

**TOWN OF OCONOMOWOC
PLAN COMMISSION MEETING MINUTES**

December 4, 2023

Chairman Robert Peregrine called the meeting to order at 5:00 p.m. Commissioner's present included James Navin, Linda Bergman, Dione Funk, Jim Roche, Wayne Euclide, and Pat Agnew. Also in attendance were Ben Greenberg from Waukesha County Park and Planning, Administrator/Planner Jeffrey Herrmann, and Clerk/Treasurer Lori Opitz. For additional attendees please see the sign-in sheet.

A Joint Public Hearing will be held by the Town of Oconomowoc Plan Commission and a Staff Representative of Waukesha County Department of Parks and Land Use to consider the Conditional Use request (CU100) of The Home City Ice Company, 6045 Bridgetown Road, Cincinnati, OH 45248, to allow after the fact operational changes to an existing ice productions business. The use is pursuant to the "Other Uses not specifically provided for" in Section 3.08(7)(X) of the Waukesha County Zoning Code. The property is split between the jurisdictions of the Waukesha County Zoning Code and Waukesha Shoreland Protection Ordinance, with the business operations taking place entirely within the jurisdiction of the Waukesha County Zoning Code. The subject property is located in part of the NW ¼ of the NW ¼ of Section 18, T8N, R17E, Town of Oconomowoc. More specifically, the property is located at N80 W39901 McMahan Road (Tax Key No. OCOT 0502.999).

Chairman Robert Peregrine opened the public hearing at 5:01 p.m.

Ben Greenberg, Waukesha Park, and Planning stated the public hearing is to allow after the fact operational changes to the CU for an existing ice productions business. He stated the properties that were 300 feet from the business were notified of the hearing including the properties in Jefferson County. He then gave a little history of the property; In 1983 a CUP for unclassified use issued by the Town and County for four trucks per day. In 1988 there was a CUP amendment to expand loading docks, hours of operation from 8:00 a.m. to 5:00 p.m.; every day in the summer and five days per week in the off season, 8 employees and four trucks per day. He said in 1991 the storage facility and employees increased. In 1997 additional storage and the hours increased from 6:30 a.m. to 6:00 p.m. in the summer. Somewhere between 2005-2010 the site expanded without permits and in 2011, transfer of ownership and no SPPO approval. In July of 2023 the County received a complaint of the activity, noise, loud music, delivery trucks driving at unsafe speed, two incidents of dogs barking at 11:00 p.m., and business operations beyond the approval hours. The County sent a letter of violation and the applicant applied to amend the CUP/SPPO to allow site plan and operational changes after the fact such as: hours of operation (24/7 April through September), number of trucks from 4 to 15, and increase the number of employees to 22 in season to 30 in season and is seeking site plan approval as well. He also stated the owner has been cooperative with staff and a site visit was conducted in October with staff from the Town and County with the plant manager and they were given full access of the facility and found the building to be very well insulated and being 10 and up to 40 feet away no noise was noticed coming from the building. Also, he wanted to note that conditional use laws do not require conditional uses to be consistent with the comprehensive use plan and felt that should be noted.

Administrator/Planner Herrmann stated that when he was on site and in the parking lot, he could not find any noise coming from the building, just some occasional noise from the trucks.

Commissioner Euclide asked how far away the complaint came from for the noise; Ben Greenberg stated the complaint came from the east its roughly about 1,200 feet from the property.

Attorney Tim Andringo from the law firm of Cramer & Multhauf stated he is representing his clients Chris & Maddie McMahan at N79W39625 McMahan Road. He stated the applicant received a violation on July 27th for an inspection and they had 30 days to comply, but it did not work for them until the beginning of October because they wanted to get through their busy season and clean up the site before the inspection, however, they sill continued to operate after the violation. When an inspection was done in

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October, it was not done during their peak time. He stated in 1983 when the CUP was established, there were two neighbors that didn't want the noise and the doors were to remain closed and all conditions of the CUP should be followed and it would apply to every amendment; back then it was AG use and rural and now the area is more residential. In 1988 they put up a pole building and expanded the dock doors and no outside storage, and all prior terms stayed. In 1991, another 60 foot and 120-foot additional storage building was put up for them to use to do repairs and the hours were 8:00 a.m. to 5:00 p.m. seven days a week in the summer and 8:00 a.m. to 5:00 p.m. Monday through Friday during the offseason, no complaints and all prior terms stayed. In 1997, they added another storage building and added employees and the hours changed in the summer from 6:30 a.m. to 6:00 p.m., no more than four trucks and all the other conditions remained the same. After the complaint in 2023, they applied for an increase in their CUP. Mr. McMahan, the client he is representing, talked with Jason from the company regarding the noise before he filed the complaint and Jason stated they had the Kwik Trip account it will get worse before it gets better. Mr. Andringo stated since 1983 there should have been an inspection done every year, however, there hasn't been one since the CU in 1983. He also stated the CUP should be revoked because of the zoning code 3.086(a) because this code says a CU can be revoked if they did not operate with original CUP, which they are not & 3.0869(b) which states, if the change of character is not consistent with the surrounding area, permits a revoke of CUP, which the area is now residential. He stated he is asking to revoke the CUP because both codes warrant a revoke of the CUP.

Michele Hollatz, N79W39375 McMahan Road, stated she is a sound specialist and sound travels when it hits hard surfaces; she said doesn't hear noise from the building, it is the increase in trucks down the road is causing the noise issue.

Dale Hansen, N79W39623 McMahan Road, takes walks daily and has seen a lot more truck traffic down McMahan Road and it is a very well-traveled road.

Jerry Counsell, N79W39551 McMahan Road, stated he can feel the vibration from the trucks and the forklifts can be hard and felt in his house. Also feels the trucks speed too much on the road.

Mark Harris, W287 McMahan Road, stated he can hear the machines going at night when the windows are open and there is a lot of traffic on the road.

Linda Bergman asked if there are weight limits on the road; Administrator/Planner stated that it is seasonal limits and usual in Spring – late March/Early April.

John Mossreiner, N79W39519 McMahan Road, stated he has lived there since 1979 and has seen a huge increase in truck traffic, volume, and noise in the area. For the record, he stated he would like them to find a different industrial area to do their business.

Lee Hansen, N79W39623 McMahan Road, stated he feels the trucks are too big for the roads.

Jason, the petitioner, stated it is a family-owned business; they are doing the Kwik Trip account, they are using the number of trucks they are asking for, but looking to use less. He stated the family took over in 2011 on the property and have made the necessary changes to comply and are willing to make things better for the area when it comes to the company staying where they are. He also stated that when the County and the Town wanted to come out, we stated they could come out whenever it was possible for them, however, it worked out they came in October because that worked for their schedule.

Administrator/Planner Herrmann stated he is making a recommendation not to close the public hearing but to adjourn it to a later date so information could be compiled regarding the traffic study, information from the Police Chief and weight limits on the road. This way the information will be available and be made known during the public hearing.

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Chairman Robert Peregrine adjourned the public hearing until January 15, 2024, at 5:00 p.m.

1. **Approve Minutes for November 20th meeting.** – Commissioner Navin made the motion to approve the November 20th meeting minutes as presented. Commissioner Funk seconded the motion. Motion carried by unanimous voice vote.
2. **Public Comments.** - None
3. **Consider and Act on the Site Plan/Plan of Operation for Kick Switch. The property is described as part of the SW 1/4, Section 36, T8N, R17E, Town of Oconomowoc. More specifically the property is located at N51 W34922 E Wisconsin Ave (Tak Key No. OCOT 575.984.001).** – Administrator/Planner Herrmann stated the Town now has an Architectural Committee that will see applications and make their recommendations to the Plan Commission, however, the Committee met earlier in the day, and they took no action will meet again after the applicant resubmits documentation that they are looking for. Commissioner Roche made the motion to table the Site Plan/Plan of Operation for Kick Switch at the property located at N51W34922 E. Wisconsin Avenue until the January 15th, 2024, meeting. Commissioner Bergman seconded the motion. Motion carried by unanimous voice vote.
4. **Consider and Act on the Site Plan/Plan of Operation for Bryants on the Round for a new pergola. The property is described as part of the SW ¼ of Section 36, T8N, R17E, Town of Oconomowoc. More specifically, the property is located at N51 W34911 Wisconsin Ave, Okauchee (Tax Key No. OCOT 575.947).** – Commissioner Euclide made the motion to approve the Site Plan/Plan of Operation for Bryant’s on the Round for a new pergola located at N51W34911 Wisconsin Avenue per the recommendation of Administrator/Planner Herrmann’s report dated November 29, 2023, and the Architectural Committees recommendation. Commissioner Bergman seconded the motion. Motion carried by unanimous voice vote.
5. **Adjourn.** – Commissioner Bergman made the motion to adjourn at 6:11 p.m. Commissioner Navin seconded the motion. Motion carried by unanimous voice vote.

Respectfully submitted –
Lori Opitz, WCMC
Clerk/Treasurer