



**OFFICIAL RECORD OF A REGULARLY SCHEDULED MEETING OF THE PLAN COMMISSION HELD ON MAY 13, 2019, AT 6:30 PM IN THE COUNCIL CHAMBERS OF CITY HALL, 2000 NORTH CALHOUN ROAD, BROOKFIELD, WISCONSIN**

*Video recordings of Plan Commission meetings are available on the city website at <https://cityofbrookfield.viebit.com>*

**MAYOR STEVEN PONTO PRESIDING**

**OTHER MEMBERS PRESENT:** Alderman Rick Owen, Commissioner Mike Smith, Alderman Gary Mahkorn, Alderman Mark Nelson, Commissioner Steve Pettit

**MEMBERS ABSENT AND EXCUSED:** Commissioner Rich Tennessen

**OTHERS PRESENT:** Director of Community Development Dan Ertl, Planning Administrator Mike Theis, Fire Chief Charlie Myers, City Engineer Jeff Chase, Economic Development Coordinator Todd Willis, Neighborhood Planner Richard VanDerWal, Elmbrook School Board Member Glen Allgaier

Mayor Ponto noted a quorum present and called the Plan Commission to order at 6:33 pm.

**Announcements / Reports**

The next regularly scheduled meeting is June 3, 2019 at 6:30pm.

---

**Item 1                    April 8, 2019 Plan Commission Official Record / Meeting Minutes**

Approval of Official Record from the April 8, 2019 Plan Commission meeting.

*Motion to approve the April 8, 2019 Plan Commission Meeting Official Record.*

*Motion by Mark Nelson*

*Seconded by Rick Owen*

*Motion carried 6-0*

---

**Item 2                    April 18, 2019 Plan Review Board**

Approval of the April 18, 2019 Plan Review Board actions and recommendations of meeting minutes.

*Motion to approve the April 18, 2019 Plan Review Board meeting actions and recommendations.*

*Motion by Mark Nelson*

**Item 3 Landmark Credit Union Rezoning, Preliminary Survey Map, Final Certified Survey Map, Development Agreement and New Plan and Method of Operation**

Request of Landmark Credit Union, 5445 South Westridge Drive, New Berlin, WI 53151 c/o Eppstein Uhen Architects, 533 East Chicago Street, Milwaukee, WI 53202 – Peter Kucha, Senior Project Manager for approval of an “MSO” – Modified Suburban Overlay zoning ordinance, preliminary survey map, final Certified Survey Map, development agreement and new plan and method of operation at 555 South Executive Drive in association with construction of a 158,000 sq. ft. Phase One and 148,000 sq. ft. Phase Two office building. (NE ¼ of Sec. 34) – MT **\*\*Requires Common Council Approval\*\***

**Previously reported (abridged):** 1. The site is located the Calhoun Road South Targeted Investment Area (TIA), one of ten areas identified in the *City of Brookfield 2035 Comprehensive Plan* that foster community reinvestment by supporting new economic development and sustainable, mixed-use redevelopment with sensitivity to surrounding neighborhoods. The adopted node plan is *The Calhoun Road South Neighborhood Plan – 2001*(Node Plan). The site is located in District J Macro Parcel 26. The general strategy for Macro Parcel 26 is “...to have added density through infill mixed-use development. This mixed-use land use should allow the horizontal mixing and vertical layering of high density residential, loft office, and retail development. It is intended that each parcel be allowed to infill with primarily office uses in the eastern portions of each parcel fronting Executive Drive, and primarily residential uses fronting Dechant Road.” This site does not front on Dechant Road so the residential expectations are not applicable, whereas office uses are applicable. Importantly, the site fronts on I-94- “Brookfield’s exposure to the regional marketplace” The land use designation of the *City Of Brookfield 2035 Comprehensive Plan* is Mixed Use – Higher Density.

2. The applicant requires Plan Commission direction regarding the dimensional standards to apply to the site’s design. The site was zoned “O” Office District prior to being rezoned “O&LR/C #2” Office and Limited Residential/Commercial District No. 2. The O&LR/C #2 district when established on a property has no dimensional standards but provides for a process to establish standards via Modified Suburban Overlay (MSO) zoning at time of new or revised plan and method of operation on a per site basis. Now is the time with this request. There has been no revised or new plan and method applied for at the site since its rezoning to O&LR/C #2 in about 2001. The Plan Commission must establish building and paving setbacks/offsets and landscape surface ratio in order for the applicant to make application for an MSO rezoning public hearing.

3. The plausibility of the applicant’s two-phase office proposal (initially it is anticipated that the building will house over 300 associates with room for future associate growth) is dependent upon establishment of dimensional standards in the following way – Municipal Code Section 17.136.030 Height regulations C. Increase Permitted. The maximum height of any structure may be increased by not more than ten feet; provided, all required offsets and setbacks are increased by one foot for each foot which such building exceeds the height limit of the district in which it is located. The maximum building height in the O&LR/C #2 district is 70’. The applicant proposes a building 77’ in height based upon increases in setback/offset from those established by the Plan Commission.

4. Furthermore, Municipal Code Section 17.136.030 B. Exceptions. The following shall be excepted from the height regulations of all districts

4. Subject to the approval of the plan commission, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers and spires.

The applicant proposes a 13’ tall mechanical penthouse/screen atop the 77’ tall building.

5. Lastly, Municipal Code Section 17.74.030 Layout and dimensional standards sets out a process to establish Floor Area Ratio in relation to the goals of the TIA. Floor area ratio (FAR) maximums for individual properties are initially set at 0.3. FAR increases above 0.3 must be approved by the plan commission as a condition of zoning approval of plan and method of operation. The plan commission will make a written determination that the increase in FAR achieves the intent and provisions of this district and the Calhoun Road South Neighborhood Plan. The applicant proposes a Phase I FAR of 25.8% and Phase II

FAR of 48.4% after excluding wetlands and floodplain from the FAR calculation. Staff concludes these FAR values are consistent with the goals and objectives of the TIA.

6. The adopted Node Plan identifies transportation opportunities affecting the site in addition to the land use recommendations. A northbound off ramp from Moorland Road to Executive Drive is postulated. Although not officially mapped, setback and offset established from Executive Drive or Executive Drive extended should not preclude future implementation of the transportation improvement. To that end, the City Engineering division recommends a minimum 30' setback from the westerly r/w of Executive Drive and a corresponding offset from the westerly boundary of an existing municipal sanitary sewer easement coincident with the width of Executive Drive. In other words, a 90' offset from the site's existing easterly sideyard.

7. The applicant's proposal will merge two existing parcels into one lot. There will be no placement of wetlands in an outlet because no subdivision of land is occurring; the standard for requiring wetland outlets. The applicant will dedicate r/w for Executive Drive and terminate the road in a cul de sac constructed in accordance with the city Public Infrastructure and Development Handbook.

8. At its December 10, 2018 meeting, staff recommended the Plan Commission inform the applicant of the acceptability of the penthouse and the appearance standards for approval thereof, acknowledge the combined building and penthouse height attributable thereto and endorse the setbacks, offsets, building height, Landscape Surface Ratio (LSR) and Floor Area Ratio (FAR). The Plan Commission endorsed the building height with penthouse and dimensional standards articulated in paragraphs 4, 7 and 8 of the staff report.

9. On March 11, 2019, the applicant submitted its Plan Commission application, supplementing it with civil plans, CSM and building elevations-rendering-material samples and requests approval to schedule an MSO rezoning public hearing. The building height increased 2' (79' vs 77') attributable to aesthetic and functional considerations but still less than the 80' height permissible due to increased setback. Penthouse height (13') was not changed. Building materials remain clear low-E glass, spandrel glass (obscuring view of structural building elements), terra cotta, aluminum panel and brick. The roof screen is metal panel. The materials are applied in linear and horizontal planes of consistent finish in a convex and concave motif on the overall building planes.

10. The setbacks, offsets, FAR and LSR of the MSO rezoning are:

Setback – Building and pavement: 30'

Offset – Building and Pavement from East Property Line: 90'

Offset – Building and Pavement from West Property Line: 50'

Offset – Building and Pavement from North Property Line: 10'

LSR: - 30% (Min.)

FAR: - 50% (Max.)

11. A landscape plan accompanies the application. Site development standards are adhered to but for reliance upon existing vegetation supplemented with evergreens along the west property line and the I-94 streetyard where the applicant requests relief given the expansive building setback as well as the presence of floodplain, wetland and native vegetation.

12. A stand-by generator/dumpster enclosure is attached to the principal building and clad in matching materials.

**Newly reported:** 13. The applicant is in receipt of a missive dated February 18, 2019 by Fire Chief Charlie Myers regarding Fire Code compliance requirements.

14. The applicant submitted a Traffic Impact Analysis of sufficient scope to be satisfactory to the City Engineering Division. But for dedication of Executive Drive right of way and installation of a standard City of Brookfield cul de sac therein, no other traffic improvements are recommended in association with Phase I development plan.

15. A standard City of Brookfield development agreement will secure installation of public improvements.

16. A Neighborhood Information Meeting was held on April 8, 2019. Mayor Ponto attended. One citizen signed the attendance sheet. One written comment was received and included in the Plan Commission packet.

17. A public hearing was held on April 16, 2019. No public comments were received.

**Recommendation:** The applicant's proposal is consistent with the site development characteristics endorsed by the Plan Commission at its December 10, 2018 meeting, the development objectives of *The Calhoun Road South Neighborhood Plan – 2001*, city site-development standards and the base-zoning district. Staff recommends the Plan Commission approve an MSO zoning ordinance as published, preliminary survey map, final certified survey map, new plan and method of operation and authorize the mayor to execute a development agreement on behalf of the city subject to:

1. Dedication of the cul de sac right of way for Executive Drive.
2. Approval of the development agreement by the Office of the City Attorney prior to execution.
3. Technical corrections to the final Certified Survey Map.
4. Statement of operations dated April 29, 2019 by Peter Kucha, Senior Project Manager – Eppstein Uhen Architects.
5. Building Plans and material samples dated May 13, 2019. Wall mounted utility meters and boxes must be located on building walls that do not face Executive Drive or I-94 and painted to match the building. Dumpster enclosure clad in principal building materials and gated by opaque doors of wood or metal that do not face a public street unless obstructed from view from the public street by building/s. All building plans marked to read, "All glass identified as vision glass is to remain vision glass and cannot be obstructed or modified with window film or other opaque techniques or substances except that operable window blinds, or shades are permitted."
6. Site Plan dated April 20, 2019 by Graef.
7. Grading and Drainage Plan and if required Storm Water Management Plan approved by the City Engineering Department. The developer of the project will be required to submit items a, b, and c before issuance of a building permit.
  - a. Copy of the Grading and Drainage plan as approved by the Engineering Department, including storm water calculations, following criteria established by the Storm Water Management Guide.
  - b. The bid from a contractor reflecting the cost of executing the work required on the Grading and Drainage Plan.
  - c. A letter-of-credit in compliance with the Inspection Services Department letter-of-credit format. The monetary amount of the letter-of-credit shall be equal to 110% of the bid submitted.
  - d. A recertification "as-built" survey must be performed by a licensed professional engineer or surveyor indicating that all elements of the approved Grading and Drainage Plan have been completed within tolerance as approved by staff per the approved plan. The recertification documents must be wet stamped and signed by said professional.
  - e. The letter-of-credit will be released after the recertification documents are submitted to and approved by the City of Brookfield. Approval of the grading, drainage, storm water, roadway and utility plans by the City of Brookfield Engineering Department.
5. Landscape Plan approved by the Plan Commission, dated April 20, 2019 by Graef subject to city landscape plan consultant review for compliance with landscape standards of the city Site Development Standards for Non-Residential Uses, technical corrections and
  - A. The DEVELOPER shall post a letter of credit ("Street Yard Installation Letter of Credit") equal to \$40,481.25 or \$2,550 per 1,000 square feet of street yard (15,875 sq. ft. of Street Yard) using a form approved by the CITY (form available from the Department of Community Development) which shall remain on file and current with the CITY until a recertification affidavit by a Registered Landscape Architect is filed with the Inspection Services Department that indicates the street yard landscaping is completed per plan, at which time the Street Yard Installation Letter of Credit shall be released. In addition, the DEVELOPER shall post a three (3) year maintenance letter of credit equal to \$6,985.00 or \$440 per 1,000 square feet of street yard ("Street Yard

Maintenance Letter of Credit") for a period of three (3) years from the date of this action using a form approved by the CITY (form available from the Department of Community Development). Such letters of credit shall be filed with the Department of Community Development prior to the issuance of a building permit. The DEVELOPER shall also grant to the CITY a temporary easement using a form approved by the CITY (form available from the Department of Community Development) for the purposes of placing the initial plantings or replacement of trees and shrubs if DEVELOPER defaults and fails to install said street yard landscaping. Such easement shall terminate at the end of the three (3) year maintenance period or longer in the event the CITY permits an extension of the PROJECT completion date, pursuant to City Ordinance No. 1552. Landscape maintenance of the PROJECT shall be performed in accordance with appropriate provisions of City Ordinance No. 1552.

Also:

- a. A landscape installation "as built" is required prior to release of the installation letters-of-credit.
6. Compliance with requirements articulated in a missive dated February 18, 2019 by Fire Chief Charlie Myers.
7. Lighting in compliance with sections 15.16.080 and 17.120.070 of the City of Brookfield municipal code.
8. Compliance with the Construction Completion Schedule in statement of operations dated April 29, 2019 or the owner of the property may be subject to the penalty provisions of the Zoning Code, Section 17.100.130 or the owner shall remove construction equipment and debris from the site, fine grade and seed the site, and stabilize surface water drainage leaving the site to City Engineering Department specifications within four (4) months or the owner of the property may be subject to the penalty provisions of the Zoning Code – Section 17.100.130. (Ordinance #2134-08).
9. Signage to be approved separately by the Plan Review Board.
10. Payment of applicable fees to the Community Development Department prior to issuance of a building permit:

|                    |  |
|--------------------|--|
| \$To Be Determined | Engineering Review Fee                 |
| \$To Be Determined | Unpaid Assessments                     |
| \$900.00           | Development Agreement                  |
| \$420.00           | Pre. Survey Map                        |
| \$360.00           | CSM                                    |
| \$30.00            | Dev. Agreement Recording               |
| \$30.00            | CSM Recording                          |
| \$350.00           | Landscape Plan Review                  |
| \$618.98           | Wetland Fee (\$4.19/1K based upon FAR) |
| \$2,954.56.00      | Bikeway Fee (\$20/1K based upon FAR)   |

11. Satisfaction of any and all outstanding assessments, taxes due, plan review fees, escrows, deposits and dedications.
12. New plan and method of operation approval expires on May 21, 2021 unless the applicant obtains a building permit prior thereto.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=uabzSixdH1FU> for the discussion.

***Motion to approve staff recommendation for approval of an "MSO" – Modified Suburban Overlay zoning ordinance as published, preliminary survey map, final certified survey map, new plan and method of operation and authorize the mayor to execute a development agreement on behalf of the city in association with construction of a 158,000 sq. ft., Phase One, office building at 555 South Executive Drive.***

***Motion by Rick Owen***  
***Seconded by Gary Mahkorn***  
***Motion carried 6-0***

**Item 4 School District of Elmbrook Road Reservation Discontinuance, Official Map Amendment, Conditional Use Ordinance, Development Agreement and New Plan and Method of Operation**

Request of the School District of Elmbrook, 13780 Hope Street, Brookfield, WI 53005 – Kristin Sobocinski, Assistant Superintendent for Business Services for approval of resolution and ordinance discontinuing a road reservation depicted upon 3525 and 3555 North Calhoun Road and amending the Official Map to reflect the discontinuance and approving a conditional use ordinance, development agreement and new plan and method of operation at 3555 North Calhoun Road in association with construction of a 15,000 sq. ft. Central Administration Office building. (NE ¼ of Sec. 9) – MT **\*\*Requires Common Council Approval\*\***

**Previously reported:** 1. The site is zoned “R-3” Residence District with “FP” Other Flood Fringe overlay zoning. The site is not located in a Targeted Investment Area (TIA), one of eleven areas identified in the *City of Brookfield 2035 Comprehensive Plan* that foster community reinvestment by supporting new economic development and sustainable, mixed-use redevelopment with sensitivity to surrounding neighborhoods. The adopted land use of the City of Brookfield 2035 Comprehensive Plan is Housing Focused – Lower Density. The applicant proposes discontinuing a road reservation depicted upon 3525 and 3555 North Calhoun Road and constructing a 15,000 sq. ft. school district administration building. Pursuant to Chapter 17.108 of the city municipal code, “public administration building, auditorium, gymnasium or any other publicly owned structure including health clinics supporting the public uses” are conditional uses, that may be permitted in any use district upon specific authorization by the council permitted (unless expressly prohibited) subject to a public hearing process.

2. A road reservation upon 3525 and 3555 North Calhoun Road is depicted on the City of Brookfield Official Map. Per Wis. Stat. 66.1024 any reservation shall not be effective until it is accepted by a resolution of the governing body having jurisdiction over such street or highway. No resolution has been discovered. For purposes of transparency an amendment of the Official Map discontinuing the reservation is recommended.

3. Primary access to 3555 North Calhoun Road is proposed via driveway connection to Calhoun Road. Secondary access is proposed via Bermuda Boulevard. No site improvement is proposed in the “FP” Other Flood Fringe overlay zoning area.

4. A statement of operations dated January 31, 2019 states, “Typical hour of operation for the CAO will be Monday – Friday 7:30AM -4:30 PM. The building will also be used for school board meetings which are typically held the 2nd and 4th Tuesdays of the month at 6:00 PM.”

5. Site Data:

|                          |                         |
|--------------------------|-------------------------|
| Site Area (Gross):       | 274,668 sq. ft.         |
| Site Area (Net):         | 271,894 sq. ft.         |
| Building Area:           | 15,000 sq. ft.          |
| Floor Area Ratio:        | 5.5% (25% Maximum)      |
| Landscape Surface Ratio: | 75% (50% Minimum)       |
| Parking Provided:        | 60 stalls (60 Required) |

6. The flat-roof building is one-story in height. Building materials consist of brick, wood-look metal panel, architectural precast stone, clear glazing and architectural sun shade. HVAC equipment is enclosed by the building or building screening walls. A matching dumpster enclosure is proposed at 3525 North Calhoun Road.

7. A stand-by generator in enclosure is proposed. The applicant submitted sound level and generation data in a missive dated January 31, 2019 demonstrating compliance with city standards for noise generating equipment. A generator exercise schedule is included.

8. Preliminary grading, drainage, erosion control and storm water management plan have been submitted to the city Engineering Division.

9. A preliminary landscape plan has been submitted and incorporates existing vegetation into the tabulation of overall plant quantities.

10. The applicant is in receipt of a missive dated February 18, 2019 by Fire Chief Charlie Myers regarding Fire Code compliance requirements.

11. The applicant submitted a Traffic Impact Analysis of sufficient scope to be satisfactory to the City Engineering Division. The applicant concludes its January 31, 2019 Statement of Operations with the following, "Due to the above future development outlined relative to replacing Fairview South School the District is requesting that full access be allowed from Calhoun Road (both right and left traffic). The School District and the City have had conversations about creating full access and both are working towards that goal." The applicant and Plan Commission should be made aware that the proposed Calhoun Road cross section at the location of the applicant's Calhoun Road driveway access incorporates a grade-divided median allowing only right-in and right-out turn movements to/from the site.

**Newly reported:** 12. In a digital missive dated March 27, 2019 the School District of Elmbrook acknowledged that Calhoun Road access from 3555 North Calhoun Road will be in the form of right-in right-out only with no median opening.

13. A Neighborhood Information Meeting (NIM) was held on April 24, 2019. Aldermen Reddin, Owen and Blackburn as well as School Board Members Boucher and Algaier attended. Sixteen (16) citizens signed the attendance sheet. Four post NIM written comments were received. Written comments received pre and post NIM are included in the Plan Commission packet.

A summary of NIM comments and staff response follows:

- Installation of sanitary sewer w/ easement to 3665 N. Calhoun Rd. in the discontinued road reservation desired –The applicant will install sanitary sewer in a municipal easement to the south property line of 3665 N. Calhoun Rd. with this project.
- Traffic added to Calhoun Road and Bermuda Blvd. – The applicant submitted a Traffic Impact Analysis. It does not forecast significant traffic impacts associated with this project.
- Connection to Bermuda Blvd. – The north terminus of Bermuda Blvd. is below a Regional Flood Elevation. Vehicular connection to 3555 N. Calhoun Rd. provides dry-land access to Fairview South School.
- Parking lot lighting – Site lighting must comply with Sections 15.16.080 and 17.120.070 of the Municipal Code.
- Building and parking placement – The building and parking are located in compliance with the setback and offset requirements of the base-zoning district.
- Stormwater – The site must comply with Title 14 Stormwater Management of the Municipal Code.
- Buffer landscaping – The applicant incorporated existing buffer strip vegetation into the tabulation of overall plant quantities. The applicant subsequently supplemented landscaping along the south side of the main drive, opposite parking lot drive aisles.

14. A public hearing was held on May 7, 2019. A resident found fault with the Traffic Impact Analysis, buffer landscape adequacy, building/parking/driveway placement on the site and zoning code interpretations by City staff. There were no comments from Aldermen.

15. For consistency with past intensifications of use at sites in the city and pursuant to 17.100.070 H. Right-of-Way Dedication, the Plan Commission should require the dedication of land necessary for the ultimate public right-of-way, or any portions thereof, measured from the center line of streets established on the highway width ordinance of Waukesha County, the city master plan or the official map of the city in association with Calhoun Road.

16. A standard City of Brookfield development agreement will secure installation of public improvements.

**Recommendation:** The road reservation upon 3525 and 3555 North Calhoun Road cannot be corroborated by resolution, cannot be compelled of the applicant and leads to lands bounded by non-residential use and in common ownership. The applicant's proposal is consistent with the development thresholds associated with conditional use of a residentially zoned parcel. Building materials are consistent with Site Development Standards for Non-residential Uses.

Staff recommends the Plan Commission approve a resolution and ordinance discontinuing a road reservation depicted upon 3525 and 3555 North Calhoun Road and amend the Official Map to reflect the discontinuance.

Staff recommends the Plan Commission approve a conditional use ordinance, new plan and method of operation and authorize the mayor to execute a development agreement on behalf of the city subject to:

8. Dedication of the ultimate right of way of Calhoun Road prior to issuance of a building permit.
9. Approval of the development agreement by the Office of the City Attorney prior to execution.
10. Statement of operations dated May 2, 2019 by Kristin Sobocinski, Assistant Superintendent for Business Services – School District of Elmbrook.
11. Building Plans and material samples dated January 21, 2019. Wall mounted utility meters and boxes must be located on building walls that do not face Calhoun Road and painted to match the building/s. Dumpster enclosure/s clad in principal building materials and gated by opaque doors of wood or metal that do not face a public street unless obstructed from view from the public street by building/s. All building plans marked to read, "All vision glass is to remain vision glass and cannot be obstructed or modified with window film or other opaque techniques or substances except that operable window blinds, or shades are permitted."
12. Site Plan dated January 21, 2019 by Kapur and Associates Inc.
13. Grading and Drainage Plan and if required Storm Water Management Plan approved by the City Engineering Department. The developer of the project will be required to submit items a, b, and c before issuance of a building permit.
  - b. Copy of the Grading and Drainage plan as approved by the Engineering Department, including storm water calculations, following criteria established by the Storm Water Management Guide.
  - b. The bid from a contractor reflecting the cost of executing the work required on the Grading and Drainage Plan.
  - f. A letter-of-credit in compliance with the Inspection Services Department letter-of-credit format. The monetary amount of the letter-of-credit shall be equal to 110% of the bid submitted.
  - g. A recertification "as-built" survey must be performed by a licensed professional engineer or surveyor indicating that all elements of the approved Grading and Drainage Plan have been completed within tolerance as approved by staff per the approved plan. The recertification documents must be wet stamped and signed by said professional.
  - h. The letter-of-credit will be released after the recertification documents are submitted to and approved by the City of Brookfield. Approval of the grading, drainage, storm water, roadway and utility plans by the City of Brookfield Engineering Department.
13. Landscape Plan approved by the Plan Commission, dated April 29, 2019 by Kapur and Associates Inc. subject to city landscape plan consultant review for compliance with landscape standards of the city Site Development Standards for Non-Residential Uses, technical corrections and
  - B. The DEVELOPER shall post a letter of credit ("Street Yard Installation Letter of Credit") equal to \$32,912.21 or \$2,550 per 1,000 square feet of street yard (12,906 sq. ft. of Street Yard) using a form approved by the CITY (form available from the Department of Community Development) which shall remain on file and current with the CITY until a recertification affidavit by a Registered Landscape Architect is filed with the Inspection Services Department that indicates the street yard landscaping is completed per plan, at which time the Street Yard Installation Letter of Credit shall be released. In addition, the DEVELOPER shall post a three (3) year maintenance letter of credit equal to \$5,678.97 or \$440 per 1,000 square feet of street yard ("Street Yard Maintenance Letter of Credit") for a period of three (3) years from the date of this action using a form approved by the CITY (form available from the Department of Community Development). Such letters of credit shall be filed with the Department of Community Development prior to the issuance of a building permit. The DEVELOPER shall also grant to the CITY a temporary easement using a form approved by the CITY (form available from the Department of Community Development) for the purposes of placing the initial plantings or replacement of trees and shrubs if DEVELOPER defaults and fails to install said street yard landscaping. Such easement shall terminate at the end of the three (3) year maintenance period or longer in the event the CITY permits an extension

of the PROJECT completion date, pursuant to City Ordinance No. 1552. Landscape maintenance of the PROJECT shall be performed in accordance with appropriate provisions of City Ordinance No. 1552.

Also:

b. A landscape installation “as built” is required prior to release of the installation letters-of-credit.

14. Compliance with requirements articulated in a missive dated February 18, 2019 by Fire Chief Charlie Myers.
15. Lighting in compliance with sections 15.16.080 and 17.120.070 of the City of Brookfield municipal code.
16. Compliance with the Construction Completion Schedule dated April 30, 2019 or the owner of the property may be subject to the penalty provisions of the Zoning Code, Section 17.100.130 or the owner shall remove construction equipment and debris from the site, fine grade and seed the site, and stabilize surface water drainage leaving the site to City Engineering Department specifications within four (4) months or the owner of the property may be subject to the penalty provisions of the Zoning Code – Section 17.100.130. (Ordinance #2134-08).
17. Signage to be approved separately by the Plan Review Board.
18. Payment of applicable fees to the Community Development Department prior to issuance of a building permit:

|                    |  |
|--------------------|--|
| \$To Be Determined | Engineering Review Fee                 |
| \$251.40           | Wetland Fee (\$4.19/1K based upon FAR) |
| \$1,200.00         | Bikeway Fee (\$20/1K based upon FAR)   |

19. Satisfaction of any and all outstanding assessments, taxes due, plan review fees, escrows, deposits and dedications.
20. New plan and method of operation approval expires on May 21, 2021 unless the applicant obtains a building permit prior thereto.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=uabzSixdH1FU> for the discussion.

There was general discussion by the Commission regarding the applicant’s willingness to upgrade the appeal of the building facade and upgrades to landscaping that they committed in order to address concerns of abutting neighbors. Also, questions were raised relative to the assertion by a neighbor that the traffic study was flawed to which City Engineer asserted that a different intersection along Calhoun Road could have been selected for study, but in the end of the day, the fact that only 35 trips will be added by the CAO in the peak hour, the traffic emanating from the CAO(the CAO only) can be absorbed into the existing street network. Lastly, staff was asked if there any legal problems with extinguishing the “future street “ due to the position raised by a neighbor. Director Ertl stated- no, we have thoroughly vetted the matter internally and find it a solid recommendation to extinguish. The neighbor stated their position in a December 2018 letter but has not raised any lasting concerns during the public hearing or other venues.

***Motion to approve staff recommendation for approval of resolution and ordinance discontinuing a road reservation depicted upon 3525 and 3555 North Calhoun Road and amending the Official Map to reflect the discontinuance, and approving a conditional use ordinance, new plan and method of operation, and authorizing the mayor to execute a development agreement on behalf of the city in association with construction of a 15,000 sq. ft. Central Administration Office building at 3555 North Calhoun Road, adding a recommendation for signage, ribbon window, or other architectural solution to be incorporated on the brick wall adjacent to and west of the building entry to be included as part of request for approval of signage by the Plan Review Board. In addition, the Commission permits use of existing tree lines along the perimeter to help meet City landscaping standards.***

***Motion by Mark Nelson  
Seconded by Gary Mahkorn  
Motion carried 6-0***

---

## Item 5 Marcus Movie Tavern

Request of Marcus Theatres Corporation and CBL & Associates Properties Inc., c/o David Baum, SHA Architects, 311 Chicago Street, Milwaukee, WI 53202, for approval of a minor revision to plan and method of operation in association with the construction of an approximate 41,000 sq. ft. multiplex theater and restaurant with outdoor seating to be located at 95 S Moorland Road, Brookfield Square Shopping Center. (NE¼ of Sec. 34) – RV **\*\*Requires Common Council Approval\*\***

### Report:

1. The site consists of one lot located in the Calhoun Road South Targeted Investment Area (TIA), one of eleven areas identified in the *City of Brookfield 2035 Comprehensive Plan* that foster community reinvestment by supporting new economic development and sustainable, mixed-use redevelopment with sensitivity to surrounding neighborhoods. The adopted node plan is the *Calhoun Road South Neighborhood Plan – 2001* (Node Plan). The adopted land use of the Node Plan for the site is “Mixed Use”. The adopted land use of the *City of Brookfield 2035 Comprehensive Plan* is “Mixed Use – Higher Density”. The site is zoned “O&LR/C #2 – Office and Limited Residential/Commercial District Number 2” (O&LR/C #2) including adopted Modified Suburban Overlay Zoning District Combination Development Pattern: New Suburban, Cluster Suburban, Context Suburban (MSO NS/CS/CTS) Ordinance 2356-14. Ordinance 2356-14 establishes the development pattern and zoning characteristics for the site entailing: minimum building setback twenty-five feet (25’); building offsets, parking setbacks and offsets, and locations of special features – ornamental towers, kiosks, and landscape features – will be set during plan and method of operation review consistent with the Neighborhood Plan (DNP); and zero-foot (0’) building offsets are permitted for parking decks unless otherwise required by fire codes. The existing plan and method of operation of the proposed development in association with the construction of a movie theater and restaurant with outdoor seating was approved by the Plan Commission on November 13, 2017 and the Common Council on November 21, 2017.
2. Branding of the development has changed from “BistroPlex” to “Movie Tavern” and the applicant is seeking modifications to exterior building materials in terms of color, arrangement, and detail for consistency with the revised branding. All proposed changes are consistent with the City’s Site Development Design Standards for Non-Residential Uses. The requested alterations include:
  - a. Rectilinear blue metal panels on the entry vestibule tower converted to copper color affixed in diamond pattern. Off premise sign tower similarly modified to coordinate the blue to copper change.
  - b. Field grey brick on column accents and larger multiplex facades replaced with stone veneer in grey.
  - c. Grey brick over the outdoor seating replaced with metal panel in copper affixed in diamond pattern.
  - d. Area of grey EIFS above the outdoor seating now features a large “scored” cross hatch pattern. Same distinct pattern used on display area of signage for the off-premise sign tower.
  - e. Metal copings and cornices adjusted to accommodate the new sign strategy for “Movie Tavern”.Revised building materials on the architectural elements are consistently and cogently applied across each elevation, creating visual interest, emphasizing human scale, and exhibiting dynamic variation of light, shadow, and texture.

Applicant has been informed that: **All vision glass is to remain vision glass and cannot be obstructed or modified with window film or other opaque techniques or substances except that operable window blinds, or shades are permitted.** All plans specifying the location and installation of vision glass shall memorialize this language into the associated plan set.

**Recommendation:** The applicant’s proposed revisions to building architecture are consistent with the City’s Site Development Standards for Non-Residential Uses. Staff recommends the Plan Commission approve the minor revision to plan and method of operation subject to:

1. Statement of operations dated April 6, 2019 by Marcus Theatres Corporation.
2. Building elevations and material samples dated April 26, 2019 by SHA Architects including technical corrections. Roof top HVAC equipment screened by building architecture. Ground mounted HVAC equipment and transformers

screened by landscaping. All wall mounted meter boxes are to be painted to match the building. If stainless steel meter boxes are used they will be etched and painted to match the building.

3. Lighting in compliance with sections 15.16.080 and 17.120.070 of the City of Brookfield municipal code while permitting the application of color changing LED bands of which the merits for approval were established by the discussion and action of the Plan Commission on November 13, 2017.
4. All signage subject to separate review by the Plan Review Board.
5. Once a building permit is issued by Inspection Services, the owner shall receive an occupancy permit within eighteen (18) months or the owner of the property may be subject to the penalty provisions of the Zoning Code, Section 17.100.130 or the owner shall remove construction equipment and debris from the site, fine grade and seed the site, and stabilize surface water drainage leaving the site to City Engineering Department specifications within four (4) months or the owner of the property may be subject to the penalty provisions of the Zoning Code – Section 17.100.130. (Ordinance #2134-08).
6. Occupancy permits shall not be issued by the City until the following conditions have been met, as applicable to this specific building site of the Brookfield Square Phase VIII project:
  - A. All public infrastructure is substantially completed.
  - B. All utility and grading and drainage as-built plans, valve and hydrant record cards, cleaning and videotaping of public sewer and digital drawing submittals required by the Development Agreement of the Brookfield Square Phase VIII project for this specific building site are complete and approved by the City.
  - C. All storm water management facilities are functional.
  - D. Adequate parking for the building to be occupied has been completed.
  - E. The entire site is finish graded and all excess spoil and/or topsoil is removed from the site.
  - F. All of site is restored and green space is top soiled and permanently stabilized through vegetation cover or by such other temporary measures approved by the City Engineer.
  - G. All site lighting for the project has been installed in accordance with the Photometric Lighting Plan approved by the City Electrical Inspector.
7. Plan and method of operation approval expires on May 21, 2021 unless a building permit is obtained prior thereto.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=uabzSixdH1FU> for the discussion.

***Motion to approve staff recommendation for approval of a minor revision to plan and method of operation in association with the construction of an approximate 41,000 sq. ft. multiplex theater and restaurant with outdoor seating to be located at 95 S Moorland Road, Brookfield Square Shopping Center.***

***Motion by Gary Mahkorn***

***Seconded by Rick Owen***

***Motion carried 6-0***

---

## **Item 6 Bright Future of America Conditional Use Public Hearing Request**

Request of Bright Future of America, LLC, 7 Douglas Drive, Little Falls, NJ 07424 – Kuldeep Gupta, Owner for approval to schedule a conditional use public hearing permitting construction of Kiddie Academy, an 11,080 sq. ft. childcare facility at 15435 West Capitol Drive. (NW ¼ of Sec. 11) – MT **\*\*Requires Common Council Approval\*\***

**Report:** 1. The site is not located in a Targeted Investment Area (TIA), eleven areas identified in the *City of Brookfield 2035 Comprehensive Plan* that foster community reinvestment by supporting new economic development and sustainable, mixed-use redevelopment with sensitivity to surrounding neighborhoods. The adopted corridor plan is *The Capitol Drive Corridor Plan Number Two – 1999* (Corridor Plan). The site is identified as E.C. 7. The land use recommendation is two-family homes.

2. The adopted land use of the City of Brookfield 2035 Comprehensive Plan is “Housing Focused – Medium Density”.

3. The site is zoned “R-4” Two-family Residence District with “FF” Flood Fringe, “FW” Floodway”, “SW” Shoreland Wetland and “NSW” Non-Shoreland Wetland overlays. The applicant is requesting approval to schedule a public hearing for the purpose of permitting construction of a childcare facility. Nursery schools, day nurseries and child care centers are regulated as conditional uses by the city zoning code, permissible in any zoning district subject to a public hearing and upon approval of an ordinance by the Common Council. No floodplain or wetland disturbance is proposed.

4. Site Data:

|                          |   |
|--------------------------|---|
| Site Area (Net):         | 169,884 sq. ft.   |
| Building Size:           | 11,180 sq. ft.  |
| Floor Area Ratio:        | 6.6% (25% Maximum)  |
| Landscape Surface Ratio: | 70% (50% Minimum for Cond. Use of Residentially Zoned Site) |
| Enrollment:              | 150 – 170 children  |
| Parking Provided:        | 38 stalls (10 – 12 + 22 @ 1/Employee)                       |

5. Preliminary grading, drainage and erosion control plans have been submitted to the city Engineering Division. SWMP is pending.

6. A wetland delineation is scheduled. A preliminary landscape plan compliant with city site development standards will follow.

7. The building is one-story in height with roof ridges, reversed gables and dormers of residential form and scale. Building materials consist of lap siding, face brick, smooth sawn cedar siding, precast stone sill, architectural shingles and vision glass in bronze framed window and door systems. A proposed dumpster enclosure requires reorientation so that doors do not face Capitol Drive.

8. One of two Greenway Corridor Trail System route options is depicted paralleling the site along a portion of its south property line.

9. The applicant is in receipt of a missive dated April 17, 2019 by Fire Chief Charlie Myers regarding Fire Code requirements.

**Recommendation:** The applicant’s proposal is consistent with the development thresholds and architectural standards associated with conditional use of a residentially zoned parcel. Staff recommends the Plan Commission approve scheduling conditional use public hearing subject to prior receipt of a wetland delineation and conducting a neighborhood information meeting prior to the hearing.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=uabzSixdH1FU> for the discussion.

***Motion to approve staff recommendation for approval to schedule a conditional use public hearing permitting construction of Kiddie Academy, an 11,080 sq. ft. childcare facility at 15435 West Capitol Drive subject to prior receipt of a wetland delineation and conducting a neighborhood information meeting prior to the hearing, and adding a recommendation for improvement of building architecture, receiving guidance from City staff, for review at the neighborhood information meeting and public hearing.***

***Motion by Mark Owen  
Seconded by Steve Petitt  
Motion carried 6-0***

---

## Item 7 Park & Open Space Plan Update

Recommendation and resolution to amend the *2035 Comprehensive Plan* through adoption of an update to the Park and Open Space Plan: amending Chapter 5: Natural Resources and Recreation on pages 67 through 71 to incorporate the updated figures, status of recommendations, and references to the Park and Open Space Plan summarized in Exhibit “A”; and amending Map 2 on page 73 to incorporate the recommendations for Park and Open Space Plan elements depicted in Exhibit “B”, trail systems depicted in Exhibit “C”, and city park, open space, and conservancy sites depicted in Exhibit “D”, including any corresponding updates to the Greenway Corridor Plan. – RV **\*\*Requires Common Council Approval\*\***

### Previously Reported (abridged):

3. The *2035 Comprehensive Plan* (the “Comp Plan”) includes Chapter Five: Natural Resources and Recreation. By reference the Comp Plan adopts the City’s *Park and Open Space Plan* (“Park Plan”) and the *Greenway Corridor Recreational Trail Plan* (“Trail Plan”), last updated in 2011. The Comp Plan also includes *Map 2 Parks, Recreation and Open Space Lands*. In 2018, the Parks and Recreation Commission engaged the Southeastern Wisconsin Regional Planning Commission to prepare an update to the Park Plan. A draft of the Park Plan update has been reviewed by the Parks and Recreation Commission which has endorsed the Park Plan for a public hearing.
4. The attached exhibits summarize the updated Park Plan and include:
  - Updated inventory findings relative to population/demographics, land use, and park and open space acreage, sites, and facilities for the City and overall study area (City of Brookfield, Village of Elm Grove, and Town of Brookfield).
  - The framework utilized for development of the Park Plan including other relevant plans that were considered and incorporated to include the City’s *2035 Comprehensive Plan*; *Trail Plan*; *Waukesha County Comprehensive Plan*; and the updated natural areas plan for Southeastern Wisconsin.
  - Recommendations regarding the responsibilities of other governmental units relative to the implementation of the Park Plan, cost estimates, and funding strategies.
  - The Park Plan recommendations completed as of 2018 and remaining to be implemented by the City (Chapter III Status of Previous Plan Recommendations excerpt).The exhibit Maps would replace Map 2 in the Comp Plan.
5. The Comp Plan amendments involve updating pages sixty seven through seventy one (67-71) to incorporate information and recommendations as contained in the updated Park Plan and Trail Plan summarized in the aforementioned exhibits.

### Newly Reported:

6. A public hearing on this topic was conducted by the Common Council on May 7, 2019. No members of the public spoke and no comments were submitted to be heard at the public hearing.

**Recommendation:** Staff recommends the Plan Commission approve a resolution to amend the *2035 Comprehensive Plan* through adoption of the updated Park and Open Space Plan by revising Chapter 5: Natural Resources and Recreation on pages 67 through 71 and Map 2 on page 73 within the Comprehensive Plan to incorporate the updated figures, status of recommendations, and references to the Park Plan, including any corresponding updates to the Greenway Corridor Plan, and recommend the Common Council enact an ordinance achieving the same.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=uabzSixdH1FU> for the discussion.

***Motion to approve staff recommendation for approval of a resolution amending the 2035 Comprehensive Plan through adoption of the updated Park and Open Space Plan by revising Chapter 5: Natural Resources and Recreation on pages 67 through 71 and Map 2 on page 73 within the Comprehensive Plan to incorporate the updated figures, status of recommendations, and references to the Park Plan, including any corresponding updates to the Greenway Corridor Plan, and recommending the Common Council enact an ordinance achieving the same.***

## **Item 8 Enterprise, Commerce & Industry Ave. Uniform District Parking Setback – Request for a Public Hearing**

Request by Community Development Department to authorize a Public Hearing to amend the current Zoning Code (17.80.030) with Modified Suburban Overlay (Ord. No. 2508-18) related to parking setbacks for the Enterprise, Commerce & Industrial Avenue Industrial District from 25' to 15'. **\*Requires Common Council Approval\***

### **Previously Reported:**

1. In January 2017, the Community Development and Engineering departments reached out to the businesses along Enterprise Ave., Commerce Ave., and Industrial Ave. seeking input on the area's road resurfacing project planned for fiscal year 2018. Respondents from the initial outreach inquired the possibility for Enterprise Avenue to be widened due to parking concerns. Enterprise, Commerce, and Industry Avenues, in their current form, were not designed to accommodate on-street parking. The on-street parking that has occurred, mainly on Enterprise Ave., has caused the roads to deteriorate at a faster rate.

The Community Development Department and Engineering Department conducted a focus group meeting with the businesses in the area on November 28, 2017. The goal of the meeting was to explain the upcoming resurfacing project in detail and discuss how it will affect their businesses and the on-street parking issues that had been raised in the past. City staff informed the businesses that the intended scope of the project prohibits all on-street parking once the resurfacing project is complete to prevent the rapid deterioration of the repaired road. If the property owners and businesses of the district desired on-street parking, the road would require upgrading to a widened urban section and the scope would exceed the planned budget of the allocated capital improvement funds.

2. Based upon the November 28, 2017 focus group meeting, it was determined that widening the road and converting its rural section to an urban section for suitable on-street parking was not desired. Three businesses are experiencing parking related issues for their employees, out of the eighteen property owners in the industrial park, limiting the number of businesses that would benefit from the application of a district wide, and property frontage assessment to fund the added costs in upgrading the scope of the road project. Businesses that relied on street parking to solve employee parking issues need a replacement solution.

3. The Community Development Department investigated the needs of the three (3) businesses that have parking issues to establish possible alternatives for alleviating the matter. Two (2) were identified as having minimal need. To meet their current demands, each requires adding six (6) parking spaces or less. The other business stated a demand of twenty (20) or more spaces based on both business and employee parking deficiencies.

4. In order to accommodate private, lot-based solutions for businesses to replace the lost street parking when it is no longer permitted, City staff proposes applying Modified Suburban Overlay (MSO). An MSO applied to the existing zoning district that incorporates less-restrictive regulations used in the Northeast Industrial area could afford property owners the site area necessary to make these improvements. The intended zoning overlay would reduce parking setbacks in the district from fifty (50) feet to fifteen (15) feet on all streets except for Barker Road to permit additional employee surface parking in the balance created.

5. City staff also proposes the MSO permit zero (0) feet offsets for pavement in instances where shared driveways and parking areas are utilized. The intent of this provision is improved functionality between properties and more efficient use of paved areas in the district. City staff has identified areas where the zero (0) feet offset would be beneficial. The proposed zero (0) feet offset would not apply to buildings or structures in the district.

6. The Modified Suburban Overlay (MSO) was passed by the Common Council on June 19, 2018. **(ATTACHMENT 1)** The MSO Ordinance that was adopted in June 2018 reduced the parking setbacks from 50' to 25' on Enterprise, Commerce,

and Industry Avenues, and 0' offsets on shared driveways. With the reduction of the parking setback from 50' to 25', 6 of the total properties (24) within the district were brought into compliance of the Zoning Code.

7. If the parking setback was further reduced to 15', it would bring all but three (3) properties within compliance of the zoning code for the district. **(ATTACHMENT 2)** This modification would also create a more uniform zoning district with parking setbacks.

#### **Newly Reported:**

8. There are a number of properties that already have landscaping within the proposed 15' setback area. **(ATTACHMENT 2)**. Some of the locations identified by the City's GIS system as having landscaping within the proposed 15' setback are pictured in **ATTACHMENT 3**.

9. For reference of the Plan Commission **ATTACHMENT 4** shows the layout and dimensions required for various parking options.

10. The Plan Commission at its April 8, 2019 meeting asked City staff to identify those properties within the Industrial District (Enterprise Ave., Commerce Ave., and Industry Ave.) that would benefit from the proposed 15' parking setback. In an effort to layout some parking solutions within the district, City staff has prepared site plans of 4 properties. Each of the site plans prepared by City staff are to the scale of 1" = 50', and include an aerial for perspective beyond the site plans.

#### **21210 Enterprise Ave. (ATTACHMENT 5)**

The current parking stock for 21210 Enterprise Ave. is made up of about 11 parking stalls at a 45° angle layout with a one way aisle. The property owner has called in the past to see if it would be possible to get a circular drive in the front for easier access. Based on the City's code for lot width dimensions for dual access, it would not be allowed. Further preventing dual access to the property is that it would require an access point on City owned property (wastewater treatment plant). If the proposed 15' setback was put into place, it would allow for parking expansion in the front of the building with easier access flow, and create a more efficient use of the back of house for the business operations (dog kenneling).

#### **20865 Enterprise Ave. (ATTACHMENT 6)**

Currently the front of house has 14 parking stalls at 30° angle layout and 5 parallel parking stalls. Parking has been expanded in the back of house with a mixture for business operational vehicles and employee parking. If the proposed 15' parking setback was approved, the front of house would gain about 5' of parking setback space. This would allow for the installation of double row & one way aisle parking at 45°, adding the additional parking for its employee expansion.

#### **20520 Enterprise Ave. (ATTACHMENT 7)**

To date City staff is not aware of any parking challenges for this property, but it would have the benefit of improved parking options if the proposed changes were approved. A 15' parking setback would allow for double row & one way aisle parking in the front of house. This parking layout would potentially add about 5 parking spots.

#### **1625 N. Barker Rd. (ATTACHMENT 8)**

Parking was addressed as a concern by the tenant and property manager when the City reconstructed Enterprise Ave. and imposed no parking on the street within the district. With a 15' parking setback it would allow for a single row & one way parking aisle at 45°. This would increase the number of spaces by 3, and would create an easier flow and parking management than currently exists on the property.

**Staff Recommendation: Staff is recommending that if the Plan Commission finds the request to reduce the parking setbacks from 25' to 15' for the Industrial District (Enterprise Ave., Commerce Ave. and Industry Ave.) appropriate, it shall authorize a Public Hearing.**

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=uabzSixdH1FU> for the discussion.

***Motion to approve staff recommendation for approval to schedule a public hearing to amend the text of Modified Suburban Overlay Ordinance No. 2508-18 related to parking setbacks for the Enterprise, Commerce & Industrial Avenue Industrial District from 25' to 15'.***

***Motion by Mike Smith  
Seconded by Gary Mahkorn  
Motion carried 6-0***

---

## **Adjournment**

***Motion by Gary Mahkorn  
Seconded by Mike Smith  
Motion carried unanimously  
Meeting adjourned at 8:10pm***

*Record respectfully submitted by Richard VanDerWal, Neighborhood Planner*