



**OFFICIAL RECORD OF A REGULARLY SCHEDULED MEETING OF THE PLAN COMMISSION HELD ON MARCH 9, 2020, AT 6:30 PM IN THE COUNCIL CHAMBERS OF CITY HALL, 2000 NORTH CALHOUN ROAD, BROOKFIELD, WISCONSIN**

*Video recordings of Plan Commission meetings are available on the city website at <https://cityofbrookfield.viebit.com>*

**MAYOR STEVEN PONTO PRESIDING**

**OTHER MEMBERS PRESENT:** Alderman Gary Mahkorn, Alderman Mark Nelson, Alderman Rick Owen, Commissioner Steve Petitt, Commissioner Lisa Chang

**MEMBERS ABSENT AND EXCUSED:** Commissioner Mike Smith

**OTHERS PRESENT:** Director of Community Development Dan Ertl, Planning Administrator Mike Theis, Fire Chief Charlie Myers, City Engineer Jeff Chase, Neighborhood Planning Coordinator Richard VanDerWal, Alderman Chris Blackburn, School District Superintendent Dr. Mark Hansen

Mayor Ponto noted a quorum present and called the Plan Commission to order at 6:31 pm.

**Announcements / Reports**

The next regularly scheduled meeting is April 13, 2020 at 6:30pm.

---

**Item 3a February 10, 2020 Plan Commission Official Record / Meeting Minutes**

Approval of Official Record from the February 10, 2020 Plan Commission meeting.

***Motion to approve the February 10, 2020 Plan Commission Meeting Official Record.***

***Motion by Rick Owen***

***Seconded by Lisa Chang***

***Motion carried 6-0***

---

**Item 3b February 20, 2020 Plan Review Board**

Approval of the February 20, 2020 Plan Review Board actions and recommendations of meeting minutes.

***Motion to approve the February 20, 2020 Plan Review Board meeting actions and recommendations.***

*Motion by Gary Mahkorn  
Seconded by Lisa Chang  
Motion carried 6-0*

---

**Item 4            Public Hearings**

6:30 p.m. – Request of the School District of Elmbrook, 13780 Hope St., Brookfield, WI 53005 - Randal Johnston, Director of Facilities to amend special exception Ordinance #1757 allowing modifications to the football field/track lighting frequency of use and hours of operation at Brookfield East High School, 3305 N. Lilly Road.

Michael Theis, Planning Administrator gave a brief overview of the conditions for special exception in the request and informed that Plan Commission action on the item is scheduled for tonight with Common Council action scheduled for March 17, 2020.

Randal Johnson, Director of Facilities, introduced the project and project member Dan Davis of CG Schmidt.

Mr. Davis explained the details of the request to amend the special exception ordinance. Lighting pole heights, hours of use, and the wattage of lamps are being updated and are the source of the request. Four eighty foot poles will be replaced, two on each side of the field. Current lighting is not sufficient to meet WIAA lighting standards for play on the field. The new lighting will reduce spill and glare for neighboring properties. Hours of use are dusk until 10:00pm.

Gary Mahkorn summarized the tutorial given to the aldermen of the districts affected by these proposed changes. He commented that the technology clearly improves conditions for neighbors, the fields, and overall quality of lighting regarding light pollution.

Lisa Chang agreed with Gary Mahkorn's comments that these improvements clearly demonstrate a final outcome that will place light where it is wanted and eliminate it from the surrounding neighborhoods so that there is less disturbance.

The public hearing was opened to comments from the public. Members of the public who spoke at the hearing:

Sandra Hahn, 2205 N 166<sup>th</sup> Street – Asked if this lighting is being proposed for the baseball fields or the soccer fields adjacent to North Avenue or if this strictly entails the football field.

Mr. Davis confirmed that these lighting changes are limited to the football field.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=Xc2oXYNTFyQV> for the discussion.

*Motion to close the public hearing,*

*Motion by Mark Nelson  
Seconded by Gary Mahkorn  
Motion carried 6-0*

6:35 p.m. – Request of the School District of Elmbrook, 13780 Hope St., Brookfield, WI 53005 - Randal Johnston, Director of Facilities to amend special exception Ordinance #1010 and conditional use Ordinance #2143-08 allowing modifications to the football/soccer field and track lighting pole height, frequency of use and hours of operation at Brookfield Central High School, 16900 Gebhardt Road.

Mr. Davis explained the details of the request to amend the special exception ordinance are the same as the previous request for Brookfield East High School. Lighting pole heights, hours of use, and the wattage of lamps are being updated to be identical at both campuses. He stated Brookfield Central has a slightly different orientation and set of site conditions compared

to Brookfield East, but the overall goals and results will be the same. Improve lighting to be sufficient for meeting WIAA lighting standards for play on the field and reduce spill and glare for neighboring properties. Hours of use are dusk until 10:00pm.

Gary Mahkorn clarified that the tutorial was given for both sites with nothing to add to his previous statements.

Rick Owen noted that the heat diagrams for both sites showed a green colored portion of spill. He asked if this was intentional to provide some additional light near concession stands and other areas.

Mr. Davis answered by stating that the green areas show areas where the light spill goes down to zero.

Alderman Owen reiterated for clarification that the green represents areas where virtually no light is spilling and there is no underlying intention to use the spill for other areas.

Mr. Davis confirmed this to be the case and added that lights were added to the pedestrian paths behind the fence because the lumens will drop below the standards for safety on walkways once the new field lights are installed.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=Xc2oXYNTFyQV> for the discussion.

*Motion to close the public hearing,*

*Motion by Mark Nelson*

*Seconded by Rick Owen*

*Motion carried 6-0*

---

#### **Item 5a            Temporary Use at 555 S. Executive Drive**

Request of CG Schmidt, 11777 W. Lake Park Dr, Milwaukee, WI 53224 – Tom Pagel, Senior Project Manager for approval of a temporary use to operate a concrete crushing operation at 555 S. Executive Drive. (NE ¼ of Sec. 34) – LG **\*\*Requires Common Council Approval\*\***

Commissioner Lisa Chang recused herself because she works for Eppstein Uhen Architects who is the architect on the project. She left for the duration of the item and returned for Item 5b.

**Report:** 1. The applicant requests approval of a temporary use to operate a concrete crushing operation at 555 S. Executive Dr. per the following program:

- The former Allstate building will be demolished as part of the Landmark Credit Union building construction.
- The applicant is requesting permission to use a concrete crushing machine on site to produce recycled concrete, which will be used in the new construction. That product will be stockpiled on the Northwest corner of the property.
- Building demolition is expected to begin March 2<sup>nd</sup>. Most of the building will be down prior to concrete crushing. The crushing operation is to take place between April 20<sup>th</sup> and May 15<sup>th</sup>.
- The applicant wishes to operate from West to East, as a road must be installed to service and provide emergency vehicle access to the new construction on the West side of the property.
- Hours of operation would be from 7:00 a.m. to 5:00 p.m.
- The applicant has provided information regarding sound levels, dust control and trucking impact in its 2/7/20 letter to the Plan Review Board.
- The closest residential property is approximately 160' from the operation. The included map shows the potentially impacted residential area. If approved, CG Schmidt has committed to contacting those neighbors and giving them information on the construction activity. A contact will be provided to them in the event there are any concerns.

**Recommendation:** The proposed temporary use should not create disturbance above what is already going on at this active construction site. The ability to reuse the material on site and avoid up to 2,000 truck trips is beneficial to the applicant

and the city. Staff recommends the Plan Commission approve the temporary use subject to the program referenced in the staff report.

The Plan Commission discussed the following topics:

- Item was previously reviewed at Plan Review Board.
- Proposed temporary use is a good sustainable use over the alternative of transporting materials.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=Xc2oXYNTFyQV> for the discussion.

**Motion to accept staff recommendation for approval of a temporary use to operate a concrete crushing operation at 555 S. Executive Drive.**

**Motion by Gary Mahkorn**

**Seconded by Steve Petitt**

**Motion carried 5-0**

---

## **Item 5b Brookfield East High School Special Exception**

Request of Elmbrook School District, 13780 Hope Street, Brookfield, WI 53005 – Randal Johnston, Director of Facilities for approval of a special exception ordinance amending special exception Ordinance No. 1757 allowing modifications to the football field/track lighting frequency of use and hours of operation at Brookfield East High School – 3305 North Lilly Road. (SE ¼ of Sec. 11) – MT **\*\*Requires Common Council Approval\*\***

**Previously reported:** 1. Brookfield East High School is located at 3305 North Lilly Road. The site is zoned “R-2” Single-family Residence District. Special Exception Ordinance No. 1204 permits soccer field lighting. Conditional Use Ordinance No. 1757 permits track and football field/track lighting. Conditional Use Ordinance No. 1913-03 permits a soccer field. Conditional Use Ordinance 2142-08 permits a 53,012 sq. ft. building addition with parking lot alteration. There is no conditional use ordinance associated with the origination of the site for use as a high school.

2. The site is not located in a Targeted Investment Area (TIA) one of eleven areas identified in the *City of Brookfield 2035 Comprehensive Plan* (Comp Plan) that foster community reinvestment by supporting new economic development and sustainable, mixed-use redevelopment with sensitivity to surrounding neighborhoods. The education goal of the Comp Plan states, “Brookfield is known for outstanding schools and lifetime learning to advance personal success, meet modern workforce demands, and support entrepreneurship.”

3. Conditional Use Ordinance No. 1757 permits track and football field lighting with the following regulatory conditions:

- Poles not to exceed 80 feet in height
- Illumination is scheduled to coincide with first and second semester football and track seasons
- Field lighting will operate from 6:30 p.m. to 10:00 pm. not to exceed 20 times during the school year
- Use limited to Brookfield East functions e/vents

4. City Attorney Jenna Merten has opined field lighting is subject to regulation as a special exception due to the applicant’s request to exceed the height limitations that are set forth in Section 17.120.010 of the Code. If the City decides to impose regulations on the lighting, the regulations must be related to the provisions of Subsection 17.08.060.B and be based on substantial evidence. Further, the regulations must be reasonable and measurable. Based on those requirements, the City regulatory control is likely limited to pole height, bulb wattage, frequency of use, and hours of operation, provided that substantial evidence exists to support the condition.

5. The applicant requests a special exception hearing and ordinance permitting the following:

- Pole height 80 feet

- Field lighting (LED) operated Monday thru Saturday to coincide with:
  - High School Athletic Programs
    - Football
    - Soccer (Boys & Girls)
    - Track & Field (Boys & Girls)
    - Lacrosse (Boys & Girls)
  - Co-Curricular Programs
    - Marching Band/Homecoming Events
  - Community Programs
    - Junior Sports (Soccer, Football, etc.)
    - Middle School Track & Field
    - Other Rec Department Uses
- Field lighting (LED) to operate to 10:00 pm.
- Max wattage (LED) 1500 watts

6. The lighting (LED) will operate from four poles. The lighting upgrade coincides with turf and track replacement. Staff recommends hours of illumination to coincide with twilight to 10:00 p.m. (Twilight is defined as the soft glowing light from the sky when the sun is below the horizon, caused by the refraction and scattering of the sun's rays from the atmosphere.) The twilight start time and 10:00 p.m. end time condition is supported by substantial evidence in that use of lighting during traditional hours of sleep have been linked to the human body producing lower melatonin rates, which may lead to decreased sleep quality and increased cancer risk; and disruption of animal habits. See Haim A, Zubidate AE. 2015. *Artificial Light at Night: Melatonin as a Mediator between the Environment and Epigenome*, Phil Trans. R. Soc. B 370: 20140121 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4375362/>; Haim et al. 2019. *Consequences of Artificial Light at Night: The Linkage between Chasing Darkness Away and Epigenetic Modifications*, <https://www.intechopen.com/books/epigenetics/consequences-of-artificial-light-at-night-the-linkage-between-chasing-darkness-away-and-epigenetic-m>; Kraus, Louis J. 2016. *Human and Environmental Effects of Light Emitting Diode (LED) Community Lighting*, Report of the Council on Science and Public Health, [https://www.darksky.org/wp-content/uploads/bsk-pdf-manager/AMA\\_Report\\_2016\\_60.pdf](https://www.darksky.org/wp-content/uploads/bsk-pdf-manager/AMA_Report_2016_60.pdf).

7. Site Data: N/A

8. No landscaping is proposed, nor can any be compelled in association with the request.

9. Photometric illumination summary, equipment layout, fixture specifications and environmental glare impact illustration accompany the applicant's submittal.

**Newly reported:** 10. A Neighborhood Information Meeting was conducted on February 19, 2020. Aldermen Berg attended as did Superintendent Hansen and Board Members Allgaier and Boucher. One citizen attended the meeting. No written comments were received.

11. A public hearing was conducted by the Plan Commission on March 9, 2020.

**RECOMMENDATION:** ~~Staff will deliver a recommendation pending results of the public hearing.~~  
 With respect to special exceptions, 2017 WISCONSIN ACT 67 states, "Conditional use" means a use allowed under a conditional use permit, **special exception**, or other special zoning permission issued by a city, but does not include a variance." Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit..., "Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence." and "The city's decision to approve or deny the permit must be supported by substantial evidence."

*With respect to special exceptions and per municipal code 17.08.060, an application for a discretionary approval or a special exception may be granted by the body or bodies hereinafter designated if such grant, except insofar as elsewhere herein expressly provided, shall not:*

- 1. Violate the spirit or general intent of this title;*
- 2. Be contrary to the public health, safety or general welfare;*
- 3. Be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, odor or other similar factor;*
- 4. For any other reason, cause a substantial adverse effect on the property values and general desirability of the neighborhood;*
- 5. Violate the building location, height and area regulations of the district in which the proposed use is located, except as may be elsewhere expressly provided. (Superseded by ACT 67)*

*Findings of Fact:*

*The use is a special exception as defined by 17.08.060 of the municipal code and permissible in the base-zoning district.*

*The special exception is supported by substantial evidence cited in paragraph 6 of the staff report.*

*Staff recommends the Plan Commission approve a special exception ordinance permitting football field/track lighting subject to:*

- 1. Statement of operations dated December 2, 2019 by Randy Johnston, Director of Facilities.*
- 2. Lighting specifications, pole location and photometric plans dated November 27, 2019 by Musco Lighting.*

## CITY OF BROOKFIELD PLAN COMMISSION

---

### **In the Matter of the Request of Elmbrook School District for a Special Exception**

### **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION**

---

Upon deliberation and consideration of the request of Elmbrook School District for a special exception presented at the Plan Commission meeting held on March 9, 2020, the Committee finds:

#### **FINDINGS OF FACT:**

1. Brookfield East High School is an institutional use of property that is located in the R-2 single-family residence district.
2. Elmbrook is requesting an 80-foot pole height for football/soccer field and track lighting at Brookfield East High School, with field lights operating to 10:00 p.m., and with a maximum wattage of 1500 watts.
3. Per Section 17.120.070 of the Brookfield Municipal Code, light fixtures cannot exceed the roofline of the building or twenty (20) feet, whichever is less, and cannot exceed a maximum of 400 watts; accordingly, to facilitate Elmbrook's request, the Plan Commission must consider whether a special exception ordinance is warranted.
4. To determine whether a special exception is appropriate, the Plan Commission must determine whether the criteria of Section 17.08.060 of the Municipal Code has been met and whether to impose any conditions on the request, based upon substantial evidence, consistent with Wis. Stat. Sec. 62.23(7)(de).
5. Studies have found that use of lighting during traditional hours of sleep have been linked to the human body producing lower melatonin rates, which may lead to decreased sleep qualities and increased cancer risk; and disruption of animal habits. See Haim A, Zubidate AE. 2015. *Artificial Light at Night: Melatonin as a Mediator between the Environment and Epigenome*, Phil Trans. R. Soc. B 370: 20140121 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4375362/>; Haim et al. 2019.

*Consequences of Artificial Light at Night: The Linkage between Chasing Darkness Away and Epigenetic Modifications*, <https://www.intechopen.com/books/epigenetics/consequences-of-artificial-light-at-night-the-linkage-between-chasing-darkness-away-and-epigenetic-m>; Kraus, Louis J. 2016. *Human and Environmental Effects of Light Emitting Diode (LED) Community Lighting*, Report of the Council on Science and Public Health, [https://www.darksky.org/wp-content/uploads/bsk-pdf-manager/AMA\\_Report\\_2016\\_60.pdf](https://www.darksky.org/wp-content/uploads/bsk-pdf-manager/AMA_Report_2016_60.pdf).

6. A substantial amount of residents in the City of Brookfield are sleeping or preparing for sleep at 10:00 p.m.
7. Substantial evidence supports limiting the field lighting until 10:00 p.m. for the health, safety, and welfare of Brookfield residents.

### **CONCLUSIONS OF LAW:**

1. Elmbrook's request complies with the criteria of Section 17.08.060 of the Municipal Code in that it does not violate the spirit or general intent of Title 17; is not contrary to the public health, safety, or general welfare; is not hazardous, harmful, noxious, offensive, or a nuisance by reason of noise, dust, smoke, odor, or other similar factor; and does not cause a substantial adverse effect on the property values and general desirability of the neighborhood.
2. Substantial evidence supports limiting the field lighting until 10:00 p.m. for the health, safety, and welfare of Brookfield residents.
3. Elmbrook has agreed to meet the condition of limiting the field lighting until 10:00 p.m.

### **RECOMMENDATION:**

1. The Plan Commission recommends approval of Elmbrook's application for amendment of its field lighting special exception ordinance subject to the condition of limiting the field lighting until 10:00 p.m.

The Plan Commission discussed the following topics:

- Acceptance and understanding of neighboring property owners that the proposed lighting changes improve conditions.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=Xc2oXYNTFyQV> for the discussion.

***Motion to accept staff recommendation of both the Community Development Department and City Attorney for approval of a special exception ordinance amending special exception Ordinance No. 1757 allowing modifications to the football field/track lighting frequency of use and hours of operation at Brookfield East High School – 3305 North Lilly Road.***



**Item 5c Brookfield Central High School Special Exception**

Request of Elmbrook School District, 13780 Hope Street, Brookfield, WI 53005 – Randal Johnston, Director of Facilities for approval of ~~a schedule~~ a special exception ordinance amending special exception Ordinance No. 1010 and Conditional Use Ordinance No 2143-08 allowing modifications to the football/soccer field and track lighting pole height, frequency of use and hours of operation at Brookfield Central High School -16900 Gebhardt Road. (NW ¼ of Sec. 22) – MT **\*\*Requires Common Council Approval\*\***

**Previously reported:** 1. Brookfield Central High School is located at 16900 Gebhardt Road. The site is zoned “R-2” Single-family Residence District. Special Exception Ordinances No. 1010 and 1305 permit football field lighting and a detached garage respectively. Conditional Use Ordinances No. 1514 and 2230-10 permit operation and expansion of a daycare in a detached administration building located on the site. Conditional Use Ordinance No. 2143-08 permits a 32,365 sq. ft. building addition with two-station gymnasium, additional class space and installation of a 213-stall parking lot with restatement of football field illumination hours of operation and frequency of use. Conditional Use Ordinance No. 2360-16 permits a concession stand. Conditional Use Ordinance No. 2506-18 permits baseball/tennis court alteration, expansion and illumination. There is no conditional use ordinance associated with the origination of the site for use as a high school.

2. The site is contained in the Civic Center Node, one of eleven areas identified as Targeted Investment Areas (TIA) in the *City of Brookfield 2035 Comprehensive Plan – 2009 (Comp Plan)*. The eleven TIAs of the Master Plan are those select areas in the city that foster community reinvestment by supporting new economic development and sustainable, mixed-use redevelopment with sensitivity to surrounding neighborhoods. The adopted node plan for the TIA is the *Ruby Isle / Civic Center Node Development Plan* with amendments. The adopted land use for the site is government and institutional with recreation and public open space. The education goal of the Comp Plan states, “Brookfield is known for outstanding schools and lifetime learning to advance personal success, meet modern workforce demands, and support entrepreneurship.”

3. Special Exception Ordinance No. 1010 and the public hearing minutes applicable to it permits football field lights with the following conditions:

- Poles not to exceed 75 feet in height
- Illumination is scheduled to coincide with the football season
- Field lighting will turn off at 10:00 pm. not to exceed 200 hours of operation per year or use in excess of 10-15 times per year
- No use other than football is acknowledged

4. Conditional Use Ordinance No. 2143-08 restated or established operational characteristics per a Brookfield Central Multi-Purpose Field Hours of Operation statement (Statement) dated August 4, 2008 by Robert C. F. Borch, Assistant Superintendent for Finance. The Statement (attached to Plan Commission exhibits) modified Special Exception Ordinance No. 1010 as follows:

- Field lighting will turn off at 10:00 pm. not to exceed 200 hours of operation per year
- Uses include Football Games and Practice – Boys Soccer – Band Practice – Girls Soccer – Club Lacrosse – Club Rugby

5. City Attorney Jenna Merten has opined field lighting is subject to regulation as a special exception due to the applicant’s request to exceed the height limitations that are set forth in Section 17.120.010 of the Code. If the City decides to impose regulations on the lighting, the regulations must be related to the provisions of Subsection 17.08.060.B and be based on substantial evidence. Further, the regulations must be reasonable and measurable. Based on those requirements, the City regulatory control is likely limited to pole height, bulb wattage, frequency of use, and hours of operation, provided that substantial evidence exists to support the condition.

6. The applicant requests a special exception hearing and ordinance permitting the following:

- Pole height 80 feet
- Field lighting (LED) operated Monday thru Saturday to coincide with:
  - High School Athletic Programs
    - Football
    - Soccer (Boys & Girls)
    - Track & Field (Boys & Girls)
    - Lacrosse (Boys & Girls)
  - Co-Curricular Programs
    - Marching Band/Homecoming Events
  - Community Programs
    - Junior Sports (Soccer, Football, etc.)
    - Middle School Track & Field
    - Other Rec Department Uses
- Field lighting (LED) to operate to 10:00 pm.
- Max wattage (LED) 1500 watts

7. The lighting (LED) will operate from four poles. The lighting upgrade coincides with turf and track replacement. Staff recommends hours of illumination to coincide with twilight to 10:00 p.m. (Twilight is defined as the soft glowing light from the sky when the sun is below the horizon, caused by the refraction and scattering of the sun's rays from the atmosphere.) The twilight start time and 10:00 p.m. end time condition is supported by substantial evidence in that use of lighting during traditional hours of sleep have been linked to the human body producing lower melatonin rates, which may lead to decreased sleep quality and increased cancer risk; and disruption of animal habits. See Haim A, Zubidate AE. 2015. *Artificial Light at Night: Melatonin as a Mediator between the Environment and Epigenome*, Phil Trans. R. Soc. B 370: 20140121 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4375362/>; Haim et al. 2019. *Consequences of Artificial Light at Night: The Linkage between Chasing Darkness Away and Epigenetic Modifications*, <https://www.intechopen.com/books/epigenetics/consequences-of-artificial-light-at-night-the-linkage-between-chasing-darkness-away-and-epigenetic-m>; Kraus, Louis J. 2016. *Human and Environmental Effects of Light Emitting Diode (LED) Community Lighting*, Report of the Council on Science and Public Health, [https://www.darksky.org/wp-content/uploads/bsk-pdf-manager/AMA\\_Report\\_2016\\_60.pdf](https://www.darksky.org/wp-content/uploads/bsk-pdf-manager/AMA_Report_2016_60.pdf).

8. Site Data: N/A

9. No landscaping is proposed, nor can any be compelled in association with the request.

10. Photometric illumination summary, equipment layout, fixture specifications and environmental glare impact illustration accompany the applicant's submittal.

**Newly reported:** 11. A Neighborhood Information Meeting was conducted on February 19, 2020. Aldermen Berg and Blackburn attended as did Superintendent Hansen and Board Members Allgaier and Boucher. One citizen signed the attendance sheet. No written comments were received.

12. A public hearing was conducted by the Plan Commission on March 9, 2020.

**RECOMMENDATION:** ~~Staff will deliver a recommendation pending results of the public hearing.~~  
*With respect to special exceptions, 2017 WISCONSIN ACT 67 states, "Conditional use" means a use allowed under a conditional use permit, **special exception**, or other special zoning permission issued by a city, but does not include a variance.* *"Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit...*; *"Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence."* and *"The city's decision to approve or deny the permit must be supported by substantial evidence."*

*With respect to special exceptions and per municipal code 17.08.060, an application for a discretionary approval or a special exception may be granted by the body or bodies hereinafter designated if such grant, except insofar as elsewhere herein expressly provided, shall not:*

- 1. Violate the spirit or general intent of this title;*
- 2. Be contrary to the public health, safety or general welfare;*
- 3. Be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, odor or other similar factor;*
- 4. For any other reason, cause a substantial adverse effect on the property values and general desirability of the neighborhood;*
- 5. Violate the building location, height and area regulations of the district in which the proposed use is located, except as may be elsewhere expressly provided. (Superseded by ACT 67)*

*Findings of Fact:*

*The use is a special exception as defined by 17.08.060 of the municipal code and permissible in the base-zoning district.*

*The special exception is supported by substantial evidence cited in paragraph 7 of the staff report.*

*Staff recommends the Plan Commission approve a special exception ordinance permitting football/soccer field and track lighting subject to:*

- 1. Statement of operations dated December 2, 2019 by Randy Johnston, Director of Facilities.*
- 2. Lighting specifications, pole location and photometric plans dated November 26, 2019 by Musco Lighting.*

## CITY OF BROOKFIELD PLAN COMMISSION

---

### **In the Matter of the Request of Elmbrook School District for a Special Exception**

### **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION**

---

Upon deliberation and consideration of the request of Elmbrook School District for a special exception presented at the Plan Commission meeting held on March 9, 2020, the Committee finds:

#### **FINDINGS OF FACT:**

1. Brookfield Central High School is an institutional use of property that is located in the R-2 single-family residence district.
2. Elmbrook is requesting an 80-foot pole height for football/soccer field and track lighting at Brookfield Central High School, with field lights operating to 10:00 p.m., and with a maximum wattage of 1500 watts.
3. Per Section 17.120.070 of the Brookfield Municipal Code, light fixtures cannot exceed the roofline of the building or twenty (20) feet, whichever is less, and cannot exceed a maximum of 400 watts; accordingly, to facilitate Elmbrook's request, the Plan Commission must consider whether a special exception ordinance is warranted.
4. To determine whether a special exception is appropriate, the Plan Commission must determine whether the criteria of Section 17.08.060 of the Municipal Code has been met and whether to impose any conditions on the request, based upon substantial evidence, consistent with Wis. Stat. Sec. 62.23(7)(de).
5. Studies have found that use of lighting during traditional hours of sleep have been linked to the human body producing lower melatonin rates, which may lead to decreased sleep qualities and increased cancer risk; and disruption of animal habits. See Haim A, Zubidate AE. 2015. *Artificial Light at Night: Melatonin as a Mediator between the Environment and Epigenome*, Phil Trans. R. Soc. B 370: 20140121 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4375362/>; Haim et al. 2019.

*Consequences of Artificial Light at Night: The Linkage between Chasing Darkness Away and Epigenetic Modifications*, <https://www.intechopen.com/books/epigenetics/consequences-of-artificial-light-at-night-the-linkage-between-chasing-darkness-away-and-epigenetic-m>; Kraus, Louis J. 2016. *Human and Environmental Effects of Light Emitting Diode (LED) Community Lighting*, Report of the Council on Science and Public Health, [https://www.darksky.org/wp-content/uploads/bsk-pdf-manager/AMA\\_Report\\_2016\\_60.pdf](https://www.darksky.org/wp-content/uploads/bsk-pdf-manager/AMA_Report_2016_60.pdf).

6. A substantial amount of residents in the City of Brookfield are sleeping or preparing for sleep at 10:00 p.m.
7. Substantial evidence supports limiting the field lighting until 10:00 p.m. for the health, safety, and welfare of Brookfield residents.

### **CONCLUSIONS OF LAW:**

1. Elmbrook's request complies with the criteria of Section 17.08.060 of the Municipal Code in that it does not violate the spirit or general intent of Title 17; is not contrary to the public health, safety, or general welfare; is not hazardous, harmful, noxious, offensive, or a nuisance by reason of noise, dust, smoke, odor, or other similar factor; and does not cause a substantial adverse effect on the property values and general desirability of the neighborhood.
2. Substantial evidence supports limiting the field lighting until 10:00 p.m. for the health, safety, and welfare of Brookfield residents.
3. Elmbrook has agreed to meet the condition of limiting the field lighting until 10:00 p.m.

### **RECOMMENDATION:**

1. The Plan Commission recommends approval of Elmbrook's application for amendment of its field lighting special exception ordinance subject to the condition of limiting the field lighting until 10:00 p.m. Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=Xc2oXYNTFyQV> for the discussion.

*Motion to accept staff recommendation of both the Community Development Department and City Attorney for approval of a special exception ordinance amending special exception Ordinance No. 1010 and Conditional Use Ordinance No 2143-08 allowing modifications to the football/soccer field and track lighting pole height, frequency of use and hours of operation at Brookfield Central High School -16900 Gebhardt Road.*

*Motion by Gary Mahkorn  
Seconded by Lisa Chang  
Motion carried 6-0*

---

**Item 5d      Fox Hollow Condos Minor Revision to Plan and Method**

Request of Cornerstone Development of SE WI, LLC, N63 W23849 Main Street, Sussex, WI – Joe Orendorf, Representative for approval of a minor revision to plan and method of operation permitting façade alterations at Fox Hollow Condominiums located at 21945 – 21985 West North Avenue. (NW ¼ of Sec. 19) – MT **\*\*Requires Common Council Approval\*\***

**Report:** 1. The site is zoned “M-2” Residence District. The site is not located in a Targeted Investment Area; one of eleven areas identified in the *City of Brookfield 2035 Comprehensive Plan* that foster community reinvestment by supporting new economic development and sustainable, mixed-use redevelopment with sensitivity to surrounding neighborhoods. The adopted land use of the City of Brookfield 2035 Comprehensive Plan is “Housing – Medium Density”.

2. The applicant requests approval of a minor revision to plan and method of operation permitting material changes to the two remaining buildings to be constructed. Changes include:

- Dimensional asphalt shingles in lieu of cedar shingles
- HardiePlank siding in lieu of cedar siding
- Added fireplace chase at rear of homes
- Relocated patio doors
- Conversion of hip roof to gable in front room
- Metal garage doors in lieu of wood
- All material finish colors to match or closely match existing.

3. Section 17.44.010 D. of the Municipal Code states, “No permit shall be issued for a multifamily dwelling, accessory building or accessory use until the location, and plan and method of operation and architectural appearance has been submitted to and approved by the plan commission. Architectural appearance shall be approved only upon a finding by the plan commission that it shall not cause a substantial depreciation of property values in the neighborhood. (Amended during 1/21/16 update; Ord. 1666 § 1 (part), 1998; prior code § 17.33(1))”

4. The applicant is in receipt of a missive dated February 21, 2020 by Fire Chief Charlie Myers regarding Fire Code requirements.

**Recommendation:** The requested materials in tones to match or closely match existing are consistent with city Site Development Standards. Staff recommends the Plan Commission approve the minor revision to plan and method of operation subject to:

1. Statement of operations dated February 10, 2020 by the Cornerstone Development of SE WI, LLC – Joe Orendorf, Representative.
2. Building elevations with rendering dated February 3, 2020.
3. Compliance with Fire Code regulations specified in a missive dated February 21, 2020 by Fire Chief Charlie Myers.
4. Restoration of site landscaping in compliance with the approved landscape plan dated March 10, 2005.
5. Minor revision to plan and method of operation expires on March 17, 2022 unless a building permit is received prior thereto.

The Plan Commission discussed the following topics:

- Proposal vetted and approved by the home owners association and architectural control committee
- Timeline of construction of the project.
- Completing a construction schedule with staff under agreement.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=Xc2oXYNTFyQV> for the discussion.

***Motion to accept staff recommendation for approval of a minor revision to plan and method of operation permitting façade alterations at Fox Hollow Condominiums located at 21945 – 21985 West North Avenue.***

***Motion by Mark Nelson***

**Item 6a            Cornerstone One - Minor Revision to Plan and Method**

Request of Cornerstone One, LLC, 20865 Enterprise Avenue, Brookfield, WI 53005 – Robert Anderson, CFO for approval of a minor revision to plan and method of operation permitting pavement and landscape alterations at 20865 Enterprise Avenue. (SE ¼ of Sec. 19) – MT **\*\*Requires Common Council Approval\*\***

**Reported September 12, 2016:** 1. The site is zoned “I” Industrial District with “FF” Flood Fringe and “FW” Flood Way Overlay zoning. It is not located in a Targeted Investment Area (TIA). The applicant is requesting approval to expand surface paving along Enterprise Avenue at the newly established pavement setback of 15’, a permitted use. A landscape streetyard will be provided.

2. Site Data:

Existing Landscape Surface Ratio:	17.8%
Proposed Landscape Surface Ratio:	16.1% (15% Min. in “I” Zoning District)

3. The applicant is in receipt of a missive dated February 12, 2020 by Fire Chief Charlie Myers regarding Fire Code requirements.

**Recommendation:** The request is consistent with the standards for approval. Staff recommends the Plan Commission approve the minor revision to plan and method of operation permitting paved expansion subject to:

1. Statement of operations dated February 3, 2020 by Robert Anderson, CFO.
2. Compliance with Fire Code requirements listed in a missive dated February 12, 2020 by Fire Chief Charlie Myers.
3. Site and Grading plan dated February 3, 2020.
1. Landscape Plan dated February 3, 2020 subject to consultant plan review and technical corrections, secured with a letter-of-credit (City forms available from the Department of Community Development) equal to \$7,611.75 (\$2,550 per 1,000 sq. ft. street yard) for installation, \$1,313.40 for three (3) years of maintenance (\$440 per 1,000 sq. ft. of street yard) and a three (3) year temporary landscape easement for street yard maintenance (using forms available from the Department of Community Development) all deposited with the Department of Community Development prior to issuance of a building permit (2,985 sq. ft. of street yard) AND

Also: A landscape installation “as built” is required prior to release of the installation letters-of-credit.

5. Minor revision to plan and method of operation expires on March 17, 2022 unless a permit is obtained prior thereto.

The Plan Commission discussed the following topics:

- Removal of mature trees and resulting replacement plantings in the streetyard landscaping as a result of this request.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=Xc2oXYNTFyQV> for the discussion.

***Motion to accept staff recommendation for approval of a minor revision to plan and method of operation permitting pavement and landscape alterations at 20865 Enterprise Avenue.***

*Motion by Rick Owen  
Seconded by Lisa Chang  
Motion carried 6-0*

---

**Item 6b            Brookfield Fashion Center**

**Report:**

1. The site consists of one lot located in the Calhoun Road South Targeted Investment Area (TIA), one of eleven areas identified in the *City of Brookfield 2035 Comprehensive Plan* that foster community reinvestment by supporting new economic development and sustainable, mixed-use redevelopment with sensitivity to surrounding neighborhoods. The adopted neighborhood plan is the *Calhoun Road South Neighborhood Plan – 2001* (Neighborhood Plan). The adopted land use of the Neighborhood Plan for the site is “Retail”. The adopted land use of the *City of Brookfield 2035 Comprehensive Plan* is “Shopping/Services Focused – Higher Density”. The site is zoned “B-3 – Regional Business District” (B-3) including adopted Modified Suburban Overlay (MSO) Zoning District Ordinance 2201-10. Ordinance 2201-10 establishes the special characteristics of the development pattern and zoning for the site entailing: Thomas Lane setback sixty feet (60’); Bluemound setback eighty feet (80’); Landscape Surface Ratio minimum 14.4%; and Floor Area Ratio maximum 24.75%. A clerical error was discovered in the creation of the MSO zoning district. The original recommendation and motion for approval of the rezoning established a 27.2% Floor Area Ratio maximum based on the demonstration of vested rights for the property. The special characteristics and site data table have been updated to reflect this correction. The proposed development in association with the construction of a retail building addition for fast casual restaurant with outdoor seating is a permitted use.

2. Site Data:

Lot Area:	872,419.68 sq. ft. (20.028 ac)
Existing Building Area:	217,356 sq. ft.
Proposed Building Addition Area:	2,611 sq. ft.
Total Proposed Building Area:	219,967 sq. ft.
Floor Area Ratio:	25.21% (27.2% max.)
Lot Coverage:	540 sq. ft. of impervious added
Parking:	Loss of 8 stalls depicted (11 stalls removed, 3 stalls added) 4.58 per 1,000 sq. ft. (4.66 per 1,000 sq. ft. existing)
Building Addition Setback – Thomas Lane:	76.3’ (U.S. Cellular 60.7’ existing setback unchanged, 60’ min.)
Building Addition Height:	25.5’ (Same as existing, 35’ max.)
Landscape Surface Area:	14.4% (14.4% min.)

3. Proposed site plan utilizes existing ingress and egress access points with the surrounding road network and internal parking, however, modifying vehicular access around the building to connect and utilize the existing entry drive on Thomas Lane to accommodate the building addition. The added tenant space makes use of the existing trash storage for the site which remains unchanged.

4. Architecture and building materials of the proposed addition are identical to the existing building. All brick, stone caps, metal copings, stained wood trim, mechanical equipment screen, metal awning, and vision glass doors and windows match in every aspect. The only deviation consists of canvas awnings positioned above the storefront glazing which distinguish the new tenant space from the existing.

All plans specifying the location and installation of vision glass shall memorialize the following language into the associated plan set: **All vision glass is to remain vision glass and cannot be obstructed or modified with window film or other opaque techniques or substances except that operable window blinds, or shades are permitted.**

5. Applicant submitted a revised landscape plan per City standards.

6. The applicant is in receipt of a missive dated February 18, 2020 by Fire Chief Charlie Myers regarding Fire Code requirements.

7. Grading, drainage, erosion control, and SWMP have been submitted to the Engineering Division. The proposal depicts running storm sewer pipe underneath the building addition. City plumbing code adopts State plumbing code, which allows



such condition if the pipe is constructed per State standards and documentation of the condition is recorded with the register of deeds and executed on the property for future owners to discover. Applicant is aware that an occupancy permit cannot be obtained from Inspections Services, and construction may be suspended, until installation and inspection of the pipe meet the applicable standards and the appropriate documentation has been recorded at the register of deeds.

**Recommendation:** The applicant's proposal is consistent with the land use and development objectives of the plan area. Submitted architecture conforms to City design standards and is consistent with the existing building. Staff recommends the Plan Commission approve the revised plan and method of operation permitting an approximate 2,600 sq. ft. retail building addition for fast casual restaurant with outdoor seating at 16720 West Bluemound Road subject to:

1. Statement of operations dated March 3, 2020 by ICA BFC Venture, LLC, Timothy C. Blum.
2. Site Plan dated February 10, 2020 by Pinnacle Engineering Group including technical corrections.
3. Building Plans and elevations dated February 10, 2020 by Thomas / O' Connor Associates, LLC including technical corrections. Building materials matching existing building. Roof top HVAC equipment screened by building architecture. Ground mounted HVAC equipment and transformers screened by landscaping. Wall mounted meters and cabinets limited to the north, south or east building elevations and painted to match the building.
4. Compliance with Fire Code requirements specified in a missive dated February 18, 2020 by Fire Chief Charlie Myers.
5. Grading, Drainage, Erosion Control, and Stormwater Management Plans subject to final approval of the city of Brookfield Engineering Division prior to the issuance of building permits. The developer of the project will be required to submit Items A and B below before the issuance of a building permit:
  - A. A copy of the approved Grading and Drainage Plan, as approved by the city of Brookfield Engineering Division.
  - B. **A recertification "as-built" survey must be performed by a licensed, professional engineer or surveyor indicating that all elements of the approved Grading and Drainage Plan have been completed within tolerances as approved by Staff per the approved plan. The recertification documents must be wet stamped and signed by the professional.**
6. Payment of applicable fees to the Community Development Department prior to issuance of a building permit.  
\$960.00 Revised Plan & Method of Operation  
\$165.00 Minor Stormwater Management Review  
\$TBD Engineering Review Fee
7. Lighting in compliance with sections 15.16.080 and 17.120.070 of the City of Brookfield municipal code.
8. All signage subject to separate review by the Plan Review Board.
9. Landscape plan dated February 10, 2020 by Pinnacle Engineering Group subject to technical corrections.
10. Occupancy permit cannot be granted by Inspection Services until the storm sewer pipe passing under the building is installed and inspected to comply with the plumbing code and documentation that indicates the piping and distribution arrangement for the property and buildings is recorded with the register of deeds per State plumbing code.
11. Once a building permit is issued by Inspection Services, the owner shall receive an occupancy permit within twelve (12) months or the owner of the property may be subject to the penalty provisions of the Zoning Code, Section 17.100.130 or the owner shall remove construction equipment and debris from the site, fine grade and seed the site, and stabilize surface water drainage leaving the site to City Engineering Department specifications within four (4) months or the owner of the property may be subject to the penalty provisions of the Zoning Code – Section 17.100.130. (Ordinance #2134-08).
12. Revised plan and method of operation approval expires on March 17, 2022 unless a building permit is obtained prior thereto.

The Plan Commission discussed the following topics:

- Application of trade dress on the building and awnings.
- Site landscaping along the north elevation of the building addition.
- Preference for awning materials at the retail center.
- Accuracy of the depicted color for the awnings.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=Xc2oXYNTFyQV> for the discussion.

***Motion to accept staff recommendation for approval of a revised plan and method of operation in association with an approximate 2,600 sq. ft. retail building addition for fast casual restaurant with outdoor seating at 16720 West Bluemound Road.***

***Motion by Gary Mahkorn  
Seconded by Mark Nelson  
Motion carried 6-0***

---

### **Item 7a Amending Section 17.98.050 of the Brookfield Municipal Code**

Request for public hearing amending Section 17.98.050 of the Brookfield Municipal Code creating the Moorland Road Area Overlay District and the respective regulations and design standards.

1. In 2001, the city enacted Ordinance 1778 that established a Modified Suburban Overlay (MSO) zoning district upon the Moorland Road properties located within that portion of the “*Neighborhood Plan for the Moorland Road Node at Bluemound Road*” or planning unit.
2. Various buildings and improvements have been built or are being built under this zoning application.
3. City staff request that the Plan Commission and Common Council authorize a public hearing so that certain amendments to the MSO applying to this area be adopted, including dimensional and design standards and a planning unit area map within the zoning text applying to this portion of the planning unit.
4. Please see a draft of the zoning text amendments and map that would be added to the Zoning Code.

**Recommendation:** Approve the scheduling of a public hearing to amend Section 17.98 and related sections of the Zoning Code to provide details for the Modified Suburban Overlay (MSO) that applies to the Moorland Road Node at Bluemound Road.

The Plan Commission discussed the following topics:

- Existing structures and properties conforming to the proposed regulations.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=Xc2oXYNTFyQV> for the discussion.

***Motion to accept staff recommendation to approve scheduling a public hearing to amend Section 17.98.050 of the Brookfield Municipal Code creating the Moorland Road Area Overlay District and the respective regulations and design standards.***

***Motion by Lisa Chang  
Seconded by Steve Petitt  
Motion carried 6-0***

---

## **Adjournment**

*Motion by Steve Petitt*

*Seconded by Rick Owen*

*Motion carried unanimously*

*Meeting adjourned at 7:16pm*

*Record respectfully submitted by Richard VanDerWal, Neighborhood Planning Coordinator*