

**CITY OF WAUPACA
CITY PLAN COMMISSION**

**REGULAR MEETING
COUNCIL CHAMBERS, CITY HALL**

**WEDNESDAY, SEPTEMBER 4, 2019
5:24 P.M.**

1. ROLL CALL

Present: Mayor Brian Smith, Chairperson, Ald. Alan Kjelland, Pat Phair, Justin Berrens, Public Works Director, Ald. Eric Olson, John Kneer and Tracy Behrendt

Absent: none

Others Present: Andrew Dane, Interim Development Director, Aaron Jenson, City Administrator and Angie Landsverk, Waupaca County Post

2. APPROVAL OF AGENDA

MOVED by Comm. Phair **SECONDED** by Ald. Kjelland to **APPROVE** the Agenda as presented. 7 ayes, 0 nays, 0 absent. **MOTION CARRIED** on a voice vote.

3. APPROVAL OF PLAN COMMISSION MINUTES

MOVED by Comm. Behrendt, **SECONDED** by Ald. Olson to **APPROVE** the August 7, 2019 Meeting Minutes. 7 ayes, 0 nays, 0 absent. **MOTION CARRIED** on a voice vote.

4. SPECIAL USE PERMIT / WAUPACA DEVELOPMENT LLC, 1030 W. FULTON STREET

Andrew Dane, Interim Development Director said that Waupaca Development LLC, Tony Hoes, Agent is seeking permission to allow for the use of the property located at 1030 W. Fulton Street as a food service establishment for Dunkin' Donuts. Mr. Dane said that the project has met all of the standards that are required and it is compatible with the current zoning of B4 Strip Commercial District. Mr. Hoes has submitted a cross access easement and shared parking agreement that has been recorded with the Waupaca County Register of Deeds office. Tony Hoes stated he accepts the property conditions as stated in the Plan Commission Report.

MOVED by Comm. Phair, **SECONDED** by Ald. Kjelland to **RECOMMEND** to Council the Special Use Permit for Waupaca Development LLC, 1030 W. Fulton Street with the conditions as stated by Staff. 7 ayes, 0 nays, 0 absent. **MOTION CARRIED** on a voice vote.

5. SITE PLAN REVIEW / WAUPACA DEVELOPMENT LLC, 1030 W. FULTON STREET

Andrew Dane, Interim Development Director said that Waupaca Development, LLC, Tony Hoes Agent desires to construct a 1,629 square foot Dunkin' Donuts including a drive-thru at the property located at 1030 W. Fulton Street. Staff has reviewed the site plan requirements with Mr. Hoes and he agrees and will adhere to all requirements expected. There was discussion on the 10-onsite parking stalls, which city ordinances require 17 parking stalls, Mr. Hoes explained they have executed and recorded a cross-access easement and a cross-

parking agreement to satisfy the 17 parking stall requirement. Justin Berrens, Public Works Director explained the traffic flow and said that this is a more controlled situation and he felt that safety should be improved. There was some discussion on access control on W. Fulton Street in consideration with left turn movements in and out of the Dunkin' Donuts site. Mr. Berrens said it has been a pleasure to work with Tony Hoes and his engineering firm adding that Mr. Hoes has gone above and beyond with stormwater improvements by installing underground storage chambers to catch and hold stormwater before it goes out into the storm sewer and eventually into nature. Comm. Kneer brought up discussion on the materials used for the exterior of the building. Mr. Hoes plans to apply for permits and start construction within 45 days with an opening timeframe in Spring of 2020.

MOVED by Ald. Kjelland, **SECONDED** by Comm. Behrendt to **APPROVES** the Site Plan Permit for Waupaca Development LLC, 1030 W. Fulton Street, Dunkin' Donuts. 7 ayes, 0 nays, 0 absent. **MOTION CARRIED** on a voice vote.

6. REPORTS:

- a. **August 2019 Building Permits** - informational
- b. **August 2019 Code Enforcement Status Report** - informational
- c. **Development Update** – Mr. Dane reported he has met with Russ Butkiewicz and Kari Esbensen to discuss the Oz Natural Area; the owners are preparing a plan and have indicated that they will be attending the October Plan Commission meeting to present their plan. Mr. Dane has also met with Waupaca Machine & Repair's owner to discuss future expansion plans. He also suggested that the city take a look at the Fulton Street Corridor to determine the best use for less demanded retail space, consistent with findings from a recent Retail Market Study commissioned by the city. Mr. Dane added that S. C. Swiderski, Tower Ridge Apartments, has submitted an application to amend the Planned Development to facilitate additional residential development on the north side of STH 54/W Fulton Street near Stone Ridge Road.
- d. **Fence Ordinance Update** – Mayor Smith said that he asked for this item to be placed on the agenda and he felt there was not a consensus among staff on how to interpret the city's Fence Ordinance. Mr. Chris Burington was in attendance to explain his situation and experience when building a fence on his city property. Mr. Burington started building his fence and then learned he needed a permit and at that time, he was required to pay a fine along with the fee. City Attorney Tom Hart provided an opinion explaining that the property owner understood the ordinance differently than city staff had. Mr. Chris Burington, 614 S. Main Street said that his home is on the Historic Register and was built by Edward and Rose Browne in 1894 and he and his wife, Peg Burington have lived there approximately 21 years. He said that his front yard is on S. Main Street and the rear yard is on S. Washington Street. He started replacing his old 4 ½ foot tall, wooden fence with a new 5-foot tall vinyl fence and then learned he needed a permit. When he submitted the application, he was told that his plan does not meet city code requirements, that he could not connect the fence to his barn (garage) and that he has two front yards, on S. Main St. and S. Washington St. and that his property did not have a rear yard. He contacted Ald. Alan Kjelland, Ald. Dave Peterson and Ald. Steve Hackett and asked for their input regarding this issue. When they viewed his property, they all agreed that he had both a

front yard (S. Main St.) and a back yard (S. Washington St.) and agreed that his fence was not an eyesore or a detriment to the neighborhood. Mr. Burington asked for their advice and was told to speak with Mayor Smith. Mayor Smith explained his interpretation of the ordinance that was drafted in 2009 saying that if the property is situated on two streets then those streets both must be front yards. He said that City Attorney Tom Hart agreed that just because a back yard abuts a street that that does not make it a front yard. Mayor Smith provided other examples of streets in the city with properties having two or three streets saying that does not make them all “front” yards. Comm. Kneer said this is very typical in planning and is considered interpretation through definition, which is any yard with frontage that abuts the public right-of-way. Adding that therefore, you can have by definition two front yards whether it be one in the front and one in the back, but technically, from a planning standpoint the true language and definition is interpreted in that way. Comm. Kneer disagreed with the section stating that a fence cannot be connected to a garage. There was general discussion on having a primary front and a secondary front and Comm. Kneer suggested that this be addressed in the city ordinance providing that a front door location would determine the primary front designation. Mayor Smith asked Comm. Kneer to address Mr. Burington’s concern that if his barn (garage) located on S. Washington Street were to burn down that they would not be able to rebuild it. Comm. Kneer replied it is a “pre-existing condition” that is “grandfathered in” but if something should happen to it, the city would refer back to the existing ordinance and it would not be allowed to be rebuilt. Mayor Smith felt that city residents should be able to rebuild a detached garage in their back yard or in their second front yard. Mayor Smith asked if the Plan Commission wants to change this to allow a second front yard to have a higher front fence and if they would allow the building of a detached structure in a second front yard. Comm. Kneer asked for an interpretation of the existing ordinance from the City’s Attorney. Mayor Smith said he stands corrected and that staff probably did interpret the ordinance properly. Comm. Kneer agreed that staff did handle the Burington’s application correctly. Mayor Smith said that the Burington’s did receive permission to build their fence through City Attorney Tom Hart’s opinion and asked if there is interest to change the ordinance to be better understandable for residents. Ald. Kjelland agreed that the fence ordinance should be reviewed and rewritten as soon as possible.

7. ADJOURNMENT

MOVED by Ald. Kjelland, **SECONDED** by Ald. Olson, to **ADJOURN** the September 4, 2019 Regular City Plan Commission Meeting. 7 ayes, 0 nays, 0 absent. **MOTION CARRIED** on a voice vote.

The meeting adjourned at 6:43 p.m.

Mayor Brian Smith, Chairperson

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