

**PLANNING COMMISSION MINUTES
CITY OF FORT ATKINSON
FEBRUARY 9, 2016
962nd MEETING**

CALL TO ORDER.

The meeting was called to order by Chairman Trebatoski in the Council Chambers of the Municipal Building at 4:00 pm.

ROLL CALL.

Present: Commissioners Frame, Greenhalgh, Zastrow, City Engineer Andy Selle and City Manager Matt Trebatoski. Also present: City Attorney Chris Rogers, Building Inspector Brian Juarez and Clerk/Treasurer Michelle Ebbert.

Excused absence: Commissioners Hartwick and Highfield.

APPROVE MINUTES OF JANUARY 12, 2016 PLANNING COMMISSION MEETING.

Cm. Frame motioned, seconded by Cm. Zastrow to approve the minutes of the January 12, 2016 Planning Commission meeting. Motion carried.

REVIEW AND APPROVE SITE PLAN AND CONDITIONAL USE FOR BLACKHAWK SENIOR RESIDENCE TO EXPAND THEIR FACILITY INTO THE FIRST FLOOR OF THEIR EXISTING BUILDING AS WELL AS THE FIRST AND SECOND FLOORS OF THE ADJACENT BUILDING AT 214 SOUTH MAIN STREET.

Engineer Selle updated the Commission on the newly submitted documentation from Mr. Logan regarding the use of the blinds for residential units on the first floor of Main Street.

Pete Weston discussed the fixed glass and transom windows. The aggregate amount of glass that is required on any unit collecting not only daylight but collecting fresh air, there had been a question whether commercial building code and Department of Health Services code require a view rather than just daylight and fresh air as noted in the code. There is a large amount of glass available. Once a drape is drawn, the glass technically does not exist. However there is still a considerable amount of windows/glass to meet the code once the drape on the lower window is drawn. Correspondence took place with DHS and Weston who confirmed the allowance. They are okay for a fully opaque blind to be closed according to a schedule.

Selle asked Weston and Logan to confirm the initial plan review was approved by DHS several months ago. Weston replied entire project approved through permitting process and a second elevator is being constructed now.

Manager Trebatoski read and referenced submitted comments from Cm. Hartwick who had an excused absence. He continues to have concerns for the windows. He is not in support of residential units in the first floor of downtown buildings. He respects the residents and has concern for their privacy from motorists and walkers.

Cm. Zastrow agrees with Cm. Hartwick submitted comments. This is a historic, iconic intersection. He feels this would be setting a precedent for downtown residential units on the first floor. We are looking to draw visitors downtown to enjoy attractions. This is not a consistent use for seeking tourism.

Cm. Greenhalgh referenced the August 25, 2015 minutes and reviewed the requested items from the Planning Commission. In the past six months, four of the items have been reviewed with the windows still being a grave concern for the Commission. The Commission is not comfortable with allowing residential in the downtown first floor. She supports the second floor having residential. She is not in favor of the request.

Engineer Selle moved to approve the conditional use permit for the second floor CBRF units indicated in the site plan for 214 S. Main Street and to approve the site plan for 214 S. Main Street and 1 W. Milwaukee Avenue subject to the following conditions:

1. Securing 18 parking stalls located at 311 S. Main Street that would be indicated by a valid deed for said parking in the name of Mr. Logan.
 2. Approval of any additional modifications to exterior plans already submitted, reviewed and approved by the Historic Preservation Commission.
 3. Exclusion of any residential rooms along the windows facing Main Street and W. Milwaukee Avenue specifically units 102, 103, 105 and 107 as indicated on the site plan.
- Minor modifications to the plan required to meet this conditional may be submitted to City Staff for approved and major modifications would require review by Planning Commission.

Cm. Zastrow asked about the building adjacent that has the second floor that in Selle's motion approves or allows for approving a conditional use. Selle replied the conditional use permit is only for second floor residential units. Zastrow asked is there not a first floor resident room in that building also? Selle said yes, but they are in the back using alley windows and courtyard windows. From Main Street there would be no residential units in 214 N. Main Street property.

Cm. Greenhalgh asked that the compromise is that there will be no residents living on the first floor Main Street or Milwaukee Avenue but there will be first floor residents with windows to interior courtyard or back alley. The new code precludes even that. Selle confirmed.

Cm. Greenhalgh seconded the motion.

City Council Mason Becker, 1511 Stacy Lane was present. He gave his perspective as a resident, small business owner and City Council member. Blackhawk Senior Residence is a valuable business operating in the City. He agrees with the City's sentiments that it was not the intention for ground level residential in downtown areas. He is unsure of residents that may want to live in a first floor residential downtown area. Finding and maintaining commercial tenants is not an easy task. This does not mean City should allow residential that could have questionable value. He added first floor residential could potentially have a negative effect, negative aesthetics and negative on tourism. He supported Engineer Selle's motion.

Mr. Logan addressed the Commission and requested clarification on what he is supposed to do. He stated it is not economically sensible for non-residential units on the first floor. He is not applying for a conditional use permit for that; he is applying for approval of a zoning plan. He stated he reviewed the definition, nothing in the zoning plan that references this. He supported the fence structure to be installed to deter people from peeking in windows. His building has been vacant for over one year. He is not in support of another restaurant at this location. He assures no motorist will be aware of residents behind the windows. He requests the Commission to reconsider and allow residential on the first floor facing Main Street. He wants to build the units and discuss future use as far as allowing tenants to move in.

Selle confirmed the conditional use permit is required for second floor. The first floor allows a CBRF as a permitted use. The site plan is for the entire project.

Inspector Juarez clarified the zoning code definition of site plan in the purpose and intent chapter 15.4.1. "For the purposes of promoting compatible development and ensuring adequate public facilities, no person shall obtain a building permit or commence a use of land without first obtaining site plan approval." An approved site plan is required for the entire project.

Cm. Frame spoke of the compatibility for rest of downtown business in the area. Inspector Juarez discussed the purpose and scope of code. The Commission has to consider areas around and make sure development is compatible and not a problem. Cm. Frame asked Weston about the lower portion of window. Weston confirmed with auto blind it is not considered a window anymore. From a tenants perspective they are stripped from the window. Do they have proper window remaining, yes that is confirmed. Weston feels they resolved all of the issues from compliance and code perspective. He added the State put it in black and white which does not happen often.

Cm. Frame asked Attorney Rogers if there is any reason to deny the plan? This is no violation of terms of fair

housing act. The motion approves the conditional use permit for the second floor CBRF use. This comes down to a site plan approval. The site plan is subjective and discretionary as far as he is concerned.

Cm. Greenhalgh expressed the same concern. The Commission reviewed the purpose and intent. She does like the compromise of the motion to disallow residential on Main and Milwaukee.

Cm. Frame does not think four units on Main Street is a good idea and likes the motion of a compromise. Mr. Logan has been cooperative and has met everything we asked him to do. This difference of opinion is comparable. He hopes Mr. Logan will continue to provide good service.

Cm. Zastrow asked Cm. Greenhalgh to clarify her concerns and comments. She was suggesting the three units facing the courtyard stay in the motion or be carved out and be combined with the four rooms that face Main Street and Milwaukee denied. Cm. Greenhalgh understood the two units on the side. Selle confirmed the units they are removing are the first floor residential facing Main Street, in the front of the building. The two units on the side and two to the back would remain.

Mr. Logan questioned what the Commission is now approving is first floor residential living units and you have got windows on the four southern units that you cannot see in during the day because they are mirrored or smoke and you cannot see in after dark because of automatic blinds. What part of this are you opposed to. Not opposed to folks living on the first floor but opposed to living on first floor behind smoked or darkened glass during the day that will automatically close blinds over which they have no control over, you won't even know they are there. What it is that they are objecting to? The residents will not slash the blinds. They cannot be seen during the day, they cannot be seen during the night. We won't compromise their privacy; the state would close me down. We are not putting peoples' privacy in jeopardy. Just to clarify, there are two big windows. Selle and Weston confirmed with the State what can and cannot be done. The State confirmed they can have automatic blinds on the lower windows as the upper transom windows meet the code for required windows that provide fresh air and daylight. 4% of the floor space must be an openable and closable window. He has met the technical requirements. During the day the residents can see out a one-way window but no one can see in. I beg you to consider having people live in the first floor of downtown.

Cm. Zastrow shared wishes of commission and community to not have residential first floor.

Cm. Greenhalgh asked what will be in place where the rooms are removed facing Main Street and Milwaukee Avenue. Selle confirmed it would be up to Logan and it could be looking at the front of the second row of units of approximately 20 feet back of the windows on Main Street of open floor space. Cm. Greenhalgh stated she would probably have to vote no for this motion. She can agree to the two units on the side and two in the back on the first floor however having anything facing out to the front is a problem for her.

Selle added his motion did not include anything related to automatic blinds or frosted glass.

Manager Trebatoski asked for further comments or motions.

Clerk Ebbert took a roll call vote. Frame, Selle and Trebatoski for, Greenhalgh and Zastrow opposed. Motion carried.

ADJOURNMENT

Cm. Zastrow moved Cm. Greenhalgh seconded the motion to adjourn the Planning Commission meeting at 4:41 pm. Motion carried.

Respectfully submitted,

Michelle Ebbert
Clerk/Treasurer