

CITY OF WHITEWATER
PLAN AND ARCHITECTURAL REVIEW COMMISSION
Whitewater Municipal Building Community Room
November 11, 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. Plan Commission Member Zaballos noted a correction to the minutes of October 14, 2013 that due to the petition being submitted against the rezone of the property located at 319 W. James Street, the Council would have to have at least a 3/4 ths vote to grant the rezone (not the Plan Commission). Moved by Binnie and seconded by Zaballos to approve the Plan Commission minutes of October 14, 2013 with the correction. Motion approved by unanimous voice vote.

Review 40 foot by 60 foot addition to the existing building located at 218 S. Elkhorn Road (Sassy Shirts) for Ben Roytn and Frank Legath, etal. (This addition is for storage.) City Planner Latisha Birkeland explained that this property is located in a B-1 Community Business District. There is no requirement for more parking as this addition is just for storage. The addition is being added to the west side of the existing building. They will be expanding the driveway hard surface to access the storage area. The proposed landscaping has met and exceeded the requirement. There will be additional lighting on the walls of the addition. When asked why Plan Commission was reviewing this proposal, Birkeland explained that it has not been established that Plan Commission would not review it. Historically, this sort of item has come to Plan Commission. It is usually determined by the size of the project. When asked about the cold storage, Birkeland explained that in order to expand their business, they needed extra storage space. Cold storage means the space is not heated.

Plan Commission Member Parker asked how close the addition came to the sewer and water easement between Clay Street and E. Milwaukee Street. He thought the easement might be 20 to 40 feet away from the addition, but asked that staff check it out to make sure there would not be a problem.

Moved by Zaballos and seconded by Comfort to approve the 40 feet by 60 feet addition to the existing building located at 218 S. Elkhorn Road (Sassy Shirts) for Ben Roytn and Frank Legath,

etal. Aye: Meyer, Binnie, Parker, Hartmann, Coburn, Zaballos, Comfort. No: None. Motion approved. (See attached Site Review Approval.)

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.

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. There would be a separate vote for each item. Chairperson Meyer opened the public hearings and informed those at the meeting of the procedure for public comment. All testimony from the prior public hearing will be included for this meeting. Meyer stated that he would allow 5 minutes each for any person in the public to speak.

City Planner Latisha Birkeland reviewed the information given to the Plan Commission for their consideration. One consideration is for rezoning of this property and the other consideration was for a conditional use to allow for the sale of alcohol on this property. Birkeland went through the changes to the proposal since the last meeting. The applicant changes included reducing the hours of operation; limits would be accepted on drink specials that could be offered; the deck was removed; screening was added to the east and west sides of the property; an enclosure was added for the dumpsters and the rear door. Parking is not required in the B-2 (Central Business) Zoning District. If the Plan Commission wanted to require parking, City Staff recommended 9 stalls, nose in parking, facing toward the building. Signage for the customer parking would be on the building. According to the Superintendents for wastewater and water, there was not a big issue with the service to the building. Any further changes to the plans would come back to the Plan Commission.

Plan Commission Members voiced concerns: having a designated outside smoking area; access to the dumpster for trash pick up; hours for serving alcohol; concern of the glass door on the west side of the building; suggested a sound barrier fence; parking out front and parking lot K; gravel driveway; how many for or against the proposal; suggested Plan Commission give the applicant the discretion on what plantings he will plant in the planters.

Tyler Sailsbery explained that he will have totes that are wheeled out to the street each week. The outside smoking area is for the cooker.

City Attorney McDonell explained that if an applicant provides a plan with limited hours for serving alcohol, the Plan Commission can approve the plan with limited hours. If the business changes owners, the owner is required to come back to the Plan Commission for a new conditional use. If this requirement could not be enforced, the new owner would need to follow the existing conditions for the business.

Tyler Sailsbery noted that at the last meeting, the Plan Commission requested that he talk with the neighbors, James and Ann Streets up to Tripp Street. He mailed information out to all the

property owners. He held three neighborhood meetings, one at City Hall and two at the Black Sheep. He developed new plans after talking with the neighbors. The glass door on the west side of the building is an emergency exit door, not an entrance door. Sailsbery is trying to avoid having any parking on Ann Street. He is urging patrons not to park in Lot K. The gravel driveway will have soil and sod put on the driveway area. Sailsbery wanted the property to be esthetically pleasing to the neighbors. His business will have a lot less noise than the auto repair business. The smoker will be fenced in. There are 14 to 15 properties that he knows are for the proposal and 5 other properties owned by 3 different owners. There will be a single entrance door on the James Street side of the building.

Attorney Mitch Olson, representing Beverly and David Stone, noted that the discussion has been mostly about the conditional use. He wanted the Plan Commission to remember that there is also a request to rezone the property. City Ordinance 19.69.010, the standards for rezone, does not include for private interest. This business would create an island with no buffer to the residences. Rezoning to B-2 (Central Business) Zoning District would allow many uses on the property that are not appropriate in the neighborhood. Attorney Olson believes that this use at this location cannot do enough to not create a nuisance to neighboring property owners or have a negative effect on property values. The outdoor seating area for the business should never be allowed. The comment was made that “this business can’t survive without alcohol”. Alcohol doesn’t mix with this neighborhood.

David Skelton, 340 W. Ann Street, gives Tyler Sailsbery credit in approaching the community. Sailsbery has made alterations in consideration of the neighbors. The business has limited hours. Sailsbery’s business reaches out to the community. Skelton stated that he can welcome the business to the community and will do what he can to support it.

Barry Wescott, 370 W. Ann Street (his property back up to W. James Street), is concerned about his property value and the quietness of the neighborhood. His wife is in favor of the proposal. Wescott has no question as to whether Tyler is a good person. The plan for 70+ people and a deck off the back of the building is not going to be quiet. No college student is going to pay \$5 to \$7 for a drink. Wescott wondered what the great big door was going to be used for. The Fire Chief explained to him that he needed the door as a fire exit or fire door. Wescott also noted that barbecue cookers really smell.

Jenae Austin, a young professional and new resident to UW-Whitewater, felt that the proposal was a good fit for the community. It would give people like her a place to go unwind after being with students all day. She wanted to give her support to Tyler. Austin stated that students like to eat, drink and act trashy. Casual Joe’s is not a place they would want to go.

Beverly Stone, 303 W. Ann Street, applauds Tyler for his efforts, but disagrees with the site. The Comprehensive Plan supports residential neighborhoods. She asked to keep this residential neighborhood a family neighborhood. Stone asked the Plan Commission to deny the rezone and conditional use permit in order to preserve safety and health and the rights of ownership for the residents.

Maria Cervantez, 236 N. Queen Street, voiced her concerns. Her sister, who has young children, lives next door to this building. This is a very quiet neighborhood. The news of the proposal to rezone and put this business there is devastating. A rezone affects the whole neighborhood. Why our neighborhood?

Marie Koch, Whitewater Chamber of Commerce, wanted to let people know the character and leadership of Tyler Sailsbery. Tyler is very involved in the downtown. He wants to bring the community together. He wants to encourage young entrepreneurs. Koch also noted that the Black Sheep does not push alcohol consumption.

David Stone, 303 W. Ann Street, asked the Plan Commission to vote to deny the rezone and vote no on the conditional use permit. The business would bring more people, cars and noise to this neighborhood. One of the standards of the conditional use permit is to conform to the purpose and intent of the Comprehensive Plan. The Comprehensive Plan says to keep compatible uses together. Page 53 talks about the neighborhood preservation strategy. Page 81; minimize incompatible land uses within or adjacent to Single-Family Residential – City areas. This rezone would substantially decrease property values of nearby homes.

Jordan Hoffman, spoke in favor of Tyler Sailsbery, wanted to address some comments that were made. The comment that “the business cannot survive without alcohol” was a misinterpretation. Nine out of ten restaurants fail. Margins on alcohol are greater than margins on food. As far as the smell, there have been no complaints at the Black Sheep. The original Casual Joe’s is in a mall and there have been no complaints of smell. The decaying building does not help property values.

Kathleen Fleming, owner of Hamilton House Bread and Breakfast and President of the Tourism Council, stated that Tyler Sailsbery has the best interest in Whitewater. He is involved in the downtown. Young professionals need a place to go that is not a college bar.

Tyler Sailsbery thanked everyone for their comments. He stated that he was not trying to disrupt the neighborhood. They wanted to make use of a vacant commercial building, designated for commercial. Jessica’s Restaurant and Novak’s Restaurant have or had full liquor licenses and have not caused issues in the community. Sailsbery wants to grow the City. He wanted to take a vacant abandoned building and repurpose it. Sailsbery stated that the building will be used for something.

Plan Commission Members voiced concerns about: a deck; outdoor congregating, overflow, smokers; and the smoker (cooking equipment).

Tyler Sailsbery stated that he removed the deck at this time. He plans to prove himself and hopes to come back at a later date to request a deck (outdoor seating). In the distillery, there is a gift store area. Patrons will be able to go there while waiting for a table. He will not encourage smokers. The cooking smoker is a double barrel system, twice the capacity as the Black Sheep.

Chairperson Meyer closed the public comment.

Plan Commission Member Binnie stated that the Plan Commission is in a position that they are not going to please everyone. Binnie supports the proposal. It is a benefit of public convenience, general welfare and economic development. There is a need for nice long term restaurants. They are an important economic driver. Our community needs more of them. Binnie appreciates the efforts of Tyler Sailsbery to listen to the neighborhood and address their concerns. The building is already a non-conforming use building. If it is rezoned as the Comprehensive Plan recommends to B-2, the list for B-2 uses contains many benign items.

Moved by Binnie and seconded by Hartmann to recommend to the City Council to rezone the property at 319 W. James Street from R-3 to B-2.

Moved by Binnie and seconded by Hartmann to approve the conditional use permit (contingent upon the rezoning granted by the City Council) for Tyler Sailsbery to serve 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) subject to conditions of the City Planner, and accepting the conditions the applicant offered of closing at 11:00 p.m.; no dime taps/no drink specials; and music to end at 9:00 p.m. Owner will have the discretion for his herb gardens. The parking will be required in front of his building as the City proposed.

Plan Commission Member Parker asked about the toters being picked up on Ann Street and having a sidewalk to get them there. He also suggested to have the top soil and grass planted in the gravel driveway area as part of the condition.

City Attorney McDonell stated that the site plan is part of the approval and would need to be adhered to by the property owner. It is an appropriate consideration.

Chairperson Meyer quoted different chapters and sections of the City of Whitewater Comprehensive Plan referencing the Economic Development Policy, promoting a vital & healthy downtown, mixed use redevelopments and additional housing, not compromising residential, goal for future land use is to provide for comfortable neighborhoods, appropriate mixing of uses. The R-3 zoning in this area was meant to be. This project is not good for this area. He feels it would be a step backward to rezone this property to B-2.

Plan Commission Members voiced concerns of: the building has been vacant for quite a while and if this proposal is not approved, it will be vacant for a long time; having a hard time making this decision between the residents and the proposed restaurant; the City has made neighborhood preservation an important part of Whitewater, protecting the neighborhoods, the uses for this area should blend in with the residential properties, we should protect the adjacent residences; this is not a tavern, it is a restaurant that serves liquor.

City Planner Birkeland explained that in the Comprehensive Plan, the James Street revitalization includes three lots that if ever redeveloped, should be rezoned B-2. Birkeland explained how she came to support this project through sound planning principles, the Comprehensive Plan, and local government planning books. This area is slated for redevelopment. The area is two parcels and a parcel that is a retention pond area. This is a difficult decision for the Plan Commission. Mixed uses take on different qualities.

Binnie amended the motion to include that the driveway would be seeded and a sidewalk installed to Ann Street to take the toters to the street. Hartmann agreed.

Plan Commission Member Zaballos explained that she agreed with Binnie. The B-2 Zoning District, there are more acceptable uses to the residents. But if a restaurant was to go here, Tyler Sailsbery would be the best person to put it here. Zaballos has been a member of the Downtown Revitalization Group and feels that this project is so much in tune with what the group was going for. She has lived next door to a restaurant, in an area near the downtown dispersed with homes and small businesses in what they called an urban village (in Seattle). If there were problems, there were ordinances to follow and things were worked out. Most things that have been talked about for this proposal can be worked out. The applicant will have to prove that the restaurant fits in the neighborhood, do what he says he will do and run the establishment well. Zaballos feels convinced this will happen.

Plan Commission Member Hartmann feels that this is something that would work in the downtown area. It is a good fit. A successful business would increase property values. You need a pillar to find a way to get started. He has talked to a lot of people in Whitewater and outside Whitewater. A majority of the people support this project.

Plan Commission Members voiced: that an empty building does not help property values; would rather see Tyler's business than something else; the possibility of a deck is still a concern, any outdoor seating; concerns of parking on Ann Street; request staff to review permit parking areas, possibly move some areas to the Cravath parking area; if there are issues with this proposal, they can be addressed.

The motions were repeated with any additional conditions.

Moved by Binnie and seconded by Hartmann to recommend to the City Council to rezone the property at 319 W. James Street from R-3 to B-2. Aye: Coburn, Zaballos, Binnie, Hartmann. No: Meyer, Comfort, Parker. Motion approved.

Moved by Binnie and seconded by Hartmann to approve the conditional use permit (contingent upon the rezoning being granted by the City Council) for Tyler Sailsbery to serve 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) subject to conditions of the City Planner, and accepting the conditions the applicant offered of closing at 11:00 p.m.; no dime taps/no drink specials; and music to end at 9:00 p.m. Owner will have the discretion for his herb gardens. The parking will be required in front of his building as the City proposed. The driveway would be seeded and a sidewalk installed to Ann Street to take toters to the street for weekly garbage and bi-weekly recycle pick up. Aye: Coburn, Zaballos, Binnie, Hartmann. No: Meyer, Comfort, Parker. Motion approved. (See attached Conditional Use Permit.)

Informational Items:

Zoning Rewrite. City Planner Latisha Birkeland explained that the City Manager had sent an email to City Council and Plan Commission regarding the Zoning Rewrite. Birkeland expected to receive the draft of the document tomorrow. The scheduled date for the public hearing is December 11 at 6 p.m. The Plan Commission will make a recommendation to City Council. The meeting will be held at the Municipal Building. Birkeland asked if the Plan Commission members' schedules have changed, to please let her know. The public hearing can be rescheduled if necessary.

Plan Commission Member Parker asked that the owner occupied properties of the possible overlay districts be notified so they know this is going on.

Birkeland stated that all property owners of properties being considered for a possible overlay district will be notified.

Future agenda items. City Planner Birkeland stated that on the next agenda, the Plan Commission will consider a certified survey map for a lot split on Harper Street, the Bicycle and Pedestrian Plan, an ordinance amendment to the Sign Code and a possible conversion of a duplex in an R-3 Zoning District.

Next regular Plan Commission meeting – December 9, 2013.

Moved by Hartmann and seconded by Zaballos to adjourn the meeting. Motion approved by unanimous voice vote. The meeting adjourned at approximately 8:13 p.m.

Chairperson Greg Meyer



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

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SITE REVIEW

Plan Commission Meeting Date: November 11, 2013
Property Owner: Ben Royten/Frank Legath, etal.
Applicant: Ben Royten & Frank Legath, etal.
Property ID Number: /HAS 00067
Property Address: 218 S. Elkhorn Road
Whitewater, WI 53190

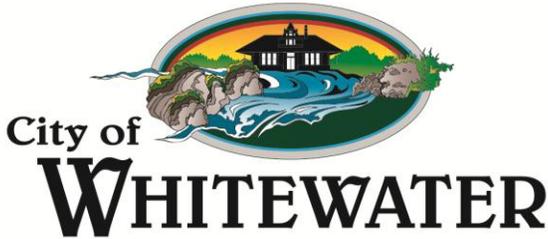
REGARDING: An approval for a site review in a B-1 (Community Business) District to allow for an addition to the building at 218 S. Elkhorn Road for Ben Royten & Frank Legath, etal.

The Plan and Architectural Review Commission approved the 40 foot by 60 foot addition to 218 S. Elkhorn Road subject to the following conditions:

1. The applicant shall make the building and site renovations in accordance with the plans dated 11/05/2013 approved by the Plan Commission.
2. All approved landscaping shall be installed no later than six months from date of Certificate of Occupancy or by August 1st, 2014.

This permit was prepared by:

Latisha Birkeland
Neighborhood Services Manager / City Planner



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

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CONDITIONAL USE PERMIT

Plan Commission Meeting Date: November 11, 2013
Property Owner: Dale Pieper
Applicant: Tyler Sailsbery
Property ID Number: /TR 00025
Property Address: 319 W. James Street
Whitewater, WI 53190

REGARDING: An approval for a conditional use permit (CUP) (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 Joes).

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. The applicant shall make the building and site renovations in accordance with the plans submitted to the City of Whitewater, pending any changes required by the State Building Code.
3. Recommendation of approval shall be contingent upon Common Council approval to allow parking within the public right-of way, as identified on the plans, and a maintenance agreement with the property owner. The maintenance agreement shall include, but no be limited to plowing, cleaning and surface maintenance and repair.
4. The applicant shall comply with all required City, State and Federal Codes.
5. Approval of the conditional use permit is conditioned upon an official rezone of the parcel from R-3 Multi-Family Residence District to B-2 Central Business District.
6. Approval of the conditional use permit shall incorporate all conditions from the alcohol license approval from Common Council.
7. The conditions the applicant offered of closing at 11:00 p.m.; no dime taps/no drink specials; and music to end at 9:00 p.m.

8. Owner will have the discretion for the location of his herb gardens.
9. The driveway would be seeded and a sidewalk installed to Ann Street to take garbage and recycle totes to the street.

This permit was prepared by:

Latisha Birkeland
Neighborhood Services Director / City Planner