

Village of Cottage Grove
Meeting

Notice of Public

PLAN COMMISSION

Wednesday, March 13, 2019
Village Hall

6:30 P.M.

Grove Rd.

221 E Cottage

1. Call To Order
2. Determination Of Quorum And That The Agenda Was Properly Posted
3. Pledge Of Allegiance
4. PUBLIC APPEARANCES-Public's Opportunity To Speak About Any Subject That Is Not A Specific Agenda Item
5. Discuss And Consider The Minutes From The Plan Commission Meeting Of February 13, 2019.

Documents:

[2-13-19 PLAN COMMISSION MINUTES.PDF](#)

6. Discuss Various Potential Ordinance Amendments Related To 2017 Wisconsin Act 67 And 2017 Wisconsin Act 243.

Documents:

[CG_ACT67-243_2019-03-08.PDF](#)

7. Discuss Implications Of 2017 Wisconsin Act 67 Related To The Granting Of Conditional Use Permits.

Documents:

[CG_CONDUSES_2019-03-08.PDF](#)

8. Discuss Housing Goals For Village Comprehensive Plan.
9. Comments From Commission Members
10. Future Agenda Items
11. Adjournment

This agenda has been prepared by Staff and approved by the Village President as Chair of the Plan Commission for use at the meeting as listed above. Any item on the agenda is subject to final action. Notice: Persons needing special accommodations should call 608-839-4704 at least 24 hours prior to the meeting. It is possible that members of and possibly a quorum of members of other governmental bodies may be in attendance at the above stated meeting to gather information; no action will be taken by any governmental body at the above-stated meeting other than the

governmental body specifically referred to above in this notice.

VILLAGE OF COTTAGE GROVE
PLAN COMMISSION
Wednesday, February 13, 2019

MINUTES

1. Call to order

The regular meeting of the Plan Commission for February 13, 2019 was called to order by Village Clerk at 6:32 p.m. Nominations for Chairperson Pro Tem was called. **Motion** by Jones-Morrison to nominate Jennifer Pickel Chairperson Pro Tem, seconded by Ratcliff. **Motion** carried with a voice vote of 5-0-0.

2. Determination of quorum and that the agenda was properly posted.

It was noted that a quorum was present and that the agenda was properly posted. Roll Call was taken. Commission members present were: Kyle Broom, Phyllis Jones-Morrison, Jennifer Pickel, Melissa Ratcliff and Fred Schulze. Absent and excused were Don Brinkmeier and Jack Henrich. Staff members present were Village Administrator Matt Giese, Village Planner Erin Ruth, Village Clerk Lisa Kalata.

3. Pledge of Allegiance

4. PUBLIC APPEARANCES – *Public's opportunity to speak about any subject that is not a specific agenda item.*

None

5. Discuss and consider the minutes from the Plan Commission meeting of December 12, 2018.

Motion by Jones-Morrison to approve the minutes from the December 12, 2018 Plan Commission meeting as presented, seconded by Schulze. **Motion** carried with a voice vote of 5-0-0.

6. Discuss and Consider request for approval from Michael and Linda Fonger for an ETJ CSM to modify existing parcels located at 2953 Highway BB in the Town of Cottage Grove.

Ruth explained the owner is seeking approval to consolidate two parcels that are under the same ownership. **Motion** by Ratcliff to approve the request from Michael and Linda Fonger for an ETJ CSM to modify existing parcels located at 2953 Highway BB in the Town of Cottage Grove, seconded by Jones-Morrison. **Motion** carried with a voice vote of 5-0-0.

7. PUBLIC HEARING – Public's Opportunity to Provide Feedback on A Request from Ciara Zimprich of Suegra Loca for approval of a Conditional Use Permit for an 'indoor commercial entertainment' land use, specifically a restaurant with bar, at 1609 Landmark Drive.

Pickel opened the public hearing at 6:36 p.m.

Ruth explained this would be a Mexican restaurant with a bar, therefore it would need a conditional use permit. Being there was no public comments Pickel closed the public hearing at 6:38 p.m.

8. Discuss and Consider Request from Ciara Zimprich of Suegra Loca for approval of a Conditional Use Permit for an 'indoor commercial entertainment' land use, specifically a restaurant with bar, at 1609 Landmark Drive.

Motion by Ratcliff to approve the Conditional Use Permit for an 'indoor commercial entertainment' land use, specifically a restaurant with bar at 1609 Landmark Drive for Ciara Zimprich of Suegra Loca with conditions in staff report, seconded by Jones-Morrison. **Motion** carried with a voice vote of 5-0-0.

9. Discuss and Consider directing staff to prepare an amendment to 325-110 of the Village Zoning Ordinance.

Ratcliff explained that this is being brought up because of the changes to Wisconsin State Statutes regarding protest petitions and with TID#10 developing we need to look at this to determine if we want to change the Village Ordinance to match State Statutes or if we want to leave it as is. Ratcliff feels that it should be changed so that we are listening to Village residents or that it is taken out altogether. Jones-Morrison agreed with Ratcliff. Broom indicated that it is hard to get a super majority and would like to see it removed completely and after researching this language it seems to have been in place prior to

Comprehensive Plans. Schulze does not understand it because the Village Board can override it anyway and would like feedback from the Village Board. Ruth indicated that any zoning change would require a public hearing and then it would be forward to the Village Board. **Motion** by Pickel to direct staff to remove the protest petition language letter G, from the Village Ordinance to be in line with Wisconsin State Statutes, seconded by Jones-Morrison. **Motion** carried with a voice vote of 4-1-0 with Schulze voting No.

10. Review Housing goals for Village Comprehensive Plan.

Ruth explained that there have been discussions about Workforce Housing at the CDA and Village Board, and this is an area that we need to look at again for the goals, objectives & polices. A video from Dane County Housing Initiative was shown. Senior housing is an area that the Village appears to fall short for housing options. Ratcliff indicated that the handout on senior housing within Dane County shows that the Village does not have a lot of seniors, maybe because there is not a lot of senior housing options within the Village. The Village may want to start looking at this issue and this may be an area that we can work on. Ratcliff also indicated that the tax impact on a slower growing community is higher and having housing options, may help the tax burden. This could also be helpful with businesses that are looking to locate, that there are affordable housing options. Schulze indicated that the current goals, objective and polices does not cover this because it indicates affordable housing and we do not have affordable housing options in the Village. Ratcliff also commented that we do not have housing options for people looking to downsize in Cottage Grove but would like to stay in Cottage Grove. Broom indicated that we do not have multi-family and that does not help the issue. The available apartment rentals are limited, and it is difficult for developers to get financing for multi-family housing and we have no comparable in the Village as well. There are also no condos available in the Village currently. Schulze indicated that we need to plan our community that includes apartments, condos and duplexes so we do not have push back from neighbors. Ruth indicated that we could add this language to the goals, objectives & polices to the Comprehensive Plan and bring it back with maps to the next meeting.

11. Comments from Commission Members

Schulze may not be at the next meeting.

12. Future Agenda Items

Housing chapter

13. Adjournment

Motion by Jones-Morrison to adjourn at 7:22 p.m., seconded by Ratcliff. **Motion** carried with a voice vote of 5-0-0.

Lisa Kalata, Clerk
Village of Cottage Grove
Approved:

These minutes represent the general subject matter discussed in this meeting but do not reflect a verbatim documentation of the subjects and conversations that took place.



PLANNING STAFF REPORT

MEMO DATE: March 8, 2019

MTG. DATE: MARCH 13, 2019

TO: Village of Cottage Grove Plan Commission

CC: Village of Cottage Grove Board of Trustees

Matt Giese – Village Administrator

Lisa Kalata – Village Clerk

Lee Boushea – Village Attorney

Michael Maloney – Village Engineer

FROM: [Erin Ruth, AICP – Village Planning Director](#)

RE: Potential Amendments to Ch. 198, Ch. 274, and Ch. 325 of the Village Ordinances related to 2017 Wis. Act 67 and 2017 Wis. Act 243

BACKGROUND

Two state legislative actions, 2017 Wisconsin Act 67 and 2017 Wisconsin Act 243, made changes to the enabling statutes for local zoning ordinances along with other development related changes.

Staff has reviewed the statutory changes and prepared the following amendments to Village ordinances related to those State-level changes. The amendments pertain to three chapters: 198 – Impact Fees, 274 – Subdivision of Land, and 325 – Zoning. New text is blue and deleted text is ~~red and struckthrough~~.

PROPOSED ORDINANCE AMENDMENTS

Ch. 198 – Impact Fees

1. **2017 Wisconsin Act 243, Section 14** amended 66.0617(9)(a) of the statutes to read: Except as provided in this subsection, impact fees that are not used within 8 years after they are collected to pay the capital costs for which they were imposed, shall be refunded to the payer of the fees for the property with respect to which the impact fees were imposed, along with any interest that has accumulated, as described in sub. (8). Impact fees that are collected for capital costs related to lift stations or collecting and treating sewage that are not used within 10 years after they are collected to pay the capital costs for which they were imposed, shall be refunded to the payer of fees for the property with respect to which the impact fees were imposed, along with any interest that has accumulated, as described in sub. (8). The 10-year time limit for using impact fees that is specified under this subsection may be extended for 3



years if the municipality adopts a resolution stating that, due to extenuating circumstances or hardship in meeting the 10-year limit, it needs an additional 3 years to use the impact fees that were collected. The resolution shall include detailed written findings that specify the extenuating circumstances or hardship that led to the need to adopt a resolution under this subsection. For purposes of the time limits in this subsection, an impact fee is paid on the date a developer obtains a bond or irrevocable letter of credit in the amount of the unpaid fees executed in the name of the municipality under sub. (6)(g).

Staff recommends the following amendment to 198-5(B) to accommodate the statutory changes:

198-5(B), Impact Fee revenues imposed and collected but not used within ~~a specified reasonable period of time after collection~~ 8 years to pay the capital costs for which they were imposed shall be refunded to the payer of the fees ~~on a prorated proportional basis, as determined by the Utility Commission, to the current record owner or owners of the property~~ with respect to which the impact fees were imposed, along with any interest that has accumulated, as described in sub. (A). ~~Reasonable time periods for expenditure of impact fee revenues shall be within five years after the recommended time for commencement of construction, expansion, or improvement of a specific public facility identified in a facilities needs assessment report, or within 20 years after the projected loan obligations undertaken for a project to be satisfied.~~ Impact fees that are collected for capital costs related to lift stations or collecting and treating sewage that are not used within 10 years after they are collected to pay the capital costs for which they were imposed, shall be refunded to the payer of fees for the property with respect to which the impact fees were imposed, along with any interest that has accumulated, as described in sub. (A). For purposes of the time limits in this subsection, an impact fee is paid on the date a developer obtains a bond or irrevocable letter of credit in the amount of the unpaid fees executed in the name of the municipality.

2. **2017 Wisconsin Act 243, Section 11** amended 66.0617(6)(g) regarding impact fees to read: Except as provided under this paragraph, shall be payable by the developer or the property owner to the municipality in full upon the issuance of a building permit by the municipality. Except as provided in this paragraph, if the total amount of impact fees due for a development will be more than \$75,000, a developer may defer payment of the impact fees for a period of 4 years from the date of issuance of the building permit or until 6 months before the municipality incurs the costs to construct, expand, or improve the public facilities related to the development for which the fee was imposed, whichever is earlier. If the developer elects to defer payment under this paragraph, the developer shall maintain in force a bond or irrevocable letter of credit in the amount of the unpaid fees executed in the name of the municipality. A developer may not defer payment of the impact fees for projects that have been previously approved.

Staff recommends the following amendment to 198-7 to accommodate the statutory changes:

198-7, Payment of Impact Fees. All required impact fees, unless expressly excepted in a section of this chapter or unless meeting the criteria set forth in Wis. Stat. 66.0617(6)(g), shall



be paid prior to the issuance of a building or plumbing permit, or both, whichever permits are applicable. Fees meeting the criteria set forth in Wis. Stat. 66.0617(6)(g) may be deferred as described in that statute. Impact fee payments shall be assumed to be the responsibility of the owner of record at the time the building or plumbing permit, or both, is required.

Ch. 274 – Subdivision of Land

1. **2017 Wisconsin Act 243, Section 52** amend the statutes regarding sureties for public improvements in subdivisions.

Section 52 amends 236.13(2)(am)(1) to read: (a) As a further condition of approval, the governing body of the town or municipality within which the subdivision lies may require that the subdivider make and install any public improvements reasonably necessary or that the subdivider provide security to ensure the subdivider will make those improvements within a reasonable time. The governing body may not require the subdivider to provide security at the commencement of a project in an amount that is more than 120 percent of the estimated total cost to complete the required public improvements. (b) The subdivider may construct the project in such phases as the governing body of the town or municipality approves, which approval may not be unreasonably withheld. If the subdivider's project will be constructed in phases, the amount of security required by the governing body under subd. 1. a. is limited to the phase of the project that is currently being constructed. The governing body may not require that the subdivider provide any security for improvements sooner than is reasonably necessary before the commencement of the installation of the improvements. (c) If the governing body of the town or municipality requires a subdivider to provide security under subd. 1. a., the governing body may not require the subdivider to provide the security for more than 14 months after the date the public improvements for which the security is provided are substantially completed and upon substantial completion of the public improvements, the amount of the security the subdivider is required to provide may be no more than an amount equal to the total cost to complete any uncompleted public improvements plus 10 percent of the total cost of the completed public improvements. (d) This paragraph applies to all preliminary and final plats, regardless of whether submitted for approval before, on, or after August 1, 2014.

Staff recommends the following amendment to 274-10 to accommodate the statutory changes.

274-10. Improvements. The subdivider or land divider shall, before the recording of the plat or certified survey map, enter into a contract or developer agreement with the Village agreeing to install the required improvements and shall file with said contract or developer agreement a performance bond meeting the approval of the Village Board and meeting the criteria described in Wis. Stat. 236.13(2)(am)(1m), letter or credit, ~~or~~ a certified check, or any combination thereof, at the subdivider's option in an amount equal to the estimated cost of the improvements, said estimate to be made ~~by the Village Board after review and recommendation by the Village Engineer~~ by the process defined in Wis. Stat. 236.13(2)(am)(1)(d), as a guarantee that such improvements will be completed by the subdivider or land divider or his subcontractors not later than two years from the date of



recording of the plat and as a further guarantee that all obligations to subcontractors for work on the development are satisfied. The subdivider may construct the project in such phases as the Village Board approves, which approval may not be unreasonably withheld. If the subdivider's project will be constructed in phases, the amount of the security required by the Village Board is limited to the phase of the project that is currently being constructed.

Ch. 325 – Zoning

1. **2017 Wisconsin Act 67, Sections 20 through 25** amend the statutes regarding nonconforming uses and substandard lots.

Section 22 amends 62.23(7)(hb)2. to read: An ordinance may not prohibit, or limit based on cost, the repair, maintenance, renovation, or remodeling of a nonconforming structure.

Staff recommends the following amendment to 325-24(A) to accommodate the statutory changes.

325-24(A). Existing nonconforming uses. The lawful nonconforming uses of a structure, land or water existing at the time of the adoption or amendment of this chapter may be continued although the use does not conform with the provisions of this chapter; provided, however, that: ~~(2) The total lifetime structural alterations, excluding repairs, shall not exceed 50% of the current assessed value of the structure unless it is permanently changed to conform to the use provisions of this chapter.~~

(Renumber following subsection 3 to 2).

2. **2017 Wisconsin Act 243, Section 8** repeals 62.23(7)(d)2m.a. of the State Statute, which required local zoning ordinances to include a provision for a protest petition. A local ordinance is no longer required to include a mechanism for a protest petition.

Based on direction from the Plan Commission to remove protest petitions from the zoning ordinance, staff recommends the following amendment to 325-100(G).

G.

~~Protest. In the event of a protest against such zoning change or amendment to the regulations of this chapter, duly signed and acknowledged by the owners of 20% or more of the land included in such proposed change, or by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of 3/4 of the full Village Board membership.~~

(Renumber following subsection H as G).



3. **2017 Wisconsin Act 243, Section 33** creates 66.1102(5) in the State Statutes, which reads:

66.1102(5) Construction Site Fences. (a) Except for an ordinance that is related to health or safety concerns, no political subdivision may enact an ordinance or adopt a resolution that limits the ability of any person who is the owner, or other person in lawful possession or control, of a construction site to install a banner over the entire height and length of a fence surrounding the construction site. (b) If a political subdivision has enacted an ordinance or adopted a resolution before the effective date of this paragraph that is inconsistent with par. (a), that portion of the ordinance may not be enforced.

Staff recommends the following amendments to 325-102 to accommodate the statutory changes.

[325-102 \(B\)](#) – The following sign uses and purposes are permitted in all zoning districts and do not require a sign permit:

(9) Construction site fences, per 325-103(B)(10).

[325-103\(A\)](#) – Sign purposes.

(10) Construction site fence banner sign. A banner installed over all or any part of a fence surrounding an active construction site.

[325-103\(B\)](#) – Sign types.

(10) Construction site fence sign. A temporary fence surrounding an active construction site which may include banner signage on all or any part of said fence.

STAFF RECOMMENDATION

Staff recommends approval of the proposed amendment.



PLANNING STAFF REPORT

MEMO DATE: March 8, 2019

MTG. DATE: MARCH 13, 2019

TO: Village of Cottage Grove Plan Commission

CC: Village of Cottage Grove Board of Trustees

Matt Giese – Village Administrator

Lisa Kalata – Village Clerk

Lee Boushea – Village Attorney

Michael Maloney – Village Engineer

FROM: [Erin Ruth, AICP – Village Planning Director](#)

RE: Implications of 2017 Wis. Act 67 Related to Conditional Uses

BACKGROUND

2017 Wis. Act 67 changes state statutes regarding the issuance of conditional use permits (CUP). The full text of the statutory changes is included below, but essentially the main change is the shifting of the burden of proof regarding the suitability of a use from the applicant to the municipality. Previously, the applicant needed to prove that a proposed conditional use would not be problematic. Now a municipality must approve a conditional use permit application unless it can show the use will be problematic. Furthermore, it states that decisions to approve or deny a request must be based on 'substantial evidence' as defined in the statute, and shall not be based on 'personal preferences or speculation.'

Given this change, staff recommends reviewing which uses are permitted conditionally in various zoning districts. The Plan Commission should consider whether any of those conditional uses listed should be removed and whether any additional conditions should be listed in the ordinance for any of the uses.

A table showing the permitted and conditional land uses in each district is attached for review.

2017 WIS. ACT 67 – SECTION 16

Section 16. 62.23(7)(de) of the statutes is created to read:

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.

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).

Rural Holding (RH)	Single-Family Residential (SR-4)	Two-Family Residential (TR-8)	Historic Residential (HR-9)	Multi-Family (MR-10)	Multi-Family (MR-12)	Neighborhood Office (NO)	Planned Office (PO)	Neighborhood Business (NB)	Planned Business (PB)	Central Business (CB)	Planned Industrial (PI)	General Industrial (GI)	Heavy Industrial (HI)	Type of Land Use
														Institutional Uses (§ 325-49C)
P	P	P	P	P	P	P	P	P	P	P	P	P	P	(1) Passive Outdoor Public Recreational
P	P	P	P	P	P	P	P	P	P	P	P			(2) Active Outdoor Public Recreational
C	C	C	C	C	C	C	C	C	C	C	C			(3) Indoor Institutional
C	C	C	C	C	C	C	C	C	C	C	C			(4) Outdoor Institutional
P	P	P	P	P	P	P	P	P	P	P	P	P	P	(5) Public Services and Utilities
				C	C	C	C	C	C	C				(6) Institutional Residential
P	P	P	P	P	P	C		C						(7) Community Living Arrangement (1-8 res.)
	C	P	C	P	P	C	C	C						(8) Community Living Arrangement (9-15 res.)
				C	C	C	C	C						(9) Community Living Arrangement (16+ res.)
														Commercial Uses (§325-49D)
						P	P	P	P	P	P	P	P	(1) Office
						P	P	P	P	P	P			(2) Personal or Professional Service
						C	C	P	P	P	C			(3) Indoor Sales or Service
									C					(4) Outdoor Display
								P	P	P	P	P	P	(5) Indoor Maintenance Service
													C	(6) Outdoor Maintenance Service
							C	C	C	C				(7) In-Vehicle Sales or Service
						C	P/C	C	P/C	C	C			(8) Indoor Commercial Entertainment
C										C				(9) Outdoor Commercial Entertainment
C											C			(10) Commercial Animal Boarding
							C		C	C				(11) Commercial Indoor Lodging
C	C	C	C	C	C	C		C	C	C				(12) Bed and Breakfast Establishments
		C		C	C	C	C	C	C	C	C	C		(13) Group Day Care Center (9+ children)
C														(14) Campground
				C	C	C		C		C				(15) Boarding House
													C	(16) Sexually Oriented Land Use
									C					(17) Vehicle Repair and Maintenance Service
						C	C	C	C	C	C			(18) Artisan Studio or Production Shop
							C		C	C				(19) Payday Lender

C = Permitted as a Conditional Use (See § 325-20B)

Rural Holding (RH)	Single-Family Residential (SR-4)	Two-Family Residential (TR-8)	Historic Residential (HR-9)	Multi-Family (MR-10)	Multi-Family (MR-12)	Neighborhood Office (NO)	Planned Office & Institutional (PO)	Neighborhood Business (NB)	Planned Business (PB)	Central Business (CB)	Planned Industrial (PI)	General Industrial (GI)	Heavy Industrial (HI)	Type of Land Use
														Storage/Disposal (§ 325-49E)
										P	P	P		(1) Indoor Storage or Wholesaling
												C	P	(2) Outdoor Storage or Wholesaling
											C	C		(3) Personal Storage Facility
C													C	(4) Junkyard or Salvage Yard
C													C	(5) Waste Disposal Facility
C													C	(6) Composting Operation
														Transportation Uses (§ 325-49F)
									P			P	P	(1) Off-Site Parking Lot
C							C			C		C	C	(2) Airport/Heliport
												C	C	(3) Freight Terminal
										C		P	P	(4) Distribution Center
														Industrial Uses (§ 325-49G)
										P		P	P	(1) Light Industrial
													P	(2) Heavy Industrial
C											C	C	C	(3) Communication Tower
C														(4) Extraction Use

C = Permitted as a conditional Use (See § 325-20B)