

**City of Franklin  
Plan Commission Meeting  
November 9, 2023  
Minutes**

**Approved  
December 7, 2023**

**A. Call to Order and Roll Call**

Mayor John Nelson called the November 9, 2023 Plan Commission meeting to order at 6:00 p.m. in the Council Chambers at Franklin City Hall, 9229 West Loomis Road, Franklin, Wisconsin.

Present were Mayor John Nelson, Alderwoman Courtney Day (arrived at 6:10), City Engineer Glen Morrow and Commissioners Patrick Leon, Kevin Haley and Michael Shawgo. Also present were City Attorney Jesse Wesolowski, Associate Planner Marion Ecks and Planning Associate Nick Fuchs. Excused was Commissioner Patricia Hogan.

**B. Approval of Minutes – Regular Meeting of October 19, 2023**

Commissioner Leon moved and Commissioner Haley seconded a motion to approve the October 19, 2023 meeting minutes. On voice vote, all voted 'aye'; motion carried (4-0-2).

**Approval of Minutes – Special Meeting of October 24, 2023**

Commissioner Haley moved and City Engineer Morrow seconded a motion to approve the October 24, 2023 meeting minutes. On voice vote, all voted 'aye'; motion carried (4-0-2).

**C. Public Hearing Business Matters**

- 1. Master Halco Special Use Amendment/Miscellaneous Application.** Request for approval of a Special Use Amendment and Miscellaneous Application to allow for a fence wholesaler and distributor with indoor and outdoor storage of inventory, light fabrication of gates, and office spaces upon property located at 7407 South 27th Street (761 9994 006).

The applicant requested that C.1. be tabled and continue the public hearing to December 7, 2023 Plan Commission meeting.

Planning Associate Fuchs presented the development and Special Use Amendment and Miscellaneous application.

The Official Notice of Public Hearing for a Special Use Amendment was read in to the record by Fuchs and the Public Hearing opened at 6:06 p.m.

Commissioner Leon moved and Commissioner Haley seconded a motion to continue the public hearing for the Special Use Amendment and Miscellaneous application to the December 7, 2023 meeting. On voice vote, all voted 'aye'; motion carried (4-0-2).

## **D. Business Matters**

- 1. Master Halco Site Plan Amendment.** Request for approval of various site modifications including but not limited to, construction of a 28-stall parking lot, installation of new building and parking lot lighting, adding new landscape plantings, and construction of a storm water management pond upon property located at 7407 South 27th Street (761 9994 006).

Commissioner Leon moved and City Engineer Morrow seconded a motion to table D.1. to the next meeting. On voice vote, all voted 'aye'; motion carried (4-0-2).

## **C. Public Hearing Business Matters**

- 2. BadAx Flats, LLC Special Use.** Request for approval of a Special Use to allow for a beer and wine sales establishment with an outdoor wine and beer garden upon property located at 7160 South Ballpark Drive (754 9006 000).

Planning Associate Fuchs presented the Special Use and Site Plan. Noted is a condition related to hours of operation.

Applicant Emily Caldini, of Land by Label, spoke giving a company background of Three Cellars as an operator of an establishment that serves local beer & wine, and including the sale of snacks, but no food.

Alderwoman Day arrived at 6:10 p.m.

The Official Notice of Public Hearing for a Special Use was read in to the record by Fuchs and the Public Hearing opened at 6:13 p.m.

Resident Dana Gindt had questions and concerns regarding:

- Noise mitigation
- UDO requirements that alcohol establishments not be close to residential development
- Objects to PDD 37 – other development on property is out of compliance
- Requesting continued review of Site Plan
- Continued comments on Site Plan
- Overall compliance of the development with PDD 37

Resident Dale Kirner had concerns about:

- Noise and quality of life
- Accountability for noise level at the property lines
- Comment about volume of Tacos & Tequila event; the property owner assured residents that this would not be too loud

Mayor Nelson responded that Tacos & Tequila event planners were responsible for the noise issues, not the property owner.

Resident Kirner commented this could have been addressed at time of violation.

Greendale resident Kleist expressed concerns about live music noise and protection for the neighbors.

The public hearing was closed at 6:24.

Commissioner Leon was seeking an answer from the applicant regarding outdoor music and what precautions are in place to control noise and lights.

Applicant Caldini explained the photometrics plan was provided in the Site Plan. The operator is a relaxed environment that includes a lounge with no televisions or loud music.

Commissioner Leon asked if there will be outdoor music or live music with speakers.

Applicant Caldini, and Ian Martin of Land by Label commented they are unsure at this time.

Applicant Martin stated that they are not asking to deviate from existing guidelines for noise.

Alderwoman Day had comments and questions relating to:

- acoustic music/type of music
- decibel limit and distance requirements
- prepackaged food versus prepared food on site
- outdoor patio – same schedule

Applicant Caldini confirmed that the venue would only be serving prepackaged food; and that the patio would be on the same schedule as the rest of the business.

Planning Associate Fuchs commented that requirements relating to noise and distance are in the UDO, and are separate from PDD 37.

City Engineer Morrow commented the Special Use is specific to alcohol.

Commissioner Leon asked if there have been any violations by Three Cellars in the past at their previous location in Franklin.

Commissioner Haley asked if a status of a sound report from Milwaukee County could be brought to Plan Commission.

Planning Associate Fuchs read the motion.

Commissioner Leon moved and City Engineer Morrow seconded a motion to adopt a Resolution approving a Special Use for a beer and wine sales establishment with an outdoor wine and beer garden upon property located at 7160 South Ballpark Drive (BadAx Flats, LLC, applicant). On voice vote, all voted 'aye'; motion carried (5-0-1).

#### **D. Business Matters**

- 3. City of Franklin Amendment to Planned Development District (PDD) No. 37.** Request to amend Table 15-3.0442C.1. and Table 15-3.0442D.2. related to the Minimum Total Living Area per Residential Apartment Dwelling Unit and to reduce the minimum required dwelling unit size for one-bedroom dwelling units from 700 square feet to 600 square feet.

Planning Associate Fuchs presented this item with staff's recommendation. The amendment is due to an error in PDD tables of the UDO related to dwelling unit size.

City Attorney Wesolowski questioned if the request is a Minor Planned Development District Amendment or a Major Planned Development District Amendment. Wesolowski indicated there must be a vote on whether it is a Minor or Major amendment.

Commissioner Leon asked does suspending the rules allow for a public hearing.

City Attorney Wesolowski responded no, it must include a published notice.

Applicant Martin questioned is this a substantial change or change in use?

City Attorney Wesolowski, Associate Planner Ecks, Commissioner Leon and City Engineer Morrow made additional comments on the discussion of Minor versus Major Amendment.

#### **Motion #1**

At 6:48 p.m., on roll call vote, Commissioner Leon moved and Commissioner Haley seconded a motion to suspend rules to allow for public input. On voice vote, all voted 'aye'; motion carried (5-0-1).

Resident Dana Gindt does not support the change. Asked how does this impact the TID requirements of a maximum percentage of residential development in a TID.

#### **Motion #2**

Commissioner Leon moved and Alderwoman Day seconded a motion to return to normal business. On voice vote, all voted 'aye'; motion carried (5-0-1).

#### **Motion #3**

Commissioner Leon moved and Alderwoman Day seconded a motion to determine the proposed Planned Development District Amendment to be a Minor Amendment. On voice vote, all voted 'aye'; motion carried (5-0-1).

#### **Motion #4**

Commissioner Leon moved and City Engineer Morrow seconded a motion to adopt an ordinance amending Table 15-3.0442C.1. and Table 15-3.0442D.2. related to the minimum total living area per residential apartment dwelling unit and to reduce the minimum required dwelling unit size for one-bedroom dwelling units from 700 to 600 square feet. On voice vote, all voted 'aye'; motion carried (5-0-1).

2. **BadAx Flats, LLC Site Plan.** Request for approval of a Site Plan to allow for the construction of a mixed-use multi-family and commercial building upon property located at 7160 South Ballpark Drive (754 9006 000). Additionally, the applicant is requesting the following waivers:
- a) Ordinance 2019-2368, Table 15-3.0442C.1, to allow for a front setback of 10 feet, opposed to the minimum front setback of 25 feet.
  - b) Ordinance 2019-2368, Table 15-3.0442EB3.a. to reduce the required number of minimum plantings.

Planning Associate Fuchs presented the Site Plan for BadAx Flats, LLC. The Site Plan was previously tabled at the June 22, 2023 Plan Commission meeting due to issues related to dwelling unit size, landscaping requirements and trash enclosure details. A Special Use has already been approved. Staff is recommending approval of waivers.

City Attorney Wesolowski suggested to add that this approval be conditioned on approval of the Minor Planned Development District Amendment.

City Engineer Morrow indicated that the project will need stormwater approval by the County and engineering.

Alderswoman Day commented on parking and landscaping. Will there be removal of surface parking?

Applicant Martin objected to condition of the Planned Development District Amendment because the Special Use already approved 78 units.

**a)** Ordinance 2019-2368, Table 15-3.0442C.1, to allow for a front setback of 10 feet, opposed to the minimum front setback of 25 feet.

Commissioner Leon moved and Commissioner Haley seconded a motion to approve a waiver from Ordinance 2019-2368, table 15-3.0442C.1, to allow for a front setback of 10 feet, opposed to the minimum front setback of 25 feet. On voice vote, all voted 'aye'; motion carried (6-0-0).

**b)** Ordinance 2019-2368, Table 15-3.0442EB3.a. to reduce the required number of minimum plantings.

Commissioner Leon moved and Alderwoman Day seconded a motion to approve a waiver from Ordinance 2019-2368, table 15-3.0442EB3.A. to reduce the required number of minimum plantings. On voice vote, all voted 'aye'; motion carried (5-0-1).

Commissioner Leon moved and Alderwoman Day seconded a motion to adopt a Resolution approving a Site Plan Amendment to allow for the construction of a mixed-use multi-family and commercial building upon property located at 7160 South Ballpark Drive (BadAx Flats, LLC, applicant). On voice vote, all voted 'aye'; motion carried (5-0-1).

- 4. Department of Public Works Site Plan Amendment.** Request for approval of a Site Plan Amendment to allow for redesign of the existing yard, including development of a new storage building and yard waste drop off area, on property located at 7979 W. Ryan Road (896 9990 001). Additionally, the applicant is requesting a determination from Plan Commission as to whether the proposed storage building may be considered a Principal Structure.

City Engineer Morrow presented the Site Plan Amendment indicating baseball diamonds are part of Department of Public Works lot and the yard is now being developed. Screening will be provided for neighbors to the south. Long term, there will be an additional expansion.

Applicant's representative John Wellenkamp added that there is a landscaping berm on the south end of the lot that will be part of the site development. Bids are due November 14, 2023.

Associate Planner Ecks added additional details of the application and discussion of the necessary zoning determination.

Commissioner Leon asked if a public hearing is required for this? O could the City offer public engagement such as a neighborhood meeting with the Alderperson.

Commissioner Leon moved and Commissioner Shawgo seconded a motion to table this item to the December 7, 2023 meeting so staff and Alderperson can get feedback from the neighborhood regarding visual and sound deflection. On voice vote, all voted 'aye'; motion carried (5-0-1).

It is noted the Resolution should clarify "City Application."

Commissioner Haley also commented on the proposed future addition to primary structure and that noise mitigation requires a solid structure.

- 5. WE Energies Site Plan Amendment.** Request for approval of a Site Plan Amendment to allow for a redesigned atrium including entryway, landscaping, and patio, on property located at 4800 W Rawson Rd. (740 9988 006).

Associate Planner Ecks presented the Site Plan Amendment.

Commissioner Leon moved and Commissioner Shawgo seconded a motion to adopt a Resolution approving a Site Plan Amendment for the redesign of the front entrance of the WE Energies service center, upon property located at 4800 West Rawson Avenue (by Ryan Lee, WEC Energy Group, applicant, WI Electric Power Co, property owner)). On voice vote, all voted 'aye'; motion carried (5-0-1).

**E. Adjournment**

Commissioner Leon moved and Commissioner Haley seconded to adjourn the meeting at 7:40 p.m. On voice vote, all voted 'aye'; motion carried (5-0-1).