

CITY OF WHITEWATER
PLAN AND ARCHITECTURAL REVIEW COMMISSION
Whitewater Municipal Building Community Room
October 14, 2013

**ABSTRACTS/SYNOPSIS OF THE ESSENTIAL ELEMENTS OF THE OFFICIAL
ACTIONS OF THE PLAN AND ARCHITECTURAL REVIEW COMMISSION**

Call to order and roll call.

Chairperson Meyer called the meeting of the Plan and Architectural Review Commission to order at 6:00 p.m.

Present: Greg Meyer, Lynn Binnie, Bruce Parker, Cort Hartmann, Karen Coburn, Kristine Zaballos, Daniel Comfort. Absent: None. Others: Wallace McDonell (City Attorney), Latisha Birkeland (City Planner).

Hearing of Citizen Comments. There were no citizen comments.

Approval of the Plan Commission Minutes. Moved by Binnie and seconded by Coburn to approve the Plan Commission minutes of September 9, 2013. Motion approved by unanimous voice vote.

Public hearing for a conditional use permit (for expansion to include wholesale alcohol operation) for CC Property Development LLC., Christ Christon to have a brewery and taproom at 111 W. Whitewater Street (Second Salem Brewing Company, LLC.).

Chairperson Meyer opened the public hearing for consideration of a conditional use permit (for expansion to include wholesale alcohol operation) for CC Property Development LLC., Christ Christon to have a brewery and taproom at 111 W. Whitewater Street (Second Salem Brewing Company, LLC.).

Plan Commission Member Coburn excused herself from the Board for this item.

City Planner Latisha Birkeland explained that the conditional use permit is to convert the existing Whitewater Street Restaurant into a one-barrel (31 gallon) “nanobrewery” and a taproom called Second Salem Brewing Company. The usage of the rest of the building (existing Lakefront Pub) will remain unchanged. “A nanobrewery is a scaled-down microbrewery, often run by a sole entrepreneur, who produces beer in small batches”. They are regulated by the Alcohol and Tobacco Tax and Trade Bureau (TTB), and are fully licensed and regulated breweries. The taproom will only be open during hours that the Lakefront Pub is also open. The brewery and tap room will be replacing the Whitewater Street Restaurant. The hours for the taproom would be Monday through Thursday from 3 until 9 p.m. and Friday, Saturday and Sunday from 11 a.m. until 10 p.m. The B-2 (Central Business) Zoning District is exempt from parking requirements. The business is allowed two signs. Birkeland was informed that there were other businesses in the downtown area which had more than two signs. The signage will be checked out. Business owners will have to comply with the Sign Ordinance.

Christ Christon, owner of the Whitewater Family Restaurant and the Lakefront Pub, explained that he had three other business partners for the brewery, Thayer Coburn, Joe Coburn and Carl Brown. In the Lakefront Pub and Grill, Christon provides specialty craft beers and higher end beers. From that they are taking one step forward to provide the downtown area with a small brewery (a one barrel nanobrewery – 31 gallons). In the future they may expand to a larger off site brewery and use the small on site brewery as the “mad test kitchen”. This small brewery would allow them to brew custom beer, or provide a competition for home brewers. Home brewing is a science. There is a love behind it (like art). Christon feels the brewery and taproom will be an economic draw to Whitewater. People from other communities will come to Whitewater for beer and dinner and see other things that Whitewater has to offer. They want the taproom to be enjoyed by the connoisseur, not have it be a bar area. The Whitewater Family Restaurant will close the beginning of November depending on when they can start the work. The capacity of the taproom will be determined by the Fire Inspector and the Building Inspector.

Chairperson Meyer opened for public comment. There were no comments. Chairperson Meyer closed public comment.

Plan Commission Member Binnie stated that it had been indicated that a distillery could be considered a light industrial use; is a brewery considered a light industrial use?

City Planner Birkeland explained that it is an extension of an existing use, not light industrial.

City Attorney McDonell stated that the distillery was appropriate for a conditional use permit approved by the Plan Commission.

Christ Christon explained that he had a dream to pursue. This would be a much bigger draw to Whitewater than breakfast in the a.m. The University is making it so students and faculty do not need to leave campus. Until a student is 20-21 there is no draw to the downtown. Christon stated this would not be a joint liquor license. This would be a second license for beer. He said there was no issue to have two businesses at one location. They have a separate entrance for each business. Christon has been dealing with two businesses for the last 2 ½ years with the Whitewater Family Restaurant and the Lakefront Pub. There has been no problem.

Moved by Binnie and seconded by Zaballos to approve the conditional use permit for CC Property Development LLC. to have a brewery and tap room at 111 W. Whitewater Street. Aye: Meyer, Binnie, Parker, Hartmann, Coburn, Zaballos, Comfort. No: None. Motion approved.

Public hearing for consideration of a change in the District Zoning map for the parcel located at 319 W. James Street (Tax Parcel # /TR 00025) to rezone from R-3 (Multi-family Residence) Zoning District to a B-2 (Central Business) Zoning District for the development of a restaurant.

Public hearing for a conditional use permit (tavern and other places selling alcohol by the drink) for Tyler Sailsbery to serve beer and liquor at 319 W. James Street (for a “Class B” Beer and Liquor License) for a new restaurant, tavern and distillery (Casual Joe’s). These

items were put together for discussion purposes. Chairperson Meyer opened the public hearings and informed those at the meeting of the procedure for public comment.

City Planner Latisha Birkeland stated that the Plan Commission members received at the meeting, copies of letters from residents and updated maps for zoning and future land use and information on rental vs. owner occupied. The rezone application for 319 W. James Street is to change the current zoning of R-3 (Multi-family Residential) Zoning District to B-2 (Central Business) Zoning District. The City of Whitewater Comprehensive Plan shows that this property is in a re-development district and if the property would be rezoned, the recommendation would be for B-2 (Central Business) Zoning District. The property is contiguous with the southwest corner of the Downtown Triangle of the Central Business District. The request for the change in zoning is just for 319 W. James Street. If the zoning change would happen, a conditional use permit would be needed. The conditional use should be considered as B-2. The B-2 Zoning District identifies parking is not a requirement. James Street has 53 permitted parking stalls. Available stalls would be usable prior to 6:00 p.m. There is permit parking only from 6:00 p.m. to 8:00 a.m. If the Plan Commission would want to require parking or the State requires a disabled stall, Staff will work with the applicant to allow for parallel or nose in parking along the front of the building (similar to what was done on S. Taft Street). Birkeland is not recommending additional parking. The applicant submitted a menu and information about the distillation process. The exterior of the building will have a deck area for outdoor seating. The gray area on the site is the area for the smoker. The business would employ 5–7 full-time employees and 8-10 part-time employees. Once the distillery is in operation, they expect to employ an additional 3-5 full-time employees. The business would have limited hours the first few months. Hours of operation would be Sunday through Friday 10:30 a.m. to 2:00 a.m. Saturday would be 10:30 a.m. to 2:30 a.m.

Plan Commission Members voiced concerns of: Is street parking allowed on James Street and Ann Street? Municipal parking lot?; the existing driveway on the property will be green space?

Tyler Sailsbery explained that the trash pickup will be made from James Street. All deliveries will be made through the James Street entrance. Sailsbery wants green space, wants customers to be able to sit and relax outside. The three garage doors will remain to keep the esthetic appeal. The driveway will not be used. He will block it off as appropriate and have grass and green space. Patrons will have access to patio by doors from inside the building. Sailsbery wants to have a place that is interactive with people, family friendly. He loves the location and wants to make something special that invites people with the distillery and specialty items. The beverages will be sold at a premium price that would not be attractive to a student clientele. The business will provide jobs. Sailsbery wants to invest in people in the community.

Plan Commission Members voiced concerns of: Not being able to recommend the restaurant with bar hours, suggested closing at 10 or 11 p.m. with patrons staying for an hour after that; having restricted hours for the deck/patio area; neighbors think college kids are going to migrate there; suggested that Tyler offer additional conditions such as not having all you can drink specials, or selling beers for \$.10; is there concern of contamination of the building with the body shop?: will the lawn be used by patrons?; there is no doubt that it would be a well run business; did the applicant speak with the neighbors?.

Tyler Sailsbery stated that he would close the outside seating at 10 p.m. He thinks the neighbors fear the restaurant will be a student based restaurant. He stated that when you create a premium product, you can focus on who your customer base is. He has no problem with closing the deck area at 10:00 p.m. and the restaurant at 11:00 p.m. Sailsbery is fine with no dime taps or all you can drink specials. He plans to occasionally have a band like he has at the Black Sheep (jazz on Mondays). Sailsbery is looking into any possible contamination at the building. Any concerns of objectionable odors from the distillery because they are not regulated on exhaust should not be a problem, there is very little odor associated with a distillery. Sailsbery would like for families to be able picnic on the lawn. There will be no tables and chairs provided on the lawn. Tyler Sailsbery stated that he talked to a couple people, but failed in not talking to the people in the area prior to moving forward with his proposal.

Chairperson Meyer opened the hearing for public comment. He asked that the public address the Board with questions and comments.

Barry Wescott, 370 W. Ann Street, stated that this restaurant would be 100 yards from his house. He bought the home because it was a quiet neighborhood in the center of town. He stated the restaurant would be too close.

Kathleen Fleming, Hamilton House, and President of the Tourism Council, spoke in favor of the restaurant and distillery. It would be a great asset to the community. She has international business guests stay at the Hamilton House. Casual Joe's would provide a place for them to go. It would provide a place for residents to relax with family and friends. There is not a huge negative for this proposal.

Mitch Olson, Attorney from Milwaukee, representing Beverly and David Stone, who are in opposition to this proposal stated that he believes this would be spot zoning. The first parcel has a drainage feature, the second parcel is a single family home, the owner of which has signed the petition. Because the petition has been filed, a 3/4 vote of the Plan Commission would be required to recommend the proposal. The single parcel is spot zoning. It is not taking the whole block and dealing with it. It should be done comprehensively, not for just one owner. The business should be an office with hours of 8 a.m. to 5 p.m. and not a conditional use. This property is not appropriate for a tavern and distillery even with high end clientele.

Beverly Stone, 303 W. Ann Street and the owner of another property on James Street, voiced her concerns about saving a safe and quiet neighborhood. Petitions have been submitted to the City requesting denial of the rezoning. She opposes the rezone between two single family homes. Wisconsin Statutes do not allow municipalities to regulate the times to serve alcohol. She requests the Plan Commission deny the rezone and conditional use permit for 319 W. James Street.

Francisco Partida, 331 W. James Street, is in opposition to the proposal. Even if the proposal is for quiet music, shorter hours and no drink specials, they can always be changed once the rezoning and conditional use are permitted. The public hearing is open to the entire City for an

opinion; Partida feels that where people live should be considered. Those that live nearby should have more validity.

Marcella Partida, 371 W. Ann St., stated that it is a family oriented neighborhood. She has two small children. The streets are busy as they are. At the intersection of S. Franklin St. and W. Ann St., the vehicles hardly stop. It is a good idea, but this location is not the best. She opposed the proposal.

Rosa Verduco, 313 W. James St., has a family with three children. The bands and the music and looking into or across their yard will give them no privacy. It would take away from the family neighborhood, the peace and quiet.

David Stone, 303 W. Ann Street, stated that a lot of words in the submittals refer to alcohol, making it an important part of the business concept. He opposed the rezoning and conditional use permit for the property at 319 W. James Street. The Comprehensive Plan states that the Plan Commission will consider in the rezoning of property, the relationship to the nature of both existing and future land uses and the details of the proposed development. At the alcohol licensing committee meeting Tyler Sailsbery stated that he expected to make more off the alcohol than the food which makes it more of a tavern atmosphere. He is concerned that noise and music particularly during the later hours would disrupt the neighborhood. A one lot spot zoning does not promote the contiguous efficient development. He requested the Plan Commission vote to deny the rezone and conditional use permit at 319 W. James Street.

Jordan Hoffman, employee, spoke in favor of the business. He went on tours of distilleries. There was no abusive noise or alcohol consumption. The jazz on Mondays at the Black Sheep has no noise pollution outside the building. Tyler Sailsbery is willing to work with the neighborhood and cut his hours. Hoffman just wanted to speak to a couple of points of opposition.

Ryan Hughes, owner of the building at 202-214 W. Whitewater Street, stated that this was sound planning for the community. He said Tyler Sailsbery is so much a part of the community with an active interest and focus on the downtown. Sailsbery found a happy medium in the Black Sheep with fine dining and reasonable prices. The feedback on the Black Sheep is all positive, the upstairs tenants included. Tyler is a family friendly restaurant owner. He brings jobs and tourism to the community. Hughes supports Tyler and his business plan and requests the Plan Commission to do the same.

Diane Lyons, 510 W. Shaw Court, has known Tyler for a long time and knows he is full of integrity. Students are a part of life in Whitewater. This new restaurant is a good opportunity to draw people from other communities especially with his appearance on the Food Network. The community should encourage this business here. It will be casual dining with a peaceful atmosphere.

Joe Neuman, owns a Tech Company in consulting development, was drawn to Whitewater for change and growth. Neuman feels this restaurant would be a great addition and asset to downtown.

Kim McCrea, 963 W. Highland Street, supports Tyler and the restaurant. To her it is not about the alcohol, it is about the food and the quality of the food. It would be nice to have another opportunity to have good food locally. She is in support of the restaurant.

Sherry Stanek, 415 S. Douglas Court, applauds everything Tyler wants to do, but just can't support. She is very concerned with the shortage of owner occupied housing.

Maria Cervantez, 236 N. Queen Street on behalf of her sister who resides at 313 W. James Street, states that the property is 10 feet from the home. Her sister has three children. They feel it is the wrong location.

Chairperson Meyer closed the public hearing.

Tyler Sailsbery explained that it is not easy to find a vacant building that is suitable. Most of the vacant buildings in the downtown, the space is chopped up. If he has to find another location, the proposal will not go forward. Sailsbery wants to live and grow in Whitewater. He will be the best neighbor.

Plan Commission Member asked: if acted on tonight, would the Council be voting on the rezone at tomorrow's meeting? Is there still a requirement for minimum wait of 18 months for rezoning application after one is denied for a parcel? If the property is zoned B-2, would everything in the B-2 Zoning be eligible for that site? A PCD would allow for this use and not open it up to all the uses in the B-2 Zoning District. Can the Plan Commission make a request to the Council to hold a second reading for the public to weigh in? In the past, we have accepted shorter hours of operation from other applicants, would this work for this proposal?

City Attorney McDonell stated that the Council has two readings of an ordinance. They have the right to waive the second reading. The 18 month requirement for rezoning is no longer in effect. In general, if the property is rezoned to B-2, everything allowed in the B-2 Zoning District would be eligible for the site. The Plan Commission can make the request to the Council to hold the second reading to allow for the public to weigh in on a rezone request. McDonell explained that the conditional use allows the Plan Commission to put reasonable conditions on the proposal including hours of operation (not related to alcohol). He would be more comfortable with the applicant offering hours of operation.

Plan Commission Member Binnie appreciated the concerns of the property owners. He stated he would like to find a way to approve the proposal and address the neighbors concerns. Binnie suggested that the proposal be tabled for further discussion after the opportunity is given to the applicant to have a more developed business plan.

Chairperson Meyer stated that he is on the Zoning Rewrite Committee. They do not try to rezone islands or spot zone. There are buffer zones for zoning. This is not a good spot for a bar. There is no buffer from business to residential.

Plan Commission Member Binnie stated that this has been a business for decades. There are concerns for parking. The student drinking is not a huge concern. There are no concerns for infrastructure of the utilities for water and sewer. Specifics in regard to the business plan are needed.

City Attorney McDonell stated that the specific duties for the Plan Commission for the rezone is to grant as requested, modify or deny the request. Rezoning to B-2 allows a variety of uses. The conditional use application requires Plan Commission to look at the proposal more closely before it is allowed.

Plan Commission Member Coburn requested that the Plan Commission think seriously about the proposal being compatible and strengthen existing land use and preserve residential areas.

City Attorney McDonell stated for the record that if the hearing is held open that he advised that what has already been heard from the public should be considered at the continuation of the public hearings. A continuation of the public hearing should have the full notices and publication in the paper.

Moved by Parker and seconded by Comfort to continue the public hearings for both the rezone application and the conditional use application allowing Tyler Sailsbery to come back with more detailed plans and meet with the neighborhood (Ann and James Streets to Tripp Street) and come back with proposed changes (items identified by the Plan Commission). Everything that has already been said as part of the public record will be considered at the continuation of the public hearing. Full notification will be made. Aye: Meyer, Binnie, Parker, Hartmann, Coburn, Zaballos, Comfort. No: None. Motion approved.

The Plan Commission listed some specifics for the applicant to consider which include: privacy for neighbors, live music, hours of operation, patio/deck, drink offerings, parking, as much information as possible so concerns can be mitigated. They would also like more detail for the exterior lighting especially for the deck, what would be used for blocking off the curb cuts, any exterior detail would be helpful. Items on the Application Requirements # 4, 5, 6,7, 8, and 13 would be very helpful in making the decision.

Informational Items:

Zoning Rewrite. City Planner Latisha Birkeland explained that the joint workshop with the Council and Plan Commission was held October 15th. Larry Witzling, Graef Consultant for the Zoning Rewrite, received a lot of input. He will be putting together the information. The City should have this update by October 28th. Birkeland is sending out a doodle to Council and Plan Commission members to get their schedules so the next meeting can be set.

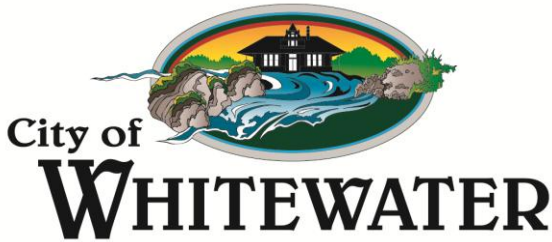
Future agenda items. City Planner Birkeland stated that the next agenda will have the rezone and cup for 319 W. James St., and a site addition for Sassy Shirts located at 218 S. Elkhorn Road.

Next regular Plan Commission meeting – November 11, 2013.

Moved by Comfort and seconded by Coburn to adjourn the meeting. Motion approved by unanimous voice vote. The meeting adjourned at approximately 8:30 p.m.

Chairperson Greg Meyer

DRAFT



Neighborhood Services Department
*Planning, Zoning, Code Enforcement, GIS
and Building Inspections*

www.whitewater-wi.gov
Telephone: (262) 473-0540

CONDITIONAL USE PERMIT

Plan Commission Meeting Date: October 14, 2013
Property Owner: CC Property Development LLC.
Applicant: Christ Christon
Property ID Number: /TR 00004
Property Address: 111 W. Whitewater Street
Whitewater, WI 53190

REGARDING: An approval for a conditional use permit (CUP) (for a wholesale Beer License) for CC Property Development LLC., Christ Christon to have a brewery and tap room at 111 W. Whitewater Street (Second Salem Brewing Company, LLC.).

Approved subject to the following conditions:

1. The conditional use shall run with the applicant and not the land. Any change in ownership will require approval of a conditional use permit for the new owner/operator from the Plan and Architectural Review Commission.
2. Maintain the dumpster area in a clean fashion.
3. The applicant shall make the building and site renovations in accordance with the plans submitted to the City of Whitewater dated 5/31/2013 and 9/24/2013, pending any changes required by the State Building Code.
4. The applicant shall comply with all required City Codes.

This permit was prepared by:

Latisha Birkeland
Neighborhood Services Director / City Planner