



**OFFICIAL RECORD OF A REGULARLY SCHEDULED MEETING OF THE PLAN COMMISSION HELD ON SEPTEMBER 9, 2019, 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 Rick Owen, Alderman Gary Mahkorn, Alderman Mark Nelson, Commissioner Steve Petitt, Commissioner Lisa Chang, Commissioner Mike Smith

**MEMBERS ABSENT AND EXCUSED:** None

**OTHERS PRESENT:** Director of Community Development Dan Ertl, Planning Administrator Mike Theis, Fire Chief Charlie Myers, City Engineer Jeff Chase, Economic Development Coordinator Todd Willis, Neighborhood Planner Richard VanDerWal, Alderman Christopher Blackburn, Alderman Jeffery McCarthy, Alderman Scott Berg

Mayor Ponto noted a quorum present and called the Plan Commission to order at 6:33 pm.

**Announcements / Reports**

The next regularly scheduled meeting is October 14, 2019 at 6:30pm.

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**Item 1 August 14, 2019 Plan Commission Official Record / Meeting Minutes**

Approval of Official Record from the August 14, 2019 Plan Commission meeting.

***Motion to approve the August 14, 2019 Plan Commission Meeting Official Record.***

***Motion by Mark Nelson***

***Seconded by Rick Owen***

***Motion carried 7-0***

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**Item 2 August 22, 2019 Plan Review Board**

Approval of Official Record from the August 22, 2019 Plan Review Board meeting.

***Motion to approve the August 22, 2019 Plan Review Board Meeting Official Record.***

***Motion by Mike Smith***

**Public Hearing Request of Kelly Homes LLC 2490 Byron Ct., Brookfield, WI 53045 - Duane McAllister, Owner to approve a conditional use permitting Grace Landing of Brookfield, a Community Based Residential Facility and Adult Family Home cluster development at 16760 West North Avenue dedicated to delivery of service to individuals with intellectual disabilities.**

Commissioner Steve Pettit recused himself as St. Coletta's is a mission of one of his clients.

Mike Theis, Planning Administrator gave a brief overview of the City's conditional use process and the aspects of the project that are subject to City review.

Duane McAllister, owner, provided a summary of the requested proposal for a three unit Community Based Residential Facility (CBRF) with eight bedrooms per unit at 16760 West North Avenue. He also addressed areas of the project that have been improved based on the comments made by neighbors and stakeholders at the Neighborhood Information Meeting.

Ted Behncke, President of St. Coletta, 627 Fairway Circle, Jefferson, WI, gave background information and qualifications on his organization proposed to manage the facility.

Joel Agacki, project architect of Striegel-Agacki Architects, 1430 Underwood Avenue, Wauwatosa, WI, elaborated on the design and details of the project's architecture.

Chris Carr, civil engineer on the project, detailed the specific proposed improvements made to the project regarding storm water management in order to address concerns of nearby residential neighbors.

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

Kathryn Wilson, 1185 Simon Drive, Brookfield, WI 53005 – Spoke in favor of having more housing and options for persons with intellectual disabilities in the City so that these individuals can reside in the same community they grew up in and live close to their jobs and family. As a parent of an adult daughter with intellectual disabilities, she looks forward to the project because she is looking for a safe and secure environment that supports her daughter as her family does now.

Ryan McDonald, 16870 Hillsdale Drive, Brookfield, WI 53005 – Supports the proposal and thinks there is a great need for this type of housing. Is excited to have the project join the neighborhood and opined that the architecture and engineering of the project have taken into consideration the concerns of neighbors and will add value to the area.

Nick Contos, 18575 Saint Andrews Lane, Brookfield, WI 53045 – His son Michael, 48, was born with Down syndrome and went to school and grew up in Brookfield. His son attended a St. Colleta's facility in Jefferson to continue his schooling and has been a resident in group homes similar to this proposal with great success.

Michael Contos, Waukesha – Spoke in support of St. Colleta from the experience of living in a St. Colleta facility and would like to live close to his family.

Wendy Heyer, 15830 Harrigan Drive, Brookfield, WI 53005 – Has two children who are on the list to become residents of the proposal. She has lived in Brookfield over fifty years and her children have grown up in the Brookfield community. Expressed gratitude for a proposal that would allow her children to live in the community they have been a part of their entire lives.

Paul Tompto, 2440 Eastwood Lane – His family would benefit from having the facility close to where he lives.

Katrina and Luc Hergott, 2370 Hillside West – Katrina stated she previously worked at a CBRF and is concerned about the possible interaction of her children with the residents of the proposal. Luc expressed that the use is not appropriate for the site as it has commercial components, such as garbage collection, that do not fit with the single family homes adjacent. His family chose to purchase their property on the basis that it was a residentially zoned neighborhood and therefore believes the use is not appropriate.

Elaine Sprenger, 12485 Zinke Drive, Brookfield, WI 53005 – Stated that Brookfield is missing the type of housing proposed in the project. Looking to have her son stay in this facility, especially to have an opportunity to engage with others his own age. Has given financial support to the project to create dream homes for young people who are kind and loving who happen to have disabilities. Asks that the use be permitted so that intellectually disabled Brookfield residents have the opportunity to stay in their community.

Sister Julianne Koch, 6400 N Bittersweet Lane, Glendale, WI 53217 – Spoke to the quality of work and management of St. Coletta as her disabled brother is a thirty five year resident of their facilities and is seventy nine years old living with others of similar disability as friends and family. Stated that the community that St. Coletta creates and its overall mission for the best quality of life has made a positive change in the development of these facilities, from solutions of an institutional nature toward neighborhood family living solutions.

Clare Sprenger, 709 S 109<sup>th</sup> Street, West Allis, WI 53214 – Voiced support for the project while addressing the concerns that the residents of the proposal would be a threat to neighbors. She stated the project team has updated the project based on the comments at previous meetings and asserted that issues with residents is unlikely as those involved in the project have an application process that screens individuals to make sure they are a good fit for the community.

Mary Jo Lange, 2385 Hillside Drive West, Brookfield, WI 53005 – Is against the proposal based on the design consisting of three separate buildings where multiple buildings are prohibited. Commented on the zoning requirements for a single dwelling structure in R-2 zoning and that the conditional use should follow suit. Wants the project to be a single family home structure and not a complex of buildings. Also, believes City staff misrepresented the North Avenue Road widening project at the neighborhood information meeting and its impacts on living along North Avenue once widened. It will be not widened to six lanes as stated by the City Planner.

Rob McIntyre, W160 N7477 Thornwood Circle, Menomonee Falls, Brookfield, WI 53051 – Spoke on behalf of his special needs son, saying he needs to grow as an individual, have his own place of residence, his own friends, and his own independence. He voiced that he is in favor of the project because it would ensure his son is both independent and cared for when he and his wife are no longer able to do so.

Roger Scherz, 16620 W North Avenue, Brookfield, WI 53005 – Voiced concerns about the interactions of the residents of the CBRF with other members of the residential neighborhood as he has a granddaughter with down syndrome who has issues with controlling aggression. He asserts the use is not suitable for a residential neighborhood.

Colleen Vickio, 16635 Hillside Drive, Brookfield, WI 53005 – Opposes the project for reasons of storm water from the project negatively affecting her property.

Rick and Judy Piefer, 1000 Vista View Drive, Brookfield, WI 53005 – Have a daughter with special needs. Their daughter, Karen, does not roam the neighborhood now nor would she if she is accepted into the proposal.

Ted Mamayek 16480 Hillsdale Drive, Brookfield, WI 53005 – Supports the use but opposes the project based on the size of the project and its design as multiple buildings instead of a single family residential building. Has concerns about the value of his single family residential lot investment being diminished by the perceived commercial use of the site through this proposal.

Andy Tuler, 2415 Hillsdale Drive West, Brookfield, WI 53005 – Has three children and is concerned about possible negative interactions between his children with the residents of the CBRF.

Claire Topp, 2645 Almesbury Avenue, Brookfield, WI 53045 – School Psychologist for Elmbrook schools, she asserted her experience as both a behavioral analyst and in working with some of the children who are potential residents of the proposal personally that these individuals will not have behavioral issues. Has trust in St. Coletta’s ability to structure the environment for the success of these children. She added that she is the grandmother of someone with special needs.

Marianne Foster, 19095 Killarney Way, Brookfield, WI, 53045 - Spoke in support of the project as her brother is a client of St. Coletta’s.

Tom Twitchell, 16705 Hillsdale, Brookfield, WI – Has issue with conditional uses in residential neighborhoods.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=NJe13FpWG6Ge> for the discussion.

**Motion to close the public hearing.**

**Motion by Mark Nelson**

**Seconded by Rick Owen**

**Motion carried 6-0**

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### **Item 3 Bright Future of America Conditional Use, New P&M, Development Agreement**

Request of Bright Future of America, LLC, 7 Douglas Drive, Little Falls, NJ 07424 – Kuldeep Gupta, Owner for approval of a conditional use ordinance, new plan and method of operation, accessory building and development agreement permitting construction of Kiddie Academy, an 11,080 sq. ft. childcare facility at 15465 West Capitol Drive. (NW ¼ of Sec. 11) – MT  
**\*\*Requires Common Council Approval\*\***

**Report:** 1. The site is not located in a Targeted Investment Area (TIA), 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 corridor plan is *The Capitol Drive Corridor Plan Number Two – 1999* (Corridor Plan). The site is identified as E.C. 7. The land use recommendation is two-family homes.

2. The adopted land use of the City of Brookfield 2035 Comprehensive Plan is “Housing Focused – Medium Density”.

3. The site is zoned “R-4” Two-family Residence District with “FF” Flood Fringe, “FW” Floodway”, “SW” Shoreland Wetland and “NSW” Non-Shoreland Wetland overlays. The applicant requested approval to schedule a public hearing for the purpose of permitting construction of a childcare facility. Nursery schools, day nurseries and childcare centers are regulated as conditional uses by the city zoning code, permissible in any zoning district subject to a public hearing and upon approval of an ordinance by the Common Council. No floodplain or wetland disturbance is proposed. A passive outdoor recreational field is a component of the conditional use curriculum.

4. Site Data:

Site Area (Net):	169,884 sq. ft.
Building Size:	11,180 sq. ft.

Floor Area Ratio:	6.6% (25% Maximum)
Landscape Surface Ratio:	70% (0% Minimum)
Lot Coverage:	6.58% (80% Maximum)
Enrollment:	150 – 170 children
Parking Provided:	38 stalls (10 – 12 + 22 @ 1/Employee)

5. Preliminary grading, drainage and erosion control plans have been submitted to the city Engineering Division. SWMP is pending.

6. A wetland delineation was performed May 1, 2019.

7. The building is one-story in height with roof ridges, reversed gables and dormers of residential form and scale. Building materials consist of lap siding, face brick, smooth sawn cedar siding, precast stone sill, architectural shingles and vision glass in bronze framed window and door systems. A proposed dumpster enclosure requires reorientation so that doors do not face Capitol Drive. An accessory building matching the materials and colors of the principal building is located in the passive outdoor recreational field that is a component of the conditional use curriculum.

8. The applicant is in receipt of a missive dated April 17, 2019 by Fire Chief Charlie Myers regarding Fire Code requirements.

**Newly Reported:** 9. A Neighborhood Information Meeting (NIM) was conducted on June 26, 2019. Aldermen Balzer and McCarthy attended. Eleven citizens signed the attendance sheet. Ten written comments were received and distributed to the Plan Commission with the materials in the public hearing packet of August 14, 2019. The applicant misspoke at the NIM regarding hours of operation. The hours of operation are listed in the statement of operations dated August 28, 2019.

10. A public hearing was conducted by the Plan Commission on August 14, 2019 (minutes attached). Plan Commission questions and staff replies follow:

“What are the limitations on the regulation of hours of operation in a conditional use?” – Reply. The city has no ordinance establishing regulation of business hours. Also, see statement of operations for applicant’s hours.

“What other potential uses or developments could go on the site?” – Reply. Permitted uses include:

- Two-family dwellings.
- Crop and tree farming.
- Keeping of poultry and domestic livestock including horses, but not including hogs, goats or fur-bearing animals; provided not more than one head of such livestock or more than twenty (20) fowl are kept for each acre of lot area; and provided, that the keeping of poultry or domestic livestock shall not be permitted on any lot less than three acres in area; and also provided such fowl are kept confined or enclosed and not permitted to run at large.
- The usual household pets may be kept, but no kennels, hutches, animal hospice, animal shelter/rescue or humane society may be operated.
- Horticulture.
- AND
- Conditional uses per 17.108.050 of the municipal code.

11. The applicant submitted a landscape plan consistent with city Site Development Standards (Standards). Landscaping along the south property line exceeds the one tree, five shrub per 100 linear feet requirement of the Standards. Buffer strip evergreen trees are specified at 7’ in height, the height requirement of the Standards.

12. HVAC equipment is roof mounted in a recessed well shielded by parapet wall. All glass is vision glass. Glass in the dormers is tinted with the interior beyond painted black.

13. A standard City of Brookfield Development Agreement will secure installation of public infrastructure.

14. *With respect to conditional uses 2017 WISCONSIN ACT 67 states, “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 conditional uses municipal code 17.108.050 B. Procedure for Obtaining states, “... **The plan commission shall make its findings of fact and recommendations to the council within thirty (30) days after the public hearing.**”  
AND

The standard for evaluation of conditional use per 17.108.050 B. of the municipal code is, “The plan commission may recommend and the council may impose such restrictions upon the **use, height and bulk of any structure or land** so approved for conditional use as may be reasonable under the circumstances, provided such **restrictions shall not be more restrictive than the requirements established for the district in which such structure is proposed** to be located.”

Findings of Fact:

The use is a conditional use as defined by 17.108.050 of the municipal code and permissible in the base-zoning district.

The applicant is in compliance with the building location, height and area regulations of the base-zoning district.

The applicant will demonstrate compliance with the “Public Infrastructure and Development Handbook”.

The applicant will demonstrate compliance with the Fire Code requirements articulated in a missive dated May 6, 2019 by the City of Brookfield Fire and Emergency Medical Services Department.

**Recommendation:** The applicant’s proposal is consistent with the development thresholds and architectural standards associated with conditional use of a residentially zoned parcel. Staff recommends the Plan Commission approve a conditional use ordinance permitting operation of a daycare, new plan and method of operation and authorize the Mayor to execute a development agreement on behalf of the city subject to:

1. Statement of operations dated August 28, 2019 by Kuldeep Gupta, Owner.
2. Building Plans (principal and accessory) and material samples dated July 19, 2019. Wall mounted utility meters and boxes must be located on building walls that do not face Capitol Drive and painted to match the building/s. All building plans marked to read, “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.”
3. Site Plan dated February 12, 2019 by Sigma Group *with dumpster enclosure orientation corrected so that doors do not face a public street.*
4. Grading, Drainage and Storm Water Management Plans approved by the City Engineering Department. The developer of the project will be required to submit items a, b, and c before issuance of a building permit.
  - a. Copy of the Grading and Drainage plan as approved by the Engineering Department, including storm water calculations, following criteria established by the Storm Water Management Guide.
  - b. The bid from a contractor reflecting the cost of executing the work required on the Grading and Drainage Plan.
  - c. A letter-of-credit in compliance with the Inspection Services Department letter-of-credit format. The monetary amount of the letter-of-credit shall be equal to 110% of the bid submitted.
  - d. 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 tolerance as approved by staff per the approved plan. The recertification documents must be wet stamped and signed by said professional.

e. The letter-of-credit will be released after the recertification documents are submitted to and approved by the City of Brookfield. Approval of the grading, drainage, storm water, roadway and utility plans by the City of Brookfield Engineering Department.

5. Landscape Plan dated July 17, 2019 by RA Smith subject to city landscape plan consultant review, technical corrections and

A. The DEVELOPER shall post a letter of credit ("Street Yard Installation Letter of Credit") equal to \$13,706.25 or \$2,550 per 1,000 square feet of street yard (5,375 sq. ft. of Street Yard) using a form approved by the CITY (form available from the Department of Community Development) which shall remain on file and current with the CITY until a recertification affidavit by a Registered Landscape Architect is filed with the Inspection Services Department that indicates the street yard landscaping is completed per plan, at which time the Street Yard Installation Letter of Credit shall be released. In addition, the DEVELOPER shall post a three (3) year maintenance letter of credit equal to \$2,365.00 or \$440 per 1,000 square feet of street yard ("Street Yard Maintenance Letter of Credit") for a period of three (3) years from the date of this action using a form approved by the CITY (form available from the Department of Community Development). Such letters of credit shall be filed with the Department of Community Development prior to the issuance of a building permit. The DEVELOPER shall also grant to the CITY a temporary easement using a form approved by the CITY (form available from the Department of Community Development) for the purposes of placing the initial plantings or replacement of trees and shrubs if DEVELOPER defaults and fails to install said street yard landscaping. Such easement shall terminate at the end of the three (3) year maintenance period or longer in the event the CITY permits an extension of the PROJECT completion date, pursuant to City Ordinance No. 1552. Landscape maintenance of the PROJECT shall be performed in accordance with appropriate provisions of City Ordinance No. 1552.

Also:

a. A landscape installation "as built" is required prior to release of the installation letters-of-credit.

6. Compliance with regulations articulated in a missive dated April 17, 2019 by Fire Chief Charlie Myers.

7. Lighting in compliance with sections 15.16.080 and 17.120.070 of the City of Brookfield municipal code.

8. Approval of the final draft of the development agreement by the City Attorney Office prior to execution and recording prior to site disturbance or building permit.

9. Once a building permit is issued by Inspection Services, the owner shall receive an occupancy permit within 24 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).

10. Signage to be approved separately by the Plan Review Board.

11. Payment of applicable fees to the Community Development Department prior to issuance of a building permit:

\$To Be Determined	Engineering Review Fee
\$185.70	Wetland Fee (\$4.19/1K based upon FAR)

12. Satisfaction of all outstanding assessments, taxes due, plan review fees, escrows, deposits and dedications.

13. New plan and method of operation approval expires on September 17, 2021 unless the applicant obtains a building permit prior thereto.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=NJe13FpWG6Ge> for the discussion.

*Motion to approve staff recommendation for approval of a conditional use ordinance, new plan and method of operation, accessory building and authorize the Mayor to execute a development agreement on behalf of the City permitting construction of Kiddie Academy, an 11,080 sq. ft. childcare facility at 15465 West Capitol Drive.*

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

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#### **Item 4 Grace Landing of Brookfield Conditional Use, New P&M, Development Agreement**

Request of Kelly Homes LLC, 2490 Byron Court, Brookfield, WI 53045 – Duane McAllister, Manager for approval of a conditional use ordinance, new plan and method of operation and development agreement permitting construction of Grace Landing of Brookfield, a three unit Community Based Residential Facility (CBRF) with eight bedrooms per unit and one Adult Family Home (AFH) with two bedrooms located at 16760 West North Avenue. (SW ¼ of Sec. 15) – MT **\*\*Requires Common Council Approval\*\***

Commissioner Pettit recused himself as St. Coletta's is a mission of one of his clients.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=NJe13FpWG6Ge> for the discussion.

*Motion to postpone action on the item to a special meeting of the Plan Commission to be held before the next regularly scheduled Common Council Meeting on September 17, 2019.*

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

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#### **Item 5 North Shore Bank PDD General Plan Rezoning**

Request of North Shore Bank, 15700 West Bluemound Road, Brookfield, WI 53005 – David Kane, V.P. for approval of an ordinance rezoning 15830 West Capitol Drive from "B-1" Local Business District with Modified Suburban Overlay to "PDD Commercial Use - General Plan" for the purpose of redeveloping 15830 West Capitol Drive with a new commercial building and site plan. (SE 1/4 of Sec. 3) – MT **\*\*Requires Common Council Approval\*\***

**Previously Reported:** 1. The site is not located in a 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 corridor plan is *The Capitol Drive Corridor Study No. 2 – 1999* (Corridor Plan). The recommended land use of the Corridor Plan is "Local Business". The adopted land use of the City of Brookfield 2035 Comprehensive Plan is "Shopping/Service Focused – Lower Density".

2. The site is zoned "B-1" Local Business District. Ordinance No. 1693 established "MSO" Modified Suburban Overlay zoning but did not establish a "development pattern", i.e. New Suburban, Cluster Suburban, etc. The applicant is requesting approval of a Planned Development District public hearing, rezoning the site to Planned Development District No. 25 General Plan - Commercial allowing redevelopment of the site for re-occupancy by the existing sole tenant, North Shore Bank.

3. The standards for PDD rezoning are specified in 17.41.050 Standards for planned development districts by predominant land use - C. Commercial Planned Developments. All commercial planned developments shall demonstrate community benefits in aesthetics and construction to justify the PDD designation. The applicant provided the Plan Commission a

community benefits assessment dated June 20, 2019. In the simplest terms, the applicant's proposal replaces a building constructed in 1966 with one of contemporary architecture, building material and thermal performance and a site with reduced impervious surface area and current site landscaping.

4. The proposed use is a single-tenant building occupied by a bank with drive through. Days of operation: Sunday through Saturday. Hours of operation: ATM – 24/7; Video Tellers (ITM) 7 days/week M-F 8:00am to 7pm, Saturday 8:00am to 5:00pm, Sunday 10:00am to 4:00pm, Branch hours Monday to Thursday 9:00am to 5:00pm and Saturday, 9:00am to 2:00pm.

5. Building architecture is contemporary commercial with rectangular forms and angular, dual-slope roof. Principal building materials are masonry brick, cut stone and flat-lock metal panel. Accent materials are chamfered masonry block, aluminum storefront with clear glazing, aluminum soffit and glazing – all in tones of grey and beige. A fence enclosure for roll-out dumpsters is located on the north side of the building. Its building materials need to be revised to reflect those in use on the principal building unless the applicant is relieved of this requirement via the PDD ordinance.

6. Site landscaping will be installed per city Site Development Standards. A Capitol Drive streetyard landscape inventory is required and the streetyard upgraded as necessary for compliance.

7. The applicant is in receipt of a missive dated June 24, 2019 by Fire Chief Charlie Myers identifying Fire Code compliance requirements.

8. PDD Ordinance Characteristics:

Permitted Uses:	Same as Section 17.52.010 ("B-1" Local Business District)
Prohibited Uses:	Residential use Intensive uses listed in Section 17.108.090
Building Setback:	40' Washington Drive 65' Capitol Drive
Pavement Setback:	8' Washington Drive 18' Capitol Drive
Building Offset:	10'
Pavement Offset:	0'
Height Regulation:	35' - Same as Section 17.52.030 ("B-1" Local Business District)
Area Regulation:	F.A.R. 30% Max. - Same as Section 17.52.040 ("B-1" Local Business District) L.S.R. 30% Min. - Same as Section 17.52.040 ("B-1" Local Business District)

9. Site Development Characteristics:

Building Setback:	41' Washington Drive 69' Capitol Drive
Pavement Setback:	9' Washington Drive 19' Capitol Drive
Building Offset:	115'
Pavement Offset:	0'
Building Height:	24' 6 7/16"
Building Size:	2,950 sq ft.
Floor Area Ratio:	5.6%
Landscape Area Ratio:	41.2%

**Newly reported:** 10. A Neighborhood Information Meeting was conducted on July 31, 2019. No aldermen but four residents attended. One written comment was received and distributed to the Common Council and Plan Commission. Concerns expressed in the written comment do not pertain to the North Shore Bank proposal.

11. A public hearing was conducted by the Common Council on August 20, 2019. No citizen comments were received.

**Recommendation:** The project is consistent with the standards for PDD commercial evaluation, i.e. community benefits in aesthetics and construction. Staff recommends the Plan Commission approve an ordinance rezoning 15830 West Capitol Drive from “B-1” Local Business District with Modified Suburban Overlay to “PDD Commercial Use - General Plan” in association with construction of a 2,950 sq. ft. financial service building with drive-thru per the general plan entitled Cover Letter for the submittal of the proposed North Shore Bank Branch at 15830 West Capitol Drive, Brookfield WI and the attachments thereto subject to:

1. Compliance with requirements in a missive dated June 24, 2019 by Fire and Emergency Medical Services Department - Charlie Myers, Fire Chief
2. Approval of the rezoning to a PDD shall conditionally entitle the applicant to apply to the city for approval of a specific plan for the area in conformity with the general plan as previously approved by the common council, but all rights to commence development shall be conditioned upon city approval of the specific plan, and shall not make permissible any of the uses or developments until the specific plan is approved for all or a portion of the area included in the general plan.
3. If the approved general plan is not followed within six months of the date of approval by the common council by submittal of an application for approval of a specific plan, the approval shall be null and void and a new application and approval process shall be required to obtain general plan approval. The zoning of the property shall revert without hearing to the prior zoning classification. The six-month deadline may be extended for good cause for up to six additional months by the director of community development.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=NJe13FpWG6Ge> for the discussion.

***Motion to approve staff recommendation for approval of an ordinance rezoning 15830 West Capitol Drive from “B-1” Local Business District with Modified Suburban Overlay to “PDD Commercial Use - General Plan” in association with construction of a 2,950 sq. ft. financial service building with drive-thru per the general plan entitled Cover Letter for the submittal of the proposed North Shore Bank Branch at 15830 West Capitol Drive, Brookfield WI and the attachments thereto.***

***Motion by Mark Nelson  
Seconded by Rick Owen  
Motion carried 7-0***

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## **Item 6 North Shore Bank Specific Plan and Development Agreement**

Request of North Shore Bank, 15700 West Bluemound Road, Brookfield, WI 53005 – David Kane, V.P. for approval of a Specific Plan and development agreement at 15830 West Capitol Drive for the purpose of redeveloping 15830 West Capitol Drive with a new commercial building and site plan. (SE 1/4 of Sec. 3) – MT **\*\*Requires Common Council Approval\*\***

**Report:** 1. A PDD General Plan was approved for this project at the September 9, 2019 Plan Commission. The site plan and building architecture were reviewed at the project’s introduction to the Plan Commission on July 8, 2019 and public hearing by the Common Council on August 20, 2019.

2. The development consists of a 2,950 sq. ft. financial building with drive-thru.

3. The site/grading/utility plans are depicted on Sheets C1.1 and C1 -10 of the General/Specific Plan attachments. Site lighting photometric on Sheet C12. Site landscaping on Sheets C13-14. A streetyard mix of shade trees, ornamental trees, evergreens and shrubs consistent with the City of Brookfield Site Development Standards for Non-residential Uses (Standards) is provided. Per the Standards, streets lined with monoculture barriers of evergreens are undesirable.

4. Building design and materials are depicted on elevations and floor plan dated May 31, 2019 and December 9, 2018 respectively and are consistent with the designs and building materials presented to the Plan Commission/Common Council at the time of General Plan approval. The project satisfies the PDD community benefits requirement for Commercial PDDs which are demonstration of aesthetics and construction.

5. Parking is provided on-site.

6. A development agreement following the standard PDD format is required and will be executed.

7. Specific Plan development and dimensional standards are:

Building Setback:	41' Washington Drive 69' Capitol Drive
Pavement Setback:	9' Washington Drive 19' Capitol Drive
Building Offset:	115'
Pavement Offset:	0'
Building Height:	24' 6 7/16"
Building Size:	2,950 sq ft.
Floor Area Ratio:	5.6%
Landscape Area Ratio:	41.2%

8. Days/hours of operation:

Sunday through Saturday. Hours of operation: ATM – 24/7; Video Tellers (ITM) 7 days/week M-F 8:00am to 7pm, Saturday 8:00am to 5:00pm, Sunday 10:00am to 4:00pm, Branch hours Monday to Thursday 9:00am to 5:00pm and Saturday, 9:00am to 2:00pm.

9. The applicant is in receipt of a missive dated June 24, 2019 by Fire Chief Charlie Myers detailing fire code compliance requirements.

**Recommendation:** The PDD Specific Plan is consistent with the approved PDD General Plan. Staff recommends the Plan Commission approve the PDD Specific Plan under cover letter dated June 20, 2019 and authorize the Mayor and City Clerk to execute the PDD Development Agreement on behalf of the City subject to:

1. Site/grading/utility/lighting/landscape/building plans under Specific Plan Statement of operations dated June 20, 2019. All building plans marked to read, "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." All wall mounted meters and meter boxes are to be located on non-street facing walls and painted to match the building. If stainless steel meter boxes are used they will be etched and painted to match the building. All ground mounted HVAC or electrical transformers will be screened with landscaping or building forms.
2. Compliance with fire code requirements articulated in a missive dated June 24, 2019 by Fire Chief Charlie Myers.
3. Landscape Plan dated June 2019 by Robert E. Lee and Associates subject to Capitol Drive streetyard compliant with Site Development Standards, consultant plan review and technical corrections, secured with a letter-of-credit (City forms available from the Department of Community Development) equal to \$9,868.50 (\$2,550 per 1,000 sq. ft. street yard) for installation, \$1,702.80 for four (4) 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 (3,870 sq. ft. of street yard) AND

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

4. Grading, Drainage, Erosion Control Plans and Storm Water Management Application 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, B, and C 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. The bid from a contractor reflecting the cost of executing the work required on the Grading and Drainage Plan.
  - C. A letter-of-credit in compliance with the City letter-of-credit format deposited with the Department of Community Development. The monetary amount of the letter-of-credit shall be equal to 110% of the submitted bid. (City form available from the Department of Community Development)
  - D. 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.**
  - E. The letter-of-credit will be released by the Department of Community Development after the recertification documents are submitted to the city of Brookfield Engineering Division and approved.
5. Lighting in compliance with sections 15.16.080 and 17.120.070 of the City of Brookfield municipal code.
  6. Payment of applicable fees to the Community Development Department prior to issuance of a building permit:
 

Project Fees - General:	
\$To Be Determined	Engineering Review Fee
\$To Be Determined	Legal Review
\$To Be Determined	Inspection Fee (Public Improvements)
\$900.00	PDD Development Agreement
\$To Be Determined	Development Agreement Review Fee (Community Development and Engineering)
\$To Be Determined	Unpaid Assessment/s
\$1,440.00	Specific Plan Fee
\$165.00	Storm Water Management Review Fee
<u>\$350.00</u>	Landscape Plan Review Fee
To Be Determined	
  7. Once a building permit is issued by Inspection Services, the owner shall receive an occupancy permit within 24 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).
  8. Separate action by the Plan Review Board regarding all signage.
  9. Review and approval of the final PDD development agreement by the City Attorney prior to signature and recording thereof.
  10. The zoning status of the PROJECT shall revert to General Plan approval status unless the DEVELOPER has secured a building permit prior to the expiration date

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=NJe13FpWG6Ge> for the discussion.

***Motion to approve staff recommendation for approval of a Specific Plan under cover letter dated June 20, 2019 and authorize the Mayor and City Clerk to execute the PDD Development Agreement on behalf of the City in association with construction of a 2,950 sq. ft. financial service building with drive-thru at 15830 West Capitol Drive.***

## **Item 7 Chabad Lubavitch Conditional Use Public Hearing Request**

Request of Chabad Lubavitch of Waukesha, Inc., 1222 East Broadway, Waukesha, WI 53186 – Rabbi Levi Brook, for approval to schedule a conditional use public hearing permitting occupancy of 1275 North Barker Road by a conditional religious use with classrooms and daycare. (SE ¼ of Sec. 19) – MT **\*\*Requires Common Council Approval\*\***

**Report:** 1. The site is zoned “I” Industrial District with “SW” Shoreland Wetland and “FS” Flood Storage District Overlay. 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 “Higher Density - Employment”.

2. The applicant requests approval to schedule a conditional use public hearing for the purpose of occupying 1275 North Barker Road with a religious use. Section 17.108.050 of the Municipal Code classifies churches and accessory buildings thereto as “conditional”, permissible in any zoning district but subject to a public hearing process and approval of a conditional use ordinance by the Common Council.

3. Hours of operation are listed in the applicant’s statement of operations under a cover letter dated July 31, 2019 and floor plan Sheet A200 and include religious services for up to 70 participants, Sunday school, classes/counseling, daycare, meals/services and other occasional religious events. The site has formalized access, circulation and parking lot.

4. No exterior building alterations are proposed. Three additional parking stalls will be striped in the vicinity of the existing dumpster enclosure. Site landscaping will be restored. The forecast typical parking demand ranges from 6-22 stalls depending upon time of use. There are/will be 28 striped parking stalls on site. The municipal code requires 24 spaces for religious services delivered from the 70-seat sanctuary.

Special events with attendance ranging from 50-100 are possible with additional off-site parking. Parking supply at similar venues with space used for differing purposes at differing times are customarily parked for the occupancy of the largest assembly space, not necessarily the parking demand for a peak demand event. The city municipal code provides for the following parking supply solutions when additional parking spaces cannot be created on site:

*B. Modifications to Required Spaces. “...the plan commission may permit or require deviations from the requirements of subsection A of this section and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the standards set out in subsection (B)(1) and (2) of this section.”*

*1. Additional parking spaces can be required if it is determined that the prescribed requirement for a particular development will lead to traffic congestion or parking violations in adjacent streets or unauthorized parking in nearby private parking lots.*

*2. A reduction in parking spaces can be required if it is determined that the prescribed requirement for a particular development would result in the wasteful use of property that could more desirably be used for additional building development, in the case of a land use or development which would produce less parking demand, or for environmentally useful or aesthetically pleasing open space.*

*C. Parking Location. All required off-street parking spaces shall be located on the same lot as the use for which it is required except that required spaces may be permitted at other locations when and as authorized under subsection D of this section. The requirements of this section shall be considered satisfied if the outer limits of the required parking is provided within five hundred (500) feet of the building entrances being served, such distance being measured along the shortest available route of pedestrian access.*

*D. Alternatives to On-Site Parking: Shared or Off-Site Parking*

1. *The petitioner shall submit written documentation to the satisfaction of the plan commission that shared parking spaces are available to satisfy the parking requirements.*
    - a. *Shared parking agreements shall provide evidence that either parking lots are large enough to accommodate multiple users or that parking spaces will be shared at certain times of the day (i.e., one activity uses the spaces during daytime hours and another activity uses the spaces during evening hours.)*
    - b. *Off-site parking lots shall be located not more than five hundred (500) feet from the principal building entrance that it is intended to serve.*
  2. *When a reduction of parking spaces attributable to shared parking or off-site parking is requested, the petitioner shall submit written verification that such parking is available for the life of the applicant's use or reoccupancy thereof and shall include copies of any contracts, joint lease agreements, easements, and other such documentation to show that such shared parking can be accomplished. The method by which the required shared parking will be provided is subject to the approval of the city attorney and may be requested to be recorded under the provisions of subsection H of this section. Off-site parking spaces shall be clearly posted for the joint use of employees, tenants and/or customers of each respective use sharing those spaces.*
- E. Use of Alternative Transportation. Upon demonstration to the plan commission that effective alternative transportation to the single occupant will occur, the plan commission may reduce requirements as follows:*
1. *Commercial retail uses located within five hundred (500) feet of a public transit station may reduce parking requirements ten percent.*
  2. *Industrial and office uses located within one thousand (1,000) feet of a public transit station may reduce parking requirements fifteen (15) percent.*
  3. *Businesses with employer established rideshare programs may reduce parking requirements for each carpooled or bused employee not to exceed twenty (20) percent of required parking.*
  4. *One required parking space may be eliminated up to ten percent of the required spaces for priority spaces provided near building entrances for carpool vehicles.*
- F. Unclassified and Multiple Uses. In the case of uses not specified herein, the number of spaces specified as the general standard for that class of use or the number of spaces specified for similar use shall apply as determined by the director of community development. In developments involving the establishment or addition of two or more uses on one lot or parcel, the cumulative number of spaces required for each use shall determine the total number of spaces required.*
5. The applicant is in receipt of a missive dated August 14, 2019 by Fire Chief Charlie Myers regarding fire code requirements.

**Recommendation:** The conditional use is not prohibited in the base-zoning district. The on-site parking supply is sufficient for routine religious use of the building. Staff recommends the Plan Commission approve scheduling a conditional use public hearing subject to conducting a neighborhood information meeting and encouraging the applicant to prepare a peak parking demand supply plan.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=NJe13FpWG6Ge> for the discussion.

***Motion to approve staff recommendation for approval to schedule a conditional use public hearing permitting occupancy of 1275 North Barker Road by a conditional religious use with classrooms and daycare subject to conducting a neighborhood information meeting and the applicant preparing and submitting a peak parking demand supply plan.***

***Motion by Gary Mahkorn  
Seconded by Lisa Chang  
Motion carried 7-0***

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## **Item 8 18550 W Bluemound PDD Rezoning Public Hearing Request**

Request of 18550 W Bluemound, LLC, W5073 County Road O, Plymouth, WI 53073 – Randy Goll, Development Project Manager for approval to schedule a Planned Development District – Commercial rezoning public hearing permitting construction of a 3,000 sq. ft. commercial building at 18550 West Bluemound Road. (SW ¼ of Sec. 28) – MT **\*\*Requires Common Council Approval\*\***

**Report:** 1. The site is 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 corridor plan is *The Calhoun Road South Neighborhood Plan – 2001* (Node Plan). The recommended land use of the Node Plan is “Mixed Use – Ground Floor Retail, Residential/Office Above”. The adopted land use of the City of Brookfield 2035 Comprehensive Plan is “Shopping/Service Focused – Higher Density”.

2. The site is zoned “B-3” Regional Business District. The applicant is requesting approval of a Planned Development District public hearing, rezoning the site to Planned Development District No. \_\_\_ General Plan - Commercial allowing infill development of the site with a single tenant, single story, 3,000 sq. ft. building delivering shopping/service focused use between the existing east/west reciprocal access drive aisle and Bluemound Road. The site is identified as District A, Macro Parcel 1 in the Node Plan, which states the following with respect to this site, “...It is intended that each parcel be allowed to infill primarily residential uses in the northern portions of each parcel fronting on Wisconsin Avenue and primary retail or small office uses fronting Bluemound...”

3. The standards for PDD rezoning are specified in 17.41.050 Standards for planned development districts by predominant land use - C. Commercial Planned Developments. All commercial planned developments shall demonstrate community benefits in aesthetics and construction to justify the PDD designation. The applicant provided the Plan Commission a list of community benefits in its statement of operations dated July 31, 2019. A partial recitation includes provision of a new building appropriately located per the Node Plan utilizing genuine architecture and contemporary thermal performance with floor plan and window systems coordinated for a proposed tenant, rooftop HVAC screened by building architecture, site landscape restoration and pedestrian connections.

4. Building architecture is contemporary commercial with rectangular forms and accent lighting. Windows are placed in coordination with a floor plan in anticipation of precluding shades, curtains or walls with murals behind unwanted window openings. A genuine storefront faces Bluemound Road. Principal building materials are Nichiha masonry panel, brick and vision glass.

5. Site landscaping will be installed per city Site Development Standards.

6. The applicant is in receipt of a missive dated August 14, 2019 by Fire Chief Charlie Myers identifying Fire Code compliance requirements.

7. PDD Ordinance Characteristics:

Permitted Uses:	Same as Section 17.64.010 (“B-3” Regional Business District)
New Building Setback:	25’
Pavement Setback:	25’
Building Offset:	10’
Pavement Offset:	10’ (East and West)
Pavement Offset:	25’ (North)
Height Regulation:	35’ - Same as Section 17.64.030 (“B-3” Regional Business District)
Minimum Lot Size:	120,000 sq. ft.
Area Regulation:	F.A.R. 30% Max. - Same as Section 17.64.040 (“B-3” Regional Business District) L.S.R. 25% Min. – 5% less than Section 17.64.040 (“B-3” Regional Business District)

8. New Building Development Characteristics:

Building Setback:	35’
Pavement Setback:	25’
Building Offset:	100’ east and 130’ west

Pavement Offset:	10'
Building Height:	12' 8"
Building Size:	3,000 sq ft.
Floor Area Ratio:	24.2% (All buildings on the entire site)
Landscape Area Ratio:	27.2%
Lot Size:	190,884 sq. ft.
Parking:	177 (179 existing. 141 – 235 per municipal code)

9. While staff believes parking supply falls within the range of supply needed for the site based upon the uses disclosed in confidence to staff, the applicant should better describe/disclose the uses to the Plan Commission. The Plan Commission should consider requiring submittal of a parking study prior to scheduling the public hearing if authorized.

**Recommendation:** The proposed use is consistent with the land use recommendation of the adopted Node Plan and the 2035 Comprehensive Plan. Staff recommends the Plan Commission approve scheduling a Planned Development District rezoning public hearing, forego a Neighborhood Information Meeting as there is no abutting residential neighborhood and provide the applicant with direction regarding need for a parking analysis prior to scheduling a public hearing.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=NJe13FpWG6Ge> for the discussion.

*Motion to approve staff recommendation, except modifying the zoning setback requirement from twenty five feet to fifteen feet, for approval to schedule a Planned Development District rezoning public hearing, subject to the applicant submitting potential use parking scenarios and working with staff to improve building architecture regarding visual interest on the east, west, and north facades prior the hearing, and forego holding a Neighborhood Information Meeting prior to the hearing.*

*Motion by Mark Nelson  
Seconded by Steve Pettit  
Motion carried 7-0*

**Item 9 Consider amending Section 15.16.220 of the sign code re: increasing the number and overall size of I-94 wall signage**

**Report:**

1. Inspection Services staff has been working with the City Attorney's office in making significant changes to the sign code. For the most part, these changes are being made to address some legal issues. The current code does includes language which is not consistent with the legal standards which have been defined through case law. The entirety of the code amendments will be brought before Common Council at a later date in 2019.
2. This discussion item deals only with wall signs for buildings which are located along the I-94 corridor. The sign code permits a monument sign in addition to other permitted signs for properties along the corridor. It does not make special allowances for wall signs.
3. Community Development and Inspection Services staff have fielded requests from businesses regarding the limitations of signage along the I-94 corridor. The prevailing thought is that monument signage is not the preferred method to advertise business. Signs along the upper band of building exteriors are more visible to those travelling I-94. Approximately ten properties which are visible from I-94 could benefit from an amendment. Generally speaking, these buildings are located quite a distance from the interstate
4. It is common for office buildings to have significant wall signs along the corridor throughout the Milwaukee metropolitan area. Many of those properties are much closer to the interstate than those in Brookfield.
5. Points to consider include the total number of wall signs permitted, any restrictions regarding where they are placed on the building, total square foot allowed, should a percentage of band be used to determine size.

6. One example of a potential amendment: permit either a single wall sign, no greater than 250 square feet or two wall signs of approximately the same size, which total no more than 400 square feet for buildings abutting I-94. Signs must be located on the façade, below the highest ridge of the building.

**Recommendation:** Staff request direction from the Plan Commission on whether there is support for an amendment to the sign code.

General support was provided to draft needed code amendments due to the nature of the I-94 corridor, wetlands obstruction and evolving needs of businesses.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=NJe13FpWG6Ge> for the discussion.

**No action.**

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**Item 10 Request for a Public Hearing to amend Section 17.98 and related sections of the Zoning Code to provide details for the Modified Suburban Overly (MSO) that applies to a portion of Brookfield Square Shopping Center**

**Report:**

1. In 2014, the city enacted Ordinance 2356-14 that established a Modified Suburban Overlay (MSO) zoning district upon the Brookfield Square Shopping center and other properties within that portion of the *Calhoun Road South Neighborhood Land Use and Transportation Plan* Targeted Investment Area (TIA) 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.
5. The standards include excerpts from the associated design guidelines that were created for this area a number of years ago and prescribed building and pavement setbacks offsets, among other standards.
6. See part VI highlighted text for the major changes to the existing MSO text. A new version will be emailed to you over the weekend.

**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 Overly (MSO) that applies to a portion of Brookfield Square Shopping Center.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=NJe13FpWG6Ge> for the discussion.

**Motion to approve staff recommendation for approval to schedule a public hearing to amend Section 17.98 and related sections of the Zoning Code to provide details for the Modified Suburban Overly (MSO) that applies to a portion of Brookfield Square Shopping Center.**

**Motion by Mark Nelson**  
**Seconded by Steve Petitt**  
**Motion carried 7-0**

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**Item 11 Legislative Referral – Alderman Jeff McCarthy Amend Section 17.37.030**

July 12, 2019 legislative referral of Alderman Jeff McCarthy to, "Consider amending Section 17.37.030 of the zoning code re: a minimum offset of 50 feet to a rear property line when the proposed building is to be adjacent to an existing residential property. (MT-JM)

**Report:** 1. The legislative referral of Alderman McCarthy was initiated on the July 16, 2019 agenda of the Common Council. It would establish a 50' building offset from abutting residential property in the R-4 Residential zoning district where the current offset is 25'.

2. The building offsets of other zoning districts when abutting residential zoning districts are as follows:

20' R-2 and R-3 lots predating August 15, 1989 or any lot created by CSM

25' R-2 and R-3 lots created after August 15, 1989

20' M-1 and M-2 lots

25' B-1R, B-1, B-2 and B-3

50' O, O&LB, O&LR/C/LI

100' O&LI

200' I

3. Building offsets from residential zoning districts tend to increase proportionately to the potential for taller buildings, noise or overnight operations. However, there's nothing inherently incompatible with proximity to permitted uses in the R-4 district as evidenced by building offsets in other residential zoning districts.

**Recommendation:** Increased horizontal separation for conditional use of residentially zoned property is suggested in Alderman Blackburn's legislative referral and under discussion in Item 12 on the September 9, 2019 Plan Commission agenda. Staff recommends pursuing codification of performance standards, i.e. differing regulations for conditional use of residentially zoned property rather than establishing a 50' building offset in the R-4 zoning district.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=NJe13FpWG6Ge> for the discussion.

**Motion to approve staff recommendation to pursue codification of performance standards for conditional use of residentially zoned property rather than establishing a 50' building offset in the R-4 zoning district.**

**Motion by Mark Nelson**

**Seconded by Gary Mahkorn**

**Motion carried 7-0**

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## **Item 12 Legislative Referral – Alderman Christopher Blackburn Amend Conditional Use with Staff Update Regarding Revision of Section 17.108.050 Conditional Uses**

August 7, 2019 legislative referral of Alderman Christopher Blackburn for, "Consideration of increased setback distances, distance requirements from residential housing for certain uses, locating particular uses in specific zoning districts, FAR and height limitations lower than the underlying zoning." including staff update regarding initial need to revise Section 17.108.050 Conditional Uses. (MT-CB)

**Report:** 1. As evidenced by the legislative referral (attached) of Alderman Blackburn and passage of ACT 67 2017 (attached) there is not only an expressed desire but a necessity to amend Section 17.108.050 Conditional Uses in the municipal code. To that end, staff initiated preparation of a code modification that anticipates:

- Deletion of some conditional uses completely, e.g. mining
- Conversion of some conditional uses to permitted uses in non-residential districts, e.g. daycare
- Establishment of regulatory standards for conditional uses

2. Establishment of regulatory standards for conditional uses is consistent with the recommendations of Alderman Blackburn as well as the requirement of ACT 67 which states, "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."

3. The city's current standard for conditional use approval per 17.108.050 B. Conditional uses is, "...The plan commission may recommend and the council may impose such restrictions upon the use, height and bulk of any structure or land so approved for conditional use as may be reasonable under the circumstances, provided such restrictions shall not be more restrictive than the requirements established for the district in which such structure is proposed to be located." Other code sections applicable to conditional uses include Title 14 Stormwater Management, Landscape standards of the city Site Development Standards for Non-residential Uses and portions of Title 15 Buildings and Construction. Under the code revisions envisioned by staff, these code sections will remain applicable. These and other code sections will be enhanced to address conditional use.

4. With respect to Alderman Blackburn's referral the Plan Commission should comment on the desirability to:
- Increased setback distances, distance requirements from residential housing for certain uses.
  - Locate particular uses in specific zoning districts
  - Establish FAR and height limitations lower than the underlying zoning (presumably applicable in residential districts). City staff will comment on the challenges to achieve this goal under the construct of ACT 67..

**Recommendation:** Staff recommends the Plan Commission provide staff direction with respect to the concepts expressed in Alderman Blackburn's legislative referral for follow up with recommended code revisions.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=NJe13FpWG6Ge> for the discussion.

**No action.**

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## Item 13 Comprehensive Plan Update

Update and discussion of the City's 2050 Comprehensive Plan led by Community Development staff. – RV

### Report:

1. Vandewalle has completed Draft #2 of the 2050 Comprehensive Plan for review by City staff and the Plan Commission. The consultant team has incorporated the comments and direction made by the Plan Commission and staff on Draft #1, and revised the document for use in the upcoming open house meeting on September 12, 2019. A copy of Draft #2 is available on the City website under Community Development & Planning: <http://wi-brookfield2.civicplus.com/963/Comprehensive-Plan-Update>.
2. Community Development Staff and members of the Vandewalle team will host a public meeting September 12 in the Courtroom of the Public Safety Building from 6:00pm to 8:00pm. The public meeting is an opportunity for the community to engage City staff and the consultants on the contents of Draft #2. Display boards and material handouts will be available for members of the community to learn more about the progress of the planning effort and how to participate. The meeting will be an open house format. For those who cannot attend the public meeting, the materials and handouts of the meeting will be available after the meeting at the Community Development counter in City Hall during normal business hours. Community Development staff will be accessible to summarize and discuss the topics of the plan with those interested.
3. A presentation on Draft #2 will be given by Vandewalle at a later Plan Commission meeting, currently scheduled for October 14, 2019, alongside community feedback obtained at the public meeting on the contents of the draft document. In the interim, Staff will attend to any comments the Plan Commission may have on Draft #2 for consideration of further revision of the document toward Draft #3.

4. Staff has completed drafting the contents of the web-based community survey with University of Wisconsin Survey Center (UW-Survey Center) and Vandewalle. UW-Survey Center is currently producing the mailings and web-form to be filled out by households that receive the mailed invitation. UW-Survey Center was hired to administer the survey to ensure the validity of results and anonymity of respondents.

**Recommendation:** The Plan Commission represents the primary source for project steering, feedback, general discussion, and past personal knowledge throughout the process of updating the City's Comprehensive Plan. With a more thorough update from Vandewalle on Draft #2 forthcoming, staff recommends the Plan Commission provide any initial comments necessary regarding Draft #2 of the 2050 Comprehensive Plan.

Refer to video recording of this item at <https://cityofbrookfield.viebit.com/player.php?hash=NJe13FpWG6Ge> for the discussion.

**No action.**

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## **Adjournment**

**Motion by Mark Nelson**

**Seconded by Mike Smith**

**Motion carried unanimously**

**Meeting adjourned at 9:25pm**

*Record respectfully submitted by Richard VanDerWal, Neighborhood Planner*