

PLAN COMMISSION
October 24, 2022 Minutes

The Plan Commission met on the above date at 4:30 p.m. in the Council Chambers.

The following members were present: Mayor Emily McFarland (Chair), Jaynellen Holloway (Director of Public Works/City Engineer), Nick Krueger, Brian Konz, Alyse Talaga, and James Romlein (Recording Secretary).

The following members were absent: Becky Huff

Others on Line: Tony Meyers, Jason Puestow, and Jacob Rosbeck

Citizens Present: Vicente Flores-Martinez, Marcus Bolaros, Mariani Marysue, Chandy Aschenbrener

1. CALL TO ORDER

2. APPROVAL OF MINUTES

A. Review and take action: Site Plan Review minutes dated October 10, 2022

Motion to accept Romlein, Second Holloway
Unanimous by voice vote

B. Review and take action: Plan Commission minutes dated October 10, 2022

Correction to minutes by Konz, to “remove Konz as attendee”

Motion to accept as amended by Holloway, Second by Krueger
Unanimous by voice vote

3. BUSINESS

A. Conduct public hearing: 771 N. Church Street – Conditional Use Permit (CUP) request for exterior storage under Section 550-109D

Background:

Vicente Flores-Martinez, applicant, and Flores-Martinez Enterprises, LLC (Vicente Flores-Martinez, registered agent & property owner), are proposing screened refuse containers at 771 N. Church Street. 771 N. Church Street is zoned Planned Business (PB).

Mayor McFarland opened the public hearing and called for citizens wishing to comment to come forward:

Chandy Aschenbrener, the most adjacent neighbor, asked for a description of the use and operation of the facility.

With no other citizens to speak, Mayor McFarland advised that the reply would be addressed in the following action and closed the public hearing.

B. Review and take action: 771 N. Church Street – Conditional Use Permit (CUP) request for exterior storage under Section 550-109D

Background:

Vicente Flores-Martinez, applicant, and Flores Martinez Enterprises, LLC (Vicente Flores-Martinez, registered agent & property owner), are proposing screened refuse containers at 771 N. Church Street. 771 N. Church Street is zoned Planned Business (PB).

Relevant Information:

The following information has been identified by the City of Watertown as pertinent to this action:

1. Under Section § 550-109D

Requirements for exterior storage in nonresidential districts. In all office, commercial and industrial zoning districts (see § 550-17 for a listing of these districts), all materials, equipment and trailers shall be stored within a completely enclosed building, except for the following, which shall not be located within any front yard or required street yard (except for vehicles and/or trailers in designated parking spaces) and shall be stored a minimum of five feet from any and all property lines: screened refuse containers; construction materials, landscape materials and related equipment associated with on-site construction; and off-street parking. Such exterior storage shall require a conditional use permit per § 550-142.

[Amended 8-18-2015 by Ord. No. 15-31]

Decision:

Under 2017 Wisconsin Act 67:

62.23 (7) (de) Conditional use permits.

1. In this paragraph:

a. "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.

b. "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 and that reasonable persons would accept in support of a conclusion.

2. a. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.

b. The requirements and conditions described under subd. 2. a. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The city's decision to approve or deny the permit must be supported by substantial evidence.

| Criteria | Applicant Provided Substantial Evidence | | Opponent Provided Substantial Evidence | | PC Finds Standards Met | |
|--|---|----|--|----|------------------------|----|
| | Yes | No | Yes | No | Yes | No |
| <i>If located on the same side of the building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 150 feet, or as far as possible, of a residentially zoned property</i> | Yes | No | Yes | No | Yes | No |

If Plan Commission answers "no" to the last of the questions, above, the CU permit must be denied.

| Criteria | Applicant Provided Substantial Evidence | | Opponent Provided Substantial Evidence | | PC Finds Standards Met | |
|---|---|----|--|----|------------------------|----|
| | Yes | No | Yes | No | Yes | No |
| <i>Facility shall provide bufferyard with minimum opacity of 0.60 along all borders of the property abutting residentially zoned property (see § 550-99).</i> | Yes | No | Yes | No | Yes | No |

If Plan Commission answers "no" to the last of the questions, above, the CU permit must be denied.

| Criteria | Applicant Provided Substantial Evidence | | Opponent Provided Substantial Evidence | | PC Finds Standards Met | |
|---|---|----|--|----|------------------------|----|
| | Yes | No | Yes | No | Yes | No |
| <i>One space per every three patron seats or lockers (whichever is greater) or one space per three persons at the maximum capacity of the establishment (whichever is greater).</i> | Yes | No | Yes | No | Yes | No |

If Plan Commission answers "no" to the last of the questions, above, the CU permit must be denied. Otherwise, proceed to the condition of approval.

3. Upon receipt of a conditional use permit application and following publication in the city of a class 2 notice under ch. 985, the city shall hold a public hearing on the application.

4. Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the city zoning board.

5. If a city denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in par. (e) 10

If Plan Commission answers "no" to the last of the questions, above, the CU permit must be denied. Otherwise, proceed to the condition of approval.

Mayor McFarland opened the action. As Ms. Sonja Kruesel is not present, Mayor McFarland provided a brief summary of the action and invited Mr. Flores to further describe the business.

Mr. Flores Martinez

We operate an existing restaurant business in Hartford and have plans to expand the business in Watertown. We offer a wide variety of Mexican foods ranging from sandwiches to full meals. The business will operate seven (7) days a week with Monday thru Saturday hours from 7 a.m. to 8 p.m. and Sunday hours from 7 a.m. to 2 p.m.

Engineer Holloway advised that Ms. Kruesel had left a summary of the issues, which she read to the committee to establish the basis for the commission's recommendation.

Engineer Holloway from Kruesel document

Subject: RE: Please Review - Plan Commission meeting materials for 771 N. Church Street

Hi All, and Cc' Mayor McFarland,

I just spoke with the applicant Vicente. I explained to him that the zoning code technically does not allow dumpsters to be located in the front yard. I highlighted this section below.

I asked him if he considered other options and pointed out a couple that I thought would work instead. He did say that the North side of the building next to the Redi Gas business would probably work and would be okay with him.

He further explained that his original reason for having the dumpsters on the far south end of the property was to keep flies away from the building, however he understands this location won't work according to the code, and also noted that at least the north side of the building is away from customer entrances, so hopefully any concerns with flies, etc. are mitigated.

Finally, I let him know that I would be emailing other city staff with this recommendation since I won't be at the Plan Commission meeting tonight. He said he might not have time to attend but that his partner would be there.

For the Plan Commission, I recommend approving the conditional use permit for screened refuse containers with the condition that they not be located in the front/street yard, and instead be located behind or to the side of the building such as the north side of the building as discussed with the applicant.

Please let me know of any questions.

Requirements for exterior storage in nonresidential districts. In all office, commercial and industrial zoning districts (see § 550-17 for a listing of these districts), all materials, equipment and trailers shall be stored within a completely enclosed building, except for the following, which shall not be located within any front yard or required street yard (except for vehicles and/or trailers in designated parking spaces) and shall be stored a minimum of five feet from any and all property lines: screened refuse containers; construction materials, landscape materials and related equipment associated

with on-site construction; and off-street parking. Such exterior storage shall require a conditional use permit per § 550-142.

To open discussion, Mayor McFarland asked for a directed Denial, an Approval, or a Conditional Approval Motion, with conditions of the Conditional Use Permit that includes the recommended, not located in the front or street yard, which has been discussed with Mr. Martinez.

Motion by Holloway to approve the CUP with conditions identified by the Plan Commission that, the refuse containers shall not be located in the front/street yard. Second by Romlein

Mayor McFarland called for further discussion. Hearing none, McFarland expressed strong support for an additional restaurant on the north side given the high level of activity in Brandt Quirk and the immediate area.

An extended general discussion followed where in a graphic of the site was displayed and other details of the site were reviewed.



**Mayor McFarland called the question
Unanimous by voice vote**

C. Conduct public hearing: 771 N. Church Street – Conditional Use Permit (CUP) request for Indoor commercial entertainment under Sections 550-32B(2)(g) and 550-52H

Mayor McFarland opened the comparing action public hearing and called for citizen comments, seeing none - Mayor McFarland closed the public hearing and opened the companion action item.

D. Review and take action: 771 N. Church Street – Conditional Use Permit (CUP) request for Indoor commercial entertainment under Sections 550-32B(2)(g) and 550-52H

Background:

Vicente Flores-Martinez, applicant, and Flores Martinez Enterprises, LLC (Vicente Flores-Martinez, registered agent & property owner), are proposing to operate a restaurant at 771 N. Church Street. 771 N. Church Street is zoned Planned Business (PB).

Relevant Information:

The following information has been identified by the City of Watertown as pertinent to this action:

1. Under Section § 550-32B(2)(g)
 - (2) Principal land uses permitted as conditional use (per § 550-45B):
 - (a) Clear-cutting.
 - (b) Indoor institutional.
 - (c) Outdoor institutional.
 - (d) Institutional residential.
 - (e) Outdoor display.
 - (f) In-vehicle sales or service.
 - (g) Indoor commercial entertainment.
 - (h) Commercial animal boarding.

- (i) Commercial indoor lodging.
- (j) Bed-and-breakfast establishments.
- (k) Group day-care center (nine or more children).
- (l) Vehicle repair and maintenance.

2. Under Section § 550-52H:

H. Indoor commercial entertainment. Description: Indoor commercial entertainment land uses include all land uses which provide entertainment services entirely within an enclosed building. Such activities often have operating hours which extend significantly later than most other commercial land uses. Examples of such land uses include restaurants, taverns, theaters, health or fitness centers, all forms of training studios (dance, art, martial arts, etc.), small-scale alcoholic beverage production, bowling alleys, arcades, roller rinks, and pool halls.

(1) Regulations:

(a) If located on the same side of the building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 150 feet, or as far as possible, of a residentially zoned property.

(b) Facility shall provide bufferyard with minimum opacity of 0.60 along all borders of the property abutting residentially zoned property (see § 550-99).

(2) Parking requirements. One space per every three patron seats or lockers (whichever is greater) or one space per three persons at the maximum capacity of the establishment (whichever is greater).

Decision:

Under 2017 Wisconsin Act 67:

62.23 (7) (de) Conditional use permits.

1. In this paragraph:

a. "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.

b. "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 and that reasonable persons would accept in support of a conclusion.

2. a. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.

b. The requirements and conditions described under subd. 2. a. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The city's decision to approve or deny the permit must be supported by substantial evidence.

| Criteria | Applicant Provided Substantial Evidence | | Opponent Provided Substantial Evidence | | PC Finds Standards Met | |
|--|---|----|--|----|------------------------|----|
| | Yes | No | Yes | No | Yes | No |
| <i>If located on the same side of the building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 150 feet, or as far as possible, of a residentially zoned property</i> | Yes | No | Yes | No | Yes | No |

If Plan Commission answers "no" to the last of the questions, above, the CU permit must be denied.

| Criteria | Applicant Provided Substantial Evidence | | Opponent Provided Substantial Evidence | | PC Finds Standards Met | |
|--|--|----|---|----|------------------------------|----|
| Facility shall provide bufferyard with minimum opacity of 0.60 along all borders of the property abutting residentially zoned property (see § 550-99). | Yes | No | Yes | No | Yes | No |

If Plan Commission answers "no" to the last of the questions, above, the CU permit must be denied.

| Criteria | Applicant Provided Substantial Evidence | | Opponent Provided Substantial Evidence | | PC Finds Standards Met | |
|--|--|----|---|----|------------------------------|----|
| One space per every three patron seats or lockers (whichever is greater) or one space per three persons at the maximum capacity of the establishment (whichever is greater). | Yes | No | Yes | No | Yes | No |

If Plan Commission answers "no" to the last of the questions, above, the CU permit must be denied. Otherwise, proceed to the condition of approval.

3. Upon receipt of a conditional use permit application and following publication in the city of a class 2 notice under ch. 985, the city shall hold a public hearing on the application.
4. Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the city zoning board.
5. If a city denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in par. (e) 10

Mayor McFarland summarized the issues noting that all requirements were met and noted that the Alderman for the area Mr. Lampe provided a letter of support for this restaurant and listed many positive contributions that will result from this business.

Recommendation:

Approve the Conditional Use Permit without conditions, based on successfully providing substantial evidence of regulatory compliance.

Mayor McFarland called for a motion

Engineer Holloway moved for approval with no conditions based on successful evidence of regulatory compliance. Second by Krueger.

Mayor McFarland called for discussion or question

Mariani Marysue, a neighbor, questioned the entertainment issue

Mayor McFarland clarified that restaurants fall under the category of indoor commercial entertainment.

A brief discussion among the members and attendees followed on future possible citing options.

Mayor McFarland called the question

Unanimous by voice vote

4. ADJOURNMENT

Mayor McFarland call for a motion to adjourn

Motion by Konz, Second by Talaga

Unanimous by voice vote

Respectfully Submitted,
James W. Romlein Sr. PE
Recording Secretary

Note: These meeting notes are uncorrected, and any corrections made will thereto be noted in the proceedings at which these minutes are approved.