



**OFFICIAL RECORD OF A REGULARLY SCHEDULED MEETING OF THE
PLAN COMMISSION HELD ON JULY 8, 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: open seat

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, Alderman Christopher Blackburn

Mayor Ponto noted a quorum present and called the Plan Commission to order at 6:39 pm.

Announcements / Reports

The next regularly scheduled meeting is August 14, 2019 at 6:30pm.

Item 1 June 3, 2019 Plan Commission Official Record / Meeting Minutes

Approval of Official Record from the June 3, 2019 Plan Commission meeting.

Motion to approve the June 3, 2019 Plan Commission Meeting Official Record.

Motion by Rick Owen

Seconded by Steve Pettitt

Motion carried 6-0

Item 2 June 20, 2019 Plan Review Board

Meeting Canceled.

No Action

Aber Hollander, president and CEO, provided a summary of the requested proposal for a detox center of in-patient and out-patient substance abuse at 13850 West Capitol Drive. Dr. Chantelle Thomas, executive clinical director of The Manor, introduced herself and was available for answering questions on the request.

Commissioner Pettitt asked what type of detox will happen at the proposed facility and whether the facility specialized in treating particular substances.

Dr. Thomas explained that the area of specialty is across substances. The highest percentage of clients treated have been for alcohol dependency with prescription medication drug abuse as the close second. They help people safely transition off of any medication which they have developed a physiological dependence to that is causing harm in their life. They treat addiction to prescription opioids for chronic pain, anxiety medication, sleeping medication, or any controlled substance that people need help to be safely tapered off of that does not require hospitalization.

Alderman Mahkorn summarized the questions he had asked at previous meetings on the request along with the answers that were made by the applicant.

The public hearing was opened to comments from the public. Members of the public who spoke at the hearing:

Cassandra Lemi 13745 Woodside Place, Brookfield, WI 53005 – Asked where patients originate from and if they receive patients through the judicial system. Wanted confirmation that the facility does not have a judicial affiliate.

Dr. Thomas stated the facility operates on voluntary clients rather than patients mandated for treatment. It is not a lockdown facility monitoring people who are there against their will, patients are free to leave at any time. She confirmed they do not have a judicial affiliate.

Thomas Balistreri 4065 N 138th Street, Brookfield, WI 53005 – Has concerns about patients doing drugs in the woods of his backyard adjacent to the facility and the potential for his children to interact with these individuals. He asked for confirmation that the facility accepts anyone who is willing to pay for the treatment.

Dr. Thomas expressed that the facility's target demographic is not the high risk population. The facility is not a halfway house or shelter for people who are homeless or indigent. The programs of the facility are not a good option for people who have survived on petty crime to support their dependency. Patients are typically working individuals with insurance that covers the costs to attend this facility. Dr. Thomas confirmed that they will treat patients who pay out of pocket, however without insurance the programs are cost prohibitive and only affordable to those functioning above a middle class income. The staff of the facility are vigilant in ensuring a safe environment for patients and will not allow drug users or deals to take place near the facility. They have experienced no issues with their operations at their current facility, The Manor, which is similarly situated with residential properties right next to the facility.

Mr. Hollander stated that security of the building is one of the main focuses of operations. They train staff in both preventing patients from ever going unaccounted for, and preventing anyone from outside the facility to infiltrate or cause problems.

Cassandra Lemi stepped forward again to ask what options the nearby residents have for addressing problems if they do occur and can they contact the facility directly.

Mr. Hollander stated the phone number of the facility will be prominently posted and available and guaranteed that he personally would be informed immediately if they received a call about any issues. He restated that they have had no

problems occur at their existing facility, The Manor. He provided an anecdote that he was directly and immediately informed of a noise complaint regarding their lawn mower at The Manor.

The Manor is located in Slinger Wisconsin, technically in the unincorporated town of Polk in Washington County. It has been in operation since 2015 and features similar operations and programs as those in this request. The leadership staff of The Manor will also be the same in this request.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=k2GBJ2yalvse> for the discussion.

Motion to close the public hearing.

Motion by Mark Nelson

Seconded by Rick Owen

Motion carried 6-0

Item 3 Comprehensive Plan Update

Update and discussion of the City's 2050 Comprehensive Plan led by Vandewalle & Associates. – RV

Report:

1. Vandewalle has completed Draft #1 of the 2050 Comprehensive Plan for review by City staff and the Plan Commission. The consultant team has highlighted areas of the draft document for in depth discussion and direction on possible revisions.
2. A summary of the areas intended for discussion are:
 - a. Land Use Objectives
 - b. Housing Policies and Initiatives
 - c. Natural Resources and Recreation Initiatives
 - d. Education Objectives and Initiatives
 - e. Destinations Initiatives
3. Vandewalle will direct conversation at the Plan Commission meeting to obtain the necessary feedback for completing the efforts on Draft #2 of the 2050 Comprehensive Plan. Items not fully addressed will be discussed at the next Plan Commission meeting.

Recommendation: The Plan Commission represents the primary source for project steering, feedback, general discussion, and past personal knowledge throughout the process of updating the City's Comprehensive Plan. Staff recommends the Plan Commission engage in the thoughtful discussion led by Vandewalle.

There was general discussion regarding proposed revisions or deletions to some of the principles contained with the 2035 *Comprehensive Plan* moving forward and renaming the Special Places Chapter and its focus to "Destinations". There was substantial discussion regarding what Mixed Use concepts means to Brookfield, the notion that mixed uses are the trends that communities across the country are striving to achieve to sustain community successes and the service impacts of mixed use on the delivery of fire service, including personnel, and associated public safety implications. The conclusion was that the consultant should strive to position the concepts of mixed use in global terms and recognize that a variety of factors will need to be considered in evaluating and promoting mixed-use land development. The Community Development Department will attempt to help define "mixed use" as it applies to Brookfield and not necessarily other communities.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=k2GBJ2yalvse> for the discussion.

No Action

Item 4 Midwest Detox LLC Conditional Use and Minor Revision to Plan and Method

Request of Midwest Detox LLC, 6633 Lincoln Ave., Lincolnwood, IL 60712 - Aber Hollander, Dev. Project Manager c/o Husch Blackwell, 120 S. Riverside Plaza, Suite 2200, Chicago, IL 60606 - Nida Shakir Ghaffar, Attorney to approve a conditional use ordinance and minor revision to plan and method of operation at 13850 W. Capitol Drive allowing occupancy of the entire building by Midwest Detox, LLC operating two substance abuse treatment programs. (SW ¼ of Sec. 1) – MT ****Requires Common Council Approval****

Previously reported:

1. The site is located in the Lilly Road Capitol Drive 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 Lilly Road and Capitol Drive Neighborhood Plan – 2001*(Node Plan). The recommended land use of the Node Plan is “Office and Local Business”. The adopted land use of the City of Brookfield 2035 Comprehensive Plan is “Mixed Use – Lower Density”.
2. The site is zoned “O&LB” Office and Limited Business District. Ordinance No. 1693 established “MSO” Modified Suburban Overlay zoning. The applicant is requesting approval of a conditional use ordinance allowing occupancy of the entire building by Midwest Detox, LLC, to operate two medical substance abuse programs from the premises. The program has inpatient and outpatient components.
3. The inpatient component offers 24 hour, 7 day a week detoxification treatment and nursing care delivered from 16 private rooms. The outpatient component offers substance abuse counseling from 8:00 a.m. thru 9:00 p.m. Per 17.108 of the municipal code, hospitals are conditional uses permitted in any zoning district unless expressly prohibited, subject to specific authorization by the Common Council preceded by a public hearing.
4. Exterior building alterations are limited to the installation of an ingress/egress door on the east building elevation with hardware to match existing doors on the building. No site alterations are proposed. The existing parking supply is 65 stalls.
5. Site landscaping will be restored to that previously approved by the Plan Commission.
6. The applicant is in receipt of a missive dated March 26, 2019 by Fire Chief Charlie Myers identifying Fire Code compliance requirements.

Newly reported:

7. A Neighborhood Information Meeting was conducted on June 19, 2019. Alderman Carnell attended. Nine citizens signed the attendance sheet. One written comment was received and included in the Plan Commission packet.
8. A public hearing regarding the conditional use request was conducted by the Plan Commission on July 8, 2019.

Recommendation: ~~Staff will deliver a recommendation pending results of the public hearing.~~ *The request is consistent with the criteria for evaluation of a conditional use in a non-residential zoning district. Staff recommends the Plan Commission approve a conditional use ordinance and minor revision to plan and method of operation allowing operation of two substance abuse treatment programs and façade alteration subject to:*

1. *Statement of operations dated March 4, 2019 by Nida Shakir Ghaffar, Attorney – Husch Blackwell on behalf of Aber Hollander, Dev. Project Manager.*
2. *Compliance with fire code requirements per a missive dated March 26, 2019 by Fire Chief Charlie Myers.*
3. *Building elevation dated July 8, 2019.*
4. *Minor revision to plan and method of operation expires on July 17, 2021 unless a building permit is obtained prior thereto.*

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=k2GBJ2yalvse> for the discussion.

Motion to approve staff recommendation for approval of an ordinance and minor revision to plan and method of operation at 13850 W. Capitol Drive allowing occupancy of the entire building by Midwest Detox, LLC operating two substance abuse treatment programs and façade alteration.

Motion by Gary Mahkorn

Seconded by Rick Owen

Motion carried 5-0

Commissioner Pettitt Abstained

Item 5 Shire Addition No. 2 Final Plat

Request of NFI Properties, LLC 19745 West Gebhardt Road Brookfield, WI 53045 Joseph C. Niebler, Sr., President for re-approval of the final plat for The Shire Addition No. 2, a 6-lot subdivision located on the extension of Misty Mountain Parkway. (SE ¼ of Sec. 20) – MT ****Requires Common Council Approval****

Report:

1. The preliminary plat of The Shire Add'n No 2 received Common Council approval on May 2, 2017. Based upon this date and per Wis Statute 236.25 the deadline for recording the plat is May 2, 2020. The final plat of The Shire Add'n No 2 received Common Council approval on July 17, 2018. Per Wis Statute 236.25 the deadline for recording the final plat is July 17, 2019. For various reasons the applicant will not complete the necessary paperwork to record the final plat prior to the final plat recording deadline. None the less, the preliminary plat approval is valid through May 2, 2020. The applicant requests re-approval of the final plat.

2. Pursuant to Wis Statute 236.11, a final plat that is substantially in conformance with the preliminary plat is entitled to approval.

Recommendation: The final plat is substantially in conformance with the preliminary plat. Staff recommends the Plan Commission approve the final plat of The Shire Add'n No. 2 subject to the conditions listed in its July 9, 2018 Plan Commission approval.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=k2GBJ2yavlse> for the discussion.

Motion to approve staff recommendation for reapproval of the final plat for The Shire Addition No. 2, a 6-lot subdivision located on the extension of Misty Mountain Parkway.

Motion by Mike Smith

Seconded by Gary Mahkorn

Motion carried 6-0

Item 6 Milwaukee Tool Development Agreement

Request of Milwaukee Tool c/o Stephen Perry Smith Architects Inc. 215 North Water Street, Suite 250, Milwaukee, WI 53202, Matthew A. Mano, Architect for approval of an amendment to development agreement extending the deadline for completion of roadway improvements in association with construction at 12930 Lisbon Road. (SE ¼ of Sec. 1) – MT ****Requires Common Council Approval****

Report:

1. The development agreement for Milwaukee Tool Phase III at 12930 Lisbon Road contains the following provision: *Within a period of twelve (12) months from the date the CITY Engineer authorizes site construction to proceed, the DEVELOPER shall improve Lisbon Road as part of the Project in accordance with the Chapter VI, Part A of the “Milwaukee Electric Tool Traffic Impact Analysis” report by TADI dated July 18, 2018, which includes performance of the following improvements:*

- **Intersection of 128th Street & Lisbon Road**
 - Provide for a westbound by-pass lane to accommodate through vehicles caught behind westbound left-turn vehicles onto 128th Street.
 - Provide for a dedicated eastbound to southbound right-turn lane on the west approach.
- **East Driveway and Lisbon Road**
 - Provide a dedicated left-turn lane and a dedicated right-turn lane (currently a single shared lane) on the south approach for exiting traffic at this driveway.
 - Extend the existing westbound by-pass lane to the east through this driveway to accommodate through vehicles caught behind westbound left-turn vehicles at this driveway.

2. An occupancy permit for the building is linked to the following provision:

OCCUPANCY PERMITS: *Occupancy permits shall not be issued by the CITY until the following conditions have been met: All conditions contained in Part A & B of this section have been met.*

Adequate parking for each building to be occupied has been completed.

The entire site is finish graded and all excess spoil and/or topsoil is removed from the site.

Lisbon Road public roadway plans are completed and signed by the City and work is substantially completed. (the “Lisbon Road Improvements”).

3. Building construction and Lisbon Road/128th Street improvements are not on the same completion timeline. The building will be ready for occupancy before Lisbon Road/128th Street improvements are complete. The applicant requests relief from the aforementioned condition linking occupancy to completion of Lisbon Road/128th Street improvements.

Recommendation: The Lisbon Road/128th Street improvements are a direct benefit to the applicant. As such, the applicant is motivated to complete the improvements. Staff recommends the Plan Commission approve an amendment to the development agreement permitting building occupancy subject to initiation of Lisbon Road/128th Street improvements.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=k2GBJ2yalvse> for the discussion.

Motion to approve staff recommendation for approval of an amendment to development agreement extending the deadline for completion of roadway improvements and permitting building occupancy subject to initiation of Lisbon Road/128th Street improvements in association with construction at 12930 Lisbon Road.

Motion by Mark Nelson

Secoded by Steve Pettit

Motion carried 6-0

Item 7 North Shore Bank PDD Rezoning

Request of North Shore Bank, 15700 West Bluemound Road, Brookfield, WI 53005 – David Kane, V.P. for approval to schedule a Planned Development District rezoning public hearing for the purpose of redeveloping 15830 West Capitol Drive with a new commercial building and site plan. (SE 1/4 of Sec. 3) – MT ****Requires Common Council Approval****

Report: 1. 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 corridor plan is *The Capitol Drive Corridor Study No. 2 – 1999* (Corridor Plan). The recommended land use of the Corridor Plan is “Local Business”. The adopted land use of the City of Brookfield 2035 Comprehensive Plan is “Shopping/Service Focused – Lower Density”.

2. The site is zoned "B-1" Local Business District. Ordinance No. 1693 established "MSO" Modified Suburban Overlay zoning but did not establish a "development pattern", i.e. New Suburban, Cluster Suburban, etc. The applicant is requesting approval of a Planned Development District public hearing, rezoning the site to Planned Development District No. 25 General Plan - Commercial allowing redevelopment of the site for re-occupancy by the existing sole tenant, North Shore Bank.

3. The standards for PDD rezoning are specified in 17.41.050 Standards for planned development districts by predominant land use - C. Commercial Planned Developments. All commercial planned developments shall demonstrate community benefits in aesthetics and construction to justify the PDD designation. The applicant provided the Plan Commission a community benefits assessment dated June 20, 2019. In the simplest terms, the applicant's proposal replaces a building constructed in 1966 with one of contemporary architecture, building material and thermal performance and a site with reduced impervious surface area and current site landscaping.

4. The proposed use is a single-tenant building occupied by a bank with drive through. Days of operation: Sunday through Saturday. Hours of operation: ATM – 24/7; Video Tellers (ITM) 7 days/week M-F 8:00am to 7pm, Saturday 8:00am to 5:00pm, Sunday 10:00am to 4:00pm, Branch hours Monday to Thursday 9:00am to 5:00pm and Saturday, 9:00am to 2:00pm.

5. Building architecture is contemporary commercial with rectangular forms and angular, dual-slope roof. Principal building materials are masonry brick, cut stone and flat-lock metal panel. Accent materials are chamfered masonry block, aluminum storefront with clear glazing, aluminum soffit and glazing – all in tones of grey and beige. A fence enclosure for roll-out dumpsters is located on the north side of the building. Its building materials need to be revised to reflect those in use on the principal building unless the applicant is relieved of this requirement via the PDD ordinance.

6. Site landscaping will be installed per city Site Development Standards. A Capitol Drive streetyard landscape inventory is required and the streetyard upgraded as necessary for compliance.

7. The applicant is in receipt of a missive dated June 24, 2019 by Fire Chief Charlie Myers identifying Fire Code compliance requirements.

8. PDD Ordinance Characteristics:

Permitted Uses:	Same as Section 17.52.010 ("B-1" Local Business District)
Prohibited Uses:	Residential use Intensive uses listed in Section 17.108.090
Building Setback:	40' Washington Drive 65' Capitol Drive
Pavement Setback:	8' Washington Drive 18' Capitol Drive
Building Offset:	10'
Pavement Offset:	0'
Height Regulation:	35' - Same as Section 17.52.030 ("B-1" Local Business District)
Area Regulation:	F.A.R. 30% Max. - Same as Section 17.52.040 ("B-1" Local Business District) L.S.R. 30% Min. - Same as Section 17.52.040 ("B-1" Local Business District)

9. Site Development Characteristics:

Building Setback:	41' Washington Drive 69' Capitol Drive
Pavement Setback:	9' Washington Drive 19' Capitol Drive
Building Offset:	115'
Pavement Offset:	0'
Building Height:	24' 6 7/16"
Building Size:	2,950 sq ft.

Floor Area Ratio: 5.6%
Landscape Area Ratio: 41.2%

Recommendation: Redevelopment of the abutting site to the east of the subject site was accomplished via PDD rezoning. The “B-1” code compliant building pad of the triple street frontage subject site is approximately 1,660 sq. ft. or 3 % Floor Area Ratio of infeasible triangular shape and inadequate floor plate dimension. The proposed use is consistent with the land use recommendation of the 2035 Comprehensive Plan. Staff recommends the Plan Commission approve scheduling a Planned Development District rezoning public hearing subject to conducting a neighborhood information meeting prior to the hearing.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=k2GBJ2yalvse> for the discussion.

Motion to approve staff recommendation for approval to schedule a Planned Development District rezoning public hearing for the purpose of redeveloping 15830 West Capitol Drive with a new commercial building and site plan subject to conducting a neighborhood information meeting prior to the hearing.

Motion by Mike Smith

Seconded by Gary Mahkorn

Motion carried 6-0

Item 8 Village Area Business District Outdoor Seating

Request of the Department of Community Development for approval of an ordinance to amend Chapter 17.50.030(A)(5) of the City Code which regulates permitted uses and restrictions in the Village Area Business District related to restaurants and their outdoor seating. – TW ****Requires Common Council Approval****

Previously reported (abridged):

4. The City of Brookfield Village Area Business District zoning permits “Up to a one hundred (100) seat restaurant and outdoor seating not exceeding twenty-five (25) percent of the indoor capacity and not located between the building and any adjacent residential district, measured from the nearest building wall to the residential lot line, and ceasing operating hours at ten p.m. even if indoor operating hours are longer, subject to the plan commission’s approval of the plan and method of operation associated with the outdoor seating, including a parking analysis and the use of state-of-the-art exhaust controls for kitchen equipment.”
5. Providing increased opportunity for outdoor seating in the District for businesses with adequate space outside the public Right-of-Way will create additional vibrancy for the Village Area. The 2035 Comprehensive Plan recognizes the VAB as a special place in Chapter 8, and states, “continue to encourage and focus redevelopment and new activity within the TIA’s to support continued economic, fiscal, and community vitality.”

Newly reported:

6. A public hearing on the proposed amendments to Chapter 17.50.030(A)(5) of the municipal code was conducted by the Common Council on June 4, 2019. The details of the hearing are contained in the minutes attached to this report.

Recommendation: Staff recommends the Plan Commission approve the proposed zoning code amendments to Chapter 17.50.030(A)(5) allowing for increased opportunity for outdoor seating of restaurants in the Village Area Business District 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=k2GBJ2yalvse> for the discussion.

Motion to approve staff recommendation for approval of an ordinance to amend Chapter 17.50.030(A)(5) of the City Code which regulates permitted uses and restrictions in the Village Area Business District related to restaurants and their outdoor seating.

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

Adjournment

*Motion by Steve Petitt
Seconded by Mark Nelson
Motion carried unanimously
Meeting adjourned at 9:10pm*

Record respectfully submitted by Richard VanDerWal, Neighborhood Planner