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MINUTES
Zoning Board of Appeals
January 15, 2009

MEMBERS PRESENT: John Higgins, Fred Haerter, Cecilia Lucas, David Robinson, John Setter

OTHERS PRESENT: James Schultz, Zoning Administrator; Paula Blise, Zoning Coordinator; Steve Mills, Petitioner; Mark Lake, Petitioner

The meeting was called to order at 4:01 p.m. by chairman John Higgins; the roll was called.

ITEM #1

Approval of Minutes of October 17, 2008

A motion was made by John Setter and seconded by David Robinson, to approve the minutes of October 17, 2008; the motion carried unanimously.

ITEM #2

Special Exception Petition to Erect an Additional Monument Sign at 10222 74th Street (Future Concordia College Location) (*Majority Vote Required for Approval*)

Address:	10222 74th Street
Parcel Number:	03-122-05-325-282
Property Owner:	Berwick Properties, Inc. (Stephen C. Mills)
Petitioner(s):	Steve Mills
Zoning Classification:	B-2 (Unified Business Center)
Code of General Ordinances:	Section 15.06 C

The meeting was opened to a public hearing.

Steve Mills, 4011 80th Street, spoke. He explained to the Board that his goal is to install a monument sign for the Concordia Building at 10222 74th Street (across from the Candlewood Suites). Mr. Mills anticipates that there will be three (3) tenants in the Concordia building. He feels that a monument sign would be more aesthetically pleasing than "channel lettering" such as that which is used at the Old Elm Executive Park.

Mr. Mills stated that a Unified Business Center (UBC) status had been granted by the City Plan Commission. Mr. Mills pointed out that the properties within the UBC have different ownership groups. He acknowledged that a mistake was made on his part during the approval process for the Concordia building - one of the conditions he accepted was that there would be no monument sign installed at the Concordia site. However, his opinion is that the Concordia site is a separate tax parcel with a different owner, and it is entitled to a separate monument sign.

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Ed Antaramian, Acting City Attorney, spoke. He explained that the "division" of the outlot under discussion was obtained through a condominium plat/process. At this time, the site consists of two (2) tax parcels created by a condo plat.

Attorney Antaramian also provided the following information:

- Section 15 of the Code of General Ordinances states that one (1) monument sign is allowed per outlot; however, it does not give a clear definition of an outlot.
- Section 2.36 of the Wisconsin State Statutes illustrates the legal instruments to divide property, such as through a regular plat or CSM, without mention of a condominium plat.
- Section 7.03 of the Wisconsin State Statutes regarding condominium plats uses similar language; but, identifies the division of land into units rather than lots.

Attorney Antaramian perceives that the the City Plan Commission regards the parcels as one site. If the Board determines that the parcel is one site (lot) with two units, there will be no conflict with the City Plan Commission. If the Board determines that the parcel contains two (2) separate outlots, the petitioner will be able to go to the City Plan Commission for further review of his request.

Attorney Antaramian reiterated that there is no clarity in the ordinance regarding whether a condo plat is a legal division of land; and, the Board is here to deliberate whether the two buildings (Candlewood Suites and Concordia) are considered to be on one (1) or two (2) outlot(s).

Mr. Mills maintained that a condo plat is a legal document for taxation purposes, etc., and that he is merely looking for an opportunity to go back to the the City Plan Commission.

John Setter asked for clarification regarding how the original five (5) lots in the UBC were divided, as it appears that they each have a monument sign. Mr. Mills answered that he did not know how the parcels were divided. Chairman Higgins interjected that those signs were in existence before the UBC was created. Fred Haerter asked Attorney Antaramian if the two (2) parcels that were created by the condo plat are two (2) legal lots. Attorney Antaramian answered that the condo plat created two (2) parcels, but the definition of a lot needs to be clarified. Attorney Antaramian was then asked to state his opinion. He stated that, due to the City Plan Commission's position, he believes that the two (2) parcels are one (1) outlot; however, he has some hesitation because the ordinance is not clear.

Chairman Higgins explained that by definition, a condo is a unit (property). Under condo law, the owner does not have interest in the land on which the property is built.

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A representative associated with S.R. Mills argued that a unit could describe an entire parcel, including the land.

The meeting was closed to a public hearing.

Mr. Setter expressed that he is willing to approve the petitioner's request, as he feels one has a right to identify one's business.

Chairman Higgins stated that the Conditional Use Permit identifies the property as one (1) lot.

Cecilia Lucas asked if the petitioner would be allowed to present his case to the City Plan Commission if the petition is denied by the Zoning Board. Mr. Schultz answered in the negative.

Chairman Higgins made a motion to deny the petitioner's request based upon the following: 1) the properties are separate units on one (1) lot; and, 2) the decision is in conformance with the the City Plan Commission's position. Fred Haerter seconded the motion. The motion carried; 3-1, with John Setter voting nay.

ITEM #3

Special Exception Petition for Relief to Exceed the Fifteen-foot (15') Maximum Sign Height Restriction in Order to Utilize a Thirty-two-foot-one-inch (32'1") Tower as a Free-standing Sign Structure (*Majority Vote Required for Approval*)

Address: 7505-7539 Sheridan Road
Parcel: 06-123-07-130-005 to 06-123-07-131-011
Property Owner: Various (Option to Purchase Agreements on File)
Petitioner(s): BRIC Associates/Mark C. Lake, Agent
Zoning Classification: B-2
Code of General Ordinances: Section 15.06 C

Mark Lake spoke. He stated that the City Council desires the proposed Walgreen's building at the corner of 75th Street and Sheridan Road to have an "urban edge." As it is not possible to construct the building close to the sidewalk, the City will allow him to set the building back with a symmetric tower directly on the corner. If no sign is permitted on the tower, the tower will still be constructed. In addition, if the sign is not permitted on the tower, two (2) monument signs would be allowed in accordance with the Sign Ordinance.

Brian Wilke, City Planner, stated the Plan Commission supports the petitioner's request.

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A motion was made by Chairman Higgins to approve the petitioner's request. Fred Haerter seconded the motion. The motion carried unanimously.

ITEM #4

Public Comments

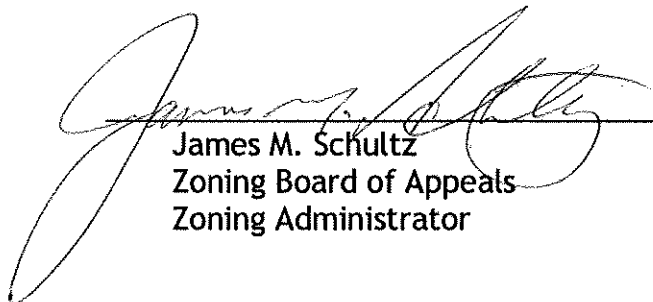
There were no public comments.

ITEM #5

Any Other Business as Authorized by Law

There was no other business.

Fred Haerter made a motion to adjourn the meeting at 4:24 p.m., Cecilia Lucas seconded the motion. The motion carried unanimously.



James M. Schultz
Zoning Board of Appeals
Zoning Administrator

Minutes prepared by:
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