Ali's Group, Inc. (Tax Key No. 616-8987-004), subject to Plan Commission and staff comments, and the following conditions:

(Item 1 is required to be satisfied prior to the issuance of building permits and/or Certificate of Occupancy associated with the proposed work reviewed by the Plan Commission. Contractors applying for permits should be advised accordingly.)

1. A letter being submitted to the Community Development Division from the property owner stating that the parking lot lights have been angled down, the additional dumpster has been removed, the firewood and ice chest have been brought inside the building, and the exterior of the wall will be repainted where the previous wall signs have caused discoloration
2. Temporary sign permits applied for and retroactively issued for the two temporary banners.

Motion by Mayor Neitzke, seconded by Mr. Braswell, to recommend Common Council approval of the Special Use Permit and Site Plan Review for Auto Glass Now, a business to located at 8333 W. Layton Ave., submitted by Jeannette Lucas, d/b/a Auto Glass Now and Bilal Amjad d/b/a Ali's Group, Inc. (Tax Key No. 616-8987-004), subject to Plan Commission and staff comments, and authorize this item to be expedited to the March 21, 2023 Common Council meeting. Motion carried unanimously.

- 10. Site Plan Review for Pho Viet, an existing restaurant located at 5475 S. 27 St., submitted by Alex Nguyen, d/b/a Viet Pho, LLC. (Tax Key No. 645-9002-000)**

Overview and Zoning

At the February 14, 2023 Plan Commission meeting, Plan Commission requested that a site plan be submitted for the Special Use Review request for Pho Viet, an existing restaurant located at 5475 S. 27 St. The Plan Commission requested the property owner submit a revised site plan to address the numerous issues observed onsite during a recent site visit by staff. The property owner has submitted a proposed phased plan to address the issues with the site. The property is zoned C-2 Community Commercial District.

Site Plan Review

The property owner has proposed a phased approach to address issues with the Pacific Produce property. In phase one, the owner wishes to construct a new concrete pad in the northern portion of the alley adjacent to the coin laundry and Pacific Produce refuse enclosures, remove the deteriorated fence along the western property line and construct a new 4' board-on-board fence, and remove and repair asphalt near the southwestern entrance to the property. He wishes to complete this work as soon as possible and has started the permit application process for this work. Phase two would remove and replace the deteriorated asphalt for the remaining southern half of the alley. This work would be completed by June 30, 2023. Phase three would

remove and replace the remaining asphalt in the northern portion of the alley. This work would be completed by September 30, 2023. The property owner indicated all dumpsters will be kept in their respective enclosures moving forward.

In an attempt to return nearly \$13,000 in city-held landscaping security funds for this property, the City Forester conducted a site visit last fall to verify that existing landscaping adheres to the approved landscaping plan from 2010. The City Forester found numerous missing landscaping plants and trees throughout the site. The City sent notices to the property owner in October 2022 but did not receive a response. Staff recommends the missing landscaping material be installed as part of phase two of the site work and is completed by June 30, 2023. If missing landscaping is not installed by June 2023, the City will use the held funds to install missing material.

Staff recommends that this item be expedited to the March 21, 2023 Common Council meeting.

Recommendation: Recommend Common Council approval of the Site Plan Review for Pho Viet, an existing restaurant located at 5475 S. 27 St., submitted by Alex Nguyen, d/b/a Viet Pho, LLC (Tax Key No. 645-9002-000), subject to Plan Commission and staff comments, and the following conditions:

(Item 1 is required to be satisfied prior to the issuance of building permits and/or Certificate of Occupancy associated with the proposed work reviewed by the Plan Commission. Contractors applying for permits should be advised accordingly. All work associated with Item 1 is to be completed by September 30, 2023.)

1. A letter being submitted to the Community Development Division stating that garbage, trailer, and dumped furniture have been removed from the alley, the asphalt will be repaired in phases according to the revised site plan, and the missing landscaping material from the approved 2010 landscape plan will be replaced by June 2023.

Motion by Mayor Neitzke, seconded by Mr. Carlson, to recommend Common Council approval of the Site Plan Review for Pho Viet, an existing restaurant located at 5475 S. 27 St., submitted by Alex Nguyen, d/b/a Viet Pho, LLC (Tax Key No. 645-9002-000), subject to Plan Commission and staff comments, and authorize this item to be expedited to the March 21, 2023 Common Council meeting. Motion carried unanimously.

- 11A. Special Use Permit for a communications tower to located at 12100 W. Howard Ave., submitted by Derek Dye, d/b/a Bridge Tower Corporation and Michael Long d/b/a Husch Blackwell LLP. (Tax Key No. 564-9982-001)**
- 11B. Site and Architectural Plans for a communications tower to located at 12100 W. Howard Ave., submitted by Derek Dye, d/b/a Bridge Tower Corporation and Michael Long d/b/a Husch Blackwell LLP. (Tax Key No. 564-9982-001)**

Items 10A and 10B may be considered together.

Overview and Zoning

The applicants are proposing to construct a 150' tall cellular wireless monopole on behalf of Dish Network at the Clear Channel-owned property located at 12100 W. Howard Ave. The property is zoned I Institutional District, which allows Wireless Telecommunication Carriers as a Special Use. A public hearing could be scheduled as soon as April 18, 2023.

Site and Architectural Plans

Dish Network is proposing a 150' tall monopole with 4' lightning rod (154' total height) to be located within the southeastern corner of the Clear Channel property. The tower is proposed to be located within a 50' x 50' leased compound on the premises. The compound is proposed to be accessed via a 123.8'-long, 12'-wide gravel drive lane. The compound is proposed to be enclosed by a chain link fence. Within the compound would be located the monopole tower, utility equipment, and a 5' x 7' Dish Wireless equipment platform. The monopole is designed to accommodate at least two (2) additional wireless communications carriers with similar equipment loading. The site plan identifies future carrier lease areas within the compound.

The tower and compound area are proposed to be located in front of the existing radio station building. Based on measurements provided, the tower is approximately 155' 9" from the southern right of way line, approximately 158' from the existing driveway asphalt on the subject property, and approximately 187' from the neighboring residential property to the west.

Our Zoning Code indicates a communications tower needs to be sited in the rear of a property and at least a half-mile from any other communications towers. The city attorney opined that based on recent changes to state statute and federal law, the city is no longer able to regulate the location of this type of communications tower and the city's zoning code is in conflict with applicable law. The city attorney also opined that the zoning code requirements for an opaque fence at least 6' tall and requirement for a landscaping plan to be submitted for review and approval is applicable for this submittal and can be added as conditions of approval for the tower. Staff recommends a minimum 6' board-on-board fence be added in place of the proposed chain link fence. Per the zoning code section 21.06.0202 - *Off-street parking requirements*, gravel or crushed stone driveways are prohibited. Staff recommends an asphalt driveway and turnaround area in place of gravel. Staff also recommends a landscape plan be submitted for review, with landscape material (deciduous trees and/or conifers) added to the site to help screen the enclosure and tower from the right of way. Per section 21.04.0703.I(12) of the zoning code, *"a bond or irrevocable letter of credit shall be provided the City for use by the City for the removal of the antenna facilities if the antenna facilities are abandoned or no longer used. The property owner shall also sign an agreement and record (with the County Register of Deeds) a deed restriction to remove the tower within twelve (12) months of the discontinuance of its use."*

Recommendation: Recommend Common Council approval of the Special Use Review and Site Plan Review for a communications tower to be located at 12100 W. Howard Ave., submitted by Derek Dye, d/b/a Bridge Tower Corporation and Michael Long d/b/a Husch Blackwell LLP (Tax Key No. 564-9982-001), subject to Plan Commission and staff comments, and the following conditions:

(Items 1 through 2 are required to be satisfied prior to the issuance of building permits and/or Certificate of Occupancy associated with the proposed work reviewed by the Plan Commission.

Contractors applying for permits should be advised accordingly. The work associated with Item 1 must be completed by June 2023.)

1. A Site and Landscape Plan being submitted to the Community Development Division to show the following: (a) a minimum 6' tall board-on-board fence around the leased compound; (b) an asphalt driveway and turnaround area leading to the leased area; and (c) a landscape plan being submitted with landscaping species and quantity modifications at the request of the City Forester, if applicable.
2. A bond or irrevocable letter of credit shall be provided the City for use by the City for the removal of the antenna facilities if the antenna facilities are abandoned or no longer used.
3. A recorded deed with the Milwaukee County Register of Deeds to remove the tower within twelve (12) months of the discontinuance of its use.
4. Common Council approval of the Special Use Permit.

Ms. Porter stated that revised plans were received earlier in the day and conditions 1(a) and 1(b) may be removed, as they were addressed in the plan revisions. Additional landscaping is still recommended by staff.

Motion by Mayor Neitzke, seconded by Mr. Krenz, to recommend Common Council approval of the Special Use Review and Site Plan Review for a communications tower to be located at 12100 W. Howard Ave., submitted by Derek Dye, d/b/a Bridge Tower Corporation and Michael Long d/b/a Husch Blackwell LLP. (Tax Key No. 564-9982-001), subject to Plan Commission and staff comments, and authorize a public hearing to be scheduled for April 18, 2023. Motion carried unanimously.

12. Community Development Manager Report

Ms. Porter stated that Conceptual Plans were expected to be on the next Plan Commission agenda for a multi-family new construction development in the vicinity of S. 99 St. and W. Layton Ave., behind the State Farm office building. There is a 4.2-acre vacant parcel of land that Horizon Development Group has interest in developing.

13. Adjournment.

Motion by Mr. Carlson, seconded by Mr. Krenz, to adjourn the meeting at 6:57 p.m. Motion carried unanimously.

Respectfully submitted,

Stefanie Richter
Administrative Assistant

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