



## REGULAR VILLAGE BOARD MEETING

### MEETING NOTICE AND AGENDA

**Monday, August 3, 2020, 6:00 PM**

Meeting will be held at: <https://www.gotomeet.me/wfbvillage/village-board>

Access Code: 348-527-221

Phone Number Log In: +1 (872) 240-3212

- I. Call to Order and Roll Call
- II. Consent Agenda – Upon request of any Trustee, any item may be removed from the Consent Agenda for separate consideration under General Business.
  1. Minutes of the regular meeting held on July 13, 2020.
  2. Minutes of the special meeting held on July 23, 2020.
  3. Renewal of Village Claim Claims Processing Policy.
- III. Report of Village Officers
  1. Village Attorney
  2. Village Manager
  3. Village President
  4. Miscellaneous Trustee.
- IV. Petitions and Communications – Members of the public wishing to communicate to the Village Board should email [manager@wfbvillage.org](mailto:manager@wfbvillage.org) at least 24 hours prior to the meeting with “Message to Village Board” in the subject line. Those messages will be provided to the Board Members.
- V. General Business
  1. Discussion/action on Ordinance No. 1870 pertaining to Conduct of Remote Meetings.
  2. Discussion/possible referral to the Plan Commission of Ordinance No. 1871 to amend Section 16-19 of the Municipal Code pertaining to minimum area requirements for Planned Development Districts.

3. The Village Board may convene into Closed Session pursuant to Wisconsin State Statute §19.85(1)(e) deliberating or negotiating the purchase of public property, investing of public funds, conducting other specified business whenever competitive and/or bargaining reasons require a closed session – specifically regarding negotiations with special counsel and other consultants to provide assistance on traffic, zoning, and land development matters.
4. The Village Board may reconvene to open session. The Village Board reserves the right to take action on any topic discussed in closed session.

## VI Adjourn

Due to the COVID-19 pandemic, this meeting is being held via remote conference only. Members of the media and public may attend by logging onto <https://www.gotomeet.me/wfbvillage/village-board>. The access code is 348-527-221. The phone number to log in is +1 (872) 240-3212. All public participants will be muted during the meeting. Members of the public wishing to communicate to the Village Board should email [manager@wfbvillage.org](mailto:manager@wfbvillage.org) at least 24 hours prior to the meeting with “Message to Village Board” in the subject line. Those messages will be provided to the Board Members. Agendas and minutes are available on the Village website ([www.wfbvillage.org](http://www.wfbvillage.org))

**Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. Contact Village Hall at (414) 962-6690. It is possible that members of and possibly a quorum of members of other Boards, Commissions, or Committees of the Village including in particular the Community Development Authority may be in attendance in the above stated meeting to gather information; no action will be taken by any other Boards, Commissions, or Committees of the Village except by the Board, Commission, or Committee noticed above. Agendas and minutes are available on the Village website ([www.wfbvillage.org](http://www.wfbvillage.org))**

## REGULAR VILLAGE BOARD MEETING

A regular meeting of the Board of Trustees of Whitefish Bay was held via GoToMeeting on July 13, 2020

Pursuant to law, written notice of this meeting was given to the press and posted on the public bulletin boards.

### **I. Call to Order and Roll Call**

President Siegel called the meeting to order at 6:00 pm.

Present: Trustees Serebin, Fuda, Buckley, Demet, Davis, Saunders and President Siegel

Also Present: Village Manager Paul Boening  
Village Attorney Chris Jaekels  
Police Chief Michael Young  
Assistant Village Manager Tim Blakeslee  
Finance Director/Village Clerk Jaimie Krueger  
Director of Public Works John Edlebeck  
Director of Building Services Joel Oestreich  
Deputy Clerk Caren Brustmann

### **II. Consent Agenda**

It was moved by Trustee Saunders, seconded by Trustee Davis and unanimously carried by the Village Board to approve the consent agenda as presented.

1. Minutes of the regular meeting held on June 1, 2020.
2. Claims for May, 2020.
3. Claims for June, 2020.
4. Investment Report for May, 2020.
5. Investment Report for June, 2020.
6. Temporary Beer/Wine License for the Whitefish Bay BID's Sidewalk Sale on July 17<sup>th</sup> and 18<sup>th</sup>.
7. Resolution No. 3074 – Approving the Cooperation Agreement for Participation in the Urban County CDBG Program with Milwaukee County.
8. Resolution No. 3075 – Acknowledging the 2019 Compliance Maintenance Annual Report.
9. Ordinance No. 1864 – Pertaining to Conditional Uses in the Business District.
10. Ordinance No. 1865 – Pertaining to Conditional Use Procedure.
11. Ordinance No. 1868 – Repealing and Recreating Section 16-31 of the Municipal Code with regard to maintaining or eliminating nonconforming or substandard lots.
12. Acceptance of Memorial Bench Donation from Frank Daily for placement at Buckley Park.
13. Referral of PDD Petition (proposed seven home residential subdivision – 721 E. Silver Spring Dr.) from WiRED Properties to the Architectural Review Commission and Plan Commission.

### **III. Report of Village Officers**

#### **1. Village Attorney**

Village Attorney Chris Jaekels noted he is tracking all of the adopted mask ordinances around the State and will prepare a Village Ordinance accordingly per the direction of tonight's discussion.

#### **2. Village Manager**

Village Manager Paul Boening introduced Jaimie Krueger as the Finance Director/Village Clerk and noted she is attending a virtual WI Municipal Clerks Institute this week.

#### **3. Village President**

Village President Julie Siegel noted there is an ICC (Intergovernmental Cooperation Council) virtual meeting today, and will plan to attend the in-person meeting scheduled in September.

**4. Miscellaneous Trustees - None**

**IV. Petitions and Communications**

Email correspondence was received regarding a potential face covering ordinance.

**V. General Business**

**1. Discussion/action on Village of Whitefish Bay Racial Equity Statement.**

Village President Julie Siegel introduced the Racial Equity Statement, and asked the Board for a motion followed by public comment and board discussion. An amendment was made to sentence 3 of the statement to read “We are committed to continuing to make Whitefish Bay an inclusive, accepting Village, where all are welcomed regardless of race, ethnicity, gender, religion, sexual orientation, mental/physical ability or socio-economic status”. It was moved by Trustee Serebin and seconded by Trustee Davis to approve the Village of Whitefish Bay Racial Equity Statement as amended.

**PUBLIC COMMENT:**

Esther Carriere, 825 E. Henry Clay St; Was disappointed in the statement and in her opinion, the statement should address issues directly related to the Village and not the country. Ms. Carriere also noted presently, history that is being taught in schools, is white history.

Bryna Goeckner, 5842 N. Bay Ridge Ave; Would like to see more of an action plan with definite ways. Suggested that the words “we believe” should be changed to “we want or we desire” as it is more compassionate.

Brenda Szumski, 806 E. Glen Ave; Is in support of Ms. Carriere’s opinion and thanks staff for placing this item on the agenda. Suggested that the words “striving or intending” could be used to convey a more meaningful intention.

Anne O’Connor, 5838 N. Shore Dr; Thanked staff for placing this item on the agenda. Added Bay Bridge, a Whitefish Bay based nonpartisan group, works to build bridges within & between communities in support of racial & cultural diversity, equity & justice and should be reflected within the statement.

Board discussion followed thanking staff and board members for their time and effort into the Village’s Racial Equity Statement. It was moved by Trustee Serebin, seconded by Trustee Davis, and unanimously carried by the Village Board to approve the Village of Whitefish Bay Racial Equity Statement as amended.

**2. Discussion/action on Village Hall/Library Parking Lot Biofilter Installation Project.**

Director of Public Works John Edlebeck introduced the biofilter installation project, which includes improving this area for both aesthetics purposes as well as stormwater quantity and quality purposes. Funding is coming from the MMSD Green Solutions Fund, totaling \$89,000.00. The proposed project would begin in 2021.

It was moved by Trustee Davis, seconded by Trustee Buckley, and unanimously carried by the Village Board to approve the Village Hall/Library Parking Lot Biofilter Installation Project (estimated at \$89,000.00) pending MMSD GS funding approval.

**2. Discussion/action on request from LaLonde Construction to work during the overnight hours to install high friction surface treatment on the pavement as part of the Lake Drive HSIP Safety Project.**

Director of Public Works John Edlebeck stated LaLonde Contractors has requested road closure of Lake Drive at three locations per an approved traffic control plan the week of July 27<sup>th</sup> from 7:00pm to 6:00am to apply a high friction surface treatment.

It was moved by Trustee Serebin, seconded by Trustee Buckley, and unanimously carried by the Village Board to approve LaLonde Construction's request to allow for the road closure of Lake Drive at the three (3) locations (on memo dated July 1, 2020) per an approved traffic control plan the week of July 27<sup>th</sup>, 2020 (weather permitting) from 7:00pm to 6:00am the following day and allow a variance from the Village construction noise ordinance for the same time frame to allow for this work to proceed.

**4. Discussion/action regarding potential extension of the Declared Public Health Emergency.**

Village Manager Paul Boening recommended the declaration remain in place due to the availability of CARES Act grant funding. The current declaration expires July 13<sup>th</sup>. Trustee Buckley inquired about possible actions that have taken place under the current declaration and if a log of activity is being kept.

It was moved by Trustee Saunders, seconded by Trustee Davis, and unanimously carried by the Village Board to extend the Public Health Emergency in the Village of Whitefish Bay through October 1, 2020 unless revoked sooner by the Village Board.

**5. Discussion/direction to staff regarding a potential face covering ordinance (Tr. Saunders).**

Trustee Saunders introduced the item, expressing his support for a mask mandate of individuals over the age of 5, adding that more than 20 states currently have mask mandates in place. Trustee Saunders also suggested setting up a self reporting program for offenders. Also, the Village of Shorewood adopted a mask ordinance on July 8<sup>th</sup> and the City of Milwaukee is reviewing a potential ordinance as well. Discussion followed regarding the use of masks outdoors and the impact on businesses should an ordinance not be followed.

**PUBLIC COMMENT:**

Moshe Katz, Whitefish Bay resident and owner of Yellow Wood, is in support of face covering ordinance. Mr. Katz requires masks upon entry of his business and would like the right to refuse business should an individual not comply.

Jeff Commer, BID President, is in support of the Village's decision regardless and that most business owners are in support of a mask mandate.

Bryna Goeckner, 5842 N. Bay Ridge Ave; Stated the State or County is not in a position to provide protection to residents, however, the Village is. She said that dealing with offenders may however be tricky.

Kevin Rorabeck, North Shore Health Department staff member, shared that the NSHD is in support of a face covering ordinance, however, they do not have staff to enforce it. The Board directed staff to prepare a face covering ordinance and will provide feedback once drafted. Trustee Saunders requested a special board meeting be held as time is of the essence.

**VI. Adjourn**

There being no further business, it was moved by Trustee Fuda, seconded by Trustee Davis, and unanimously carried by the Village Board to adjourn the meeting at 7:25 pm.

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Caren Brustmann  
Deputy Clerk

## SPECIAL VILLAGE BOARD MEETING

A special meeting of the Board of Trustees of Whitefish Bay was held via GoToMeeting on July 23, 2020

Pursuant to law, written notice of this meeting was given to the press and posted on the public bulletin boards.

### **I. Call to Order and Roll Call**

President Siegel called the meeting to order at 8:00 am.

Present: Trustees Serebin, Buckley, Davis, Saunders and President Siegel

Absent: Trustee Demet

Excused: Trustee Fuda

Also Present: Village Manager Paul Boening  
Village Attorney Chris Jaekels  
Police Chief Michael Young  
Library Director Nyama Reed  
Assistant Village Manager Tim Blakeslee  
Finance Director/Village Clerk Jaimie Krueger  
Deputy Clerk Caren Brustmann

### **II. General Business**

#### **1. Discussion/action on Ordinance No. 1869 Pertaining to Face Coverings**

Village President Julie Siegel opened the discussion for the face covering ordinance, noting no public comment was being heard. The ordinance does not include a requirement for masks outdoors and will take effect upon signing. A motion to adopt Ordinance No. 1869, with the amendment of the word “ensure” (paragraph 5, sentence 2) to “request” was moved by President Siegel and seconded by Trustee Serebin.

Ordinance No. 1869 would require individuals 5 or older to wear a face covering in a building open to the public and is not maintaining a safe social distance of at least 6 feet, with exceptions for individuals with medical conditions or religious beliefs. Discussion followed pertaining to the burden being placed on local business owners and their right to refuse entry or service to any person for failure to comply with the local ordinance.

If adopted, the ordinance will remain in effect for the duration of the Village’s COVID-19 Health Emergency Declaration, Resolution No. 3071 as extended, suspended, or reinstated and may be extended beyond such time by action of the Village Board.

It was moved by President Siegel, seconded by Trustee Serebin, and unanimously carried by the Village Board by a roll call vote to adopt Ordinance No. 1869 Pertaining to Face Coverings. Motion carried 5-0.

### **VI. Adjourn**

There being no further business, it was moved by Trustee Serebin, seconded by Trustee Buckley, and unanimously carried by the Village Board to adjourn the meeting at 8:11 am.

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Caren Brustmann  
Deputy Clerk



## VILLAGE BOARD MEETING STAFF REPORT

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**REPORT TO:** President Julie Siegel & Village Board of Trustees

**REPORT FROM:** Tim Blakeslee – Assistant Village Manager

**DATE:** 7/27/20

**AGENDA ITEM:** Renewal of Village Claims Processing Policy

**ACTION REQUESTED:**  Ordinance  Resolution  Motion (Consent Agenda)

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### **BACKGROUND**

The Village adopted the current Claims Processing Policy on March 26, 2016 under the direction of previous Village Manager Steve Sheffer. The policy has worked and continues to work well to supply the needed guidance on who reviews and processes claims for the Village, based on the dollar amount for the claim. In general, the policy is as follows:

- Claims Under \$2,500 - The Finance Director is authorized to deny or settle any claim under \$2,500.
- Claims Under \$5,000 - The Village Manager is authorized to deny or settle any claim under \$5,000.
- Claims between \$5,000 and \$25,000 - The Village Attorney and Village Manager, upon joint agreement, are authorized to deny or settle any claims between \$5,000 and \$25,000.
- Claims greater than \$25,000 - All claims greater than \$25,000 shall be placed on a Village Board agenda for Board review and decision.

The Claims Processing Policy stipulates that it be reviewed by the Village Board every three (3) years following its adoption or sooner at the discretion of the Village Board. It has not been reviewed since adoption. Village Staff is not proposing any changes to the Claims Processing Policy at this time. Village Staff may revisit after a new Finance Director is on board.

### **RECOMMENDED ACTION BY VILLAGE BOARD**

To renew the policy via approval of the Consent Agenda.

### **ATTACHMENTS**

- Claims Processing Policy

C: Department Heads  
Attorney Jaekels

**Village of Whitefish Bay Claims Processing Policy**

**General**

This policy was adopted on April 4, 2016 by the Village Board as Resolution # 2961. The intent of this policy to provide guidelines for administering and resolving claims filed against the Village of Whitefish Bay that will insure that any expenditure of public funds is consistent with Wisconsin Statutes; the Village's insurance policies; and policies approved by the Village Board.

**Background**

The Village provides diverse services such as waste collection; building inspections; assessing; traffic control; library; police etc.; operates utilities such as sewer and water; and is responsible for the maintenance and operation of a large infrastructure such as streets and buildings.

In the course of these operations and services claims are filed against the Village ranging from vehicle accidents; to damage from fallen trees; to sewer backups; to sidewalk trips.

To address the situation the Village maintains the following insurance coverages with the following deductibles or self-insured retention:

<u>Coverage</u>	<u>Provider</u>	<u>Deductible/SIR</u>
Auto	CVMIC	\$1,000 per occurrence
Crime	CVMIC	\$1,000 per occurrence
Cyber Liability	CVMIC	NA
Employment Practices Liability	CVMIC	NA
Excess Liability	CVMIC	NA
Liability	CVMIC	\$50,000 annually
Workers Compensation	CVMIC	NA
Property	MPIC	\$2,500 per occurrence

## **Guidelines**

### **Delegation of Authority**

The Village Manager shall be responsible for the implementation of this policy. The Finance Director shall be the Village's representative to CIVMIC and responsible for the administration of the insurance program. The Finance Director shall prepare a monthly report for the Village Board that lists all claim payments by name and type.

### **Ethics Laws**

Public Officials and all employees of the Village are to comply with all federal, state and Village ethics laws regarding conflict of interest in all claims decisions. The Village Manger shall review all claims filed by an employee or their relatives. If the Village Manager has a conflict of interest, the claim shall be referred to the Village Attorney. All claims by elected officials of the village or their relatives shall be referred to the Village Attorney.

## **Claims Processing Procedures.**

All claims must be made in writing and preferably on the attached "Notice of Claim". Upon the filing of any claim, an investigation of the claim shall be made by the appropriate Department Head, and a written report filed with the Finance Director. As appropriate the Finance Director shall notify the appropriate Insurance carrier. If a decision is made to reject the claim, the individual(s) making the claim shall be notified of its rejection in writing. Prior to payment of the claim the attached "Release of All Claims" must be completed.

The payment of any claims by a Village employee or an elected official of the Village must be approved by the Village Board in a public meeting.

### **Claims Under \$2,500**

The Finance Director is authorized to deny or settle any claim under \$2,500.

### **Claims Under \$5,000**

The Village Manager is authorized to deny or settle any claim under \$5,000.

**Claims between \$5,000 and \$25,000**The Village Attorney and Village Manager, upon joint agreement, are authorized to deny or settle any claims between \$5,000 and \$25,000.

### **Claims greater than \$25,000**

All claims greater than \$25,000 shall be placed on a Village Board agenda for Board review and decision.

## **Periodic Review**

This policy will be reviewed by the Village Board every three (3) years following its adoption or sooner at the discretion of the Village Board.

## MEMORANDUM

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*To:* Village of Whitefish Bay -Village Board

*From:* Christopher J. Jaekels, Whitefish Bay Village Attorney

*Date:* July 24,2020

*Subject:* **Proposed Ordinance regarding the Conduct of Virtual Meetings and Remote Attendance at Meetings of Boards and Commission**

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You have in your packet a copy of Proposed Article VI Section 1-30 of the Municipal Code with regard to Virtual Meetings and Remote Attendance at Meetings of Boards and Commissions. The Village of Bayside has already adopted this ordinance and Fox Point is considering a similar draft.

The ordinance puts the authority for determining whether remote attendance is permitted or a virtual meeting will be conducted with the chair of the applicable board authority, committee or commission. For all such meetings the Chair is to determine on a case-by-case basis whether remote attendance or virtual meetings are authorized on a determination that health, safety, welfare, family or work circumstances warrant a virtual meeting or remote attendance. The convenience of members cannot serve as grounds for remote attendance. Two forms of participation by physically absent members or the public are authorized:

1. Remote Attendance. A member of a body must petition the Chair at least forty-eight (48) hours in advance of a meeting to request remote attendance. The Chair must review the request and make a determination at least twenty-four (24) hours in advance of the meeting. That determination is final.
2. Virtual Meeting. Upon direction of the Chair (without a required petition) an entirely virtual meeting may be conducted where the Chair determines that based on health, safety, welfare, (among the other factors) a virtual meeting is warranted. This direction is not based on the existence of any state of emergency but on the review of these factors of the Chair.

It is important to note that the ordinance specifies that in no event shall any virtual meeting or remote attendance be permitted where such act constitutes a violation of the Wisconsin Open Meetings Law. The net effect of this provision is that directives from the Attorney General or Legislature can limit or prohibit the remote attendance or virtual meetings allowed under this ordinance. This allows the Village to put the ordinance on the books as a permanent ordinance rather than a temporary ordinance, and to limit such activities to current law.

CJJ:das

Phone 414.276.0200 Direct 414.225.1409 Fax 414.278.3609  
111 E. Kilbourn Avenue, Suite 1400, Milwaukee, WI 53202  
cjaekels@dkattorneys.com

## ORDINANCE NO: 1870

**An Ordinance to Create Article VI, Section 1-30 of the Municipal Code With Regard to the Conduct of Virtual Meetings of and Remote Attendance at Meetings of Boards and Commissions**

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The Village Board of the Village of Whitefish Bay, Milwaukee County, Wisconsin does ordain as follows:

Section One: Article VI, Section 1-30 of the Municipal Code is hereby created to read as follows:

**ARTICLE VI Boards, Authorities, Committees, and Commissions.****Sec. 1-30 – Conduct of Virtual Meetings of and Remote Attendance at Meetings of Boards, Authorities, Committees, and Commissions.**

(A) *Virtual Meetings and Remote Attendance.* In exceptional circumstances as determined by the chair of the applicable Village board, authority, committee or commission, meetings may on a case by case basis be held on a virtual basis or otherwise with remote attendance as described in this section. Virtual meetings and remote attendance are only authorized when the chair determines that health, safety, welfare, family or work circumstances warrant a virtual meeting or remote attendance. Virtual meetings and remote attendance are not authorized solely for convenience, or due to vacation, travel, or seasonal relocation of one or more members of the body. For meetings that include quasi-judicial action requiring due process, the chair must consult the Village Attorney before authorizing a virtual meeting or remote attendance. Virtual meetings and remote attendance are subject to the following:

- (1) Remote Attendance. When a meeting is held in-person, the chair of the applicable body, may allow one or more members of the body to attend the meeting by telephone or other electronic means, subject to the requirements of this section. A member of the body seeking to attend remotely shall notify the Village Manager of the request at least forty-eight (48) hours in advance of the meeting. The Village Manager shall immediately notify the chair. The chair shall decide whether to grant the request at least twenty-four (24) hours in advance of the meeting. The chair's determination shall be final. Members of the body attending remotely shall have all powers of participation, including counting toward a quorum and having the opportunity to vote. Such attendance is only permitted if systems allow the remote member to hear the proceedings and be heard in the meeting room. If visual information is presented at the meeting, the information shall be distributed or systems must allow remote attendees to view what is presented. The Village does not warrant remote attendance system performance. If circumstances leading to one or more members of the body seeking to attend remotely are widely shared by others in the general public, the chair should consider providing a similar remote attendance option for the general public. Such option must be provided to citizens in a timely manner as part of the meeting agenda notice.
- (2) Virtual Meeting. Upon direction of the chair, a body may on a case-by-case basis conduct an entirely virtual meeting, in which no member of the body is present at Village Hall, subject to the requirements of this section. Members of the body attending virtually shall have all powers of participation, including counting toward a quorum and having the

opportunity to vote. If visual information is presented at the meeting, remote attendees must have the opportunity before or during the meeting to view what is presented or be prohibited from voting on the matter. The public shall be given access to the system implementing the virtual meeting platform. Information about access to the meeting shall be provided to citizens in a timely manner as part of the meeting agenda notice. Best efforts shall be used to ensure that members of the public lacking access to the virtual meeting platform are provided alternative reasonable methods to attend.

- (3) Open Meetings Law Limitations. In no event shall a virtual meeting be convened, or remote attendance be permitted where a violation of the Wisconsin Open Meetings Law would result.

Section Two: Severability: In the event that any provision of this Ordinance is for any reason held to be invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portions of this Ordinance shall be deemed separate, distinct and independent provisions of the Ordinance and all remaining portions of this Ordinance shall remain in full force and effect.

Section Three: All ordinances or parts of ordinances conflicting with the provisions of this ordinance are hereby to such extent repealed.

Section Four: This ordinance shall take effect and be in force after its passage and posting pursuant to law.

PASSED AND ADOPTED by the Village Board of Trustees of the Village of Whitefish Bay this \_\_\_\_ day of \_\_\_\_\_, 2020.

VILLAGE OF WHITEFISH BAY

\_\_\_\_\_  
Julie Siegel, Village President

\_\_\_\_\_  
Jaimie Kruger, Village Clerk



## VILLAGE BOARD MEETING STAFF REPORT

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**REPORT TO:** President Julie Siegel & Village Board of Trustees

**REPORT FROM:** Paul Boening – Village Manager

**AGENDA ITEM:** Discussion/possible referral to the Plan Commission of Ordinance No. 1871 to amend Section 16-19 of the Municipal Code pertaining to minimum area requirements for Planned Development Districts.

**ACTION REQUESTED:**  Ordinance  Resolution  Motion  Information Only

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### **BACKGROUND**

In June of this year, Brandt Foster of Foster Capital contacted me to request a meeting to discuss a potential redevelopment concept involving two existing properties on E. Silver Spring Dr. Following subsequent discussions with Village Staff, Mr. Foster and his development partner, Thomas Baade of Catalyst Construction decided to submit a formal request for a Zoning Code amendment. Specifically, they determined that the Village's Planned Development District (PDD) would be the preferred zoning designation for the project. A PDD authorizes the Village Board to consider modifications to zoning requirements that are otherwise not afforded in base zoning districts.

The formal request for a Zoning Code amendment is attached. In most cases, a minimum land area of 50,000 square feet is required for a PDD. However, there are several exceptions in Village Code that permit the minimum land area of a PDD to be 25,000 square feet. The exceptions to the minimum area of a PDD as listed in §16-19B(2) are as follows:

- [a] When undertaken in extension of an adjoining planned development area in which case there shall be no minimum area requirement;
- [b] When the extension of a planned development area extends across a public street or alley, the minimum area across the public street or alley shall be 25,000 square feet; or
- [c] When undertaken in an area adjacent to an area zoned for public building and grounds, the minimum area shall be 25,000 square feet and the area may be separated by a public street.

Mr. Baade is asking the Village Board to add an additional exemption to Section 16-19 to allow a land area of 25,000 when a PDD is undertaken in an area adjacent to an area zoned for planned development. Given the existence of an existing PDD (Beaumont Place) adjacent to the proposed development site, a Code amendment would enable the applicants to submit a PDD petition.

A draft ordinance is attached for Board review. As with any Zoning Code amendment, Plan Commission review and recommendation is required prior to final action by the Village Board.

### **RECOMMENDED ACTION BY VILLAGE BOARD**

If there is consensus in favor of moving forward with a Code amendment, the Board should refer the draft ordinance to the Plan Commission for review and recommendation.



July 24<sup>th</sup>, 2020

Mr. Paul Boening  
Village Manager  
Village of Whitefish Bay  
5300 N. Marlborough Dr.  
Whitefish Bay, WI 53217

Re: Request for Planned Development District Zoning Amendment

Paul and Village Board,

Thank you reviewing our request of an amendment to the qualification for application to a Planned Development District. Catalyst Development and Foster Capital as co-developers are currently under contract to acquire 412-424 Silver Spring Drive (commonly known as the Fitzgerald's Building). The contemplated acquisition would enable a redevelopment of the site into a first-class mixed-use development with a mixture of apartments, retail, and parking. The proposed development will include structured underground parking, first level retail and apartments over the retail. The proposed redevelopment will:

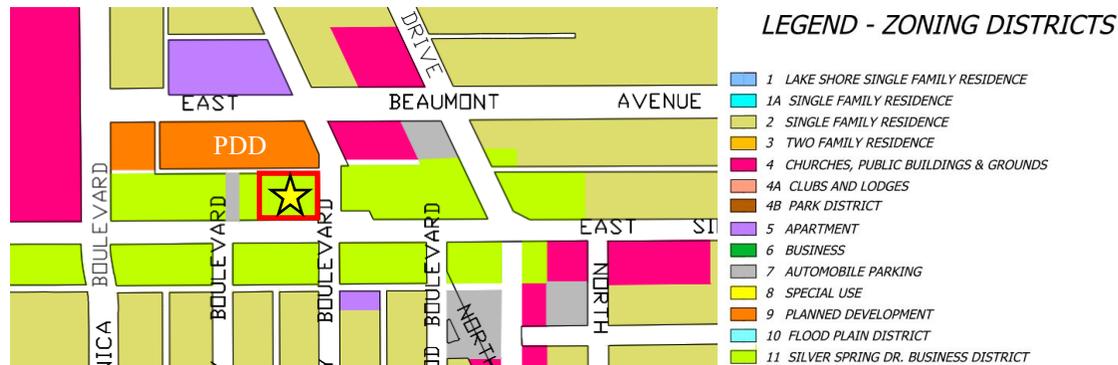
- Enhance the Silver Spring district with fresh retail space, additional parking, and additional demand for retailers from the future tenants
- Redevelop and repurpose one of the most prominent and influential blocks in Whitefish Bay, with responsible architecture and design that maintains the integrity of the Whitefish Bay neighborhood and the Silver Spring business district
- Create a residential alternative for Whitefish Bay residents aging out of their life-long homes, but desire to remain living within the Village
- Remain consistent with neighborhood scale while adapting to modern patterns of development
- Generate long-term incremental tax revenue, significantly above the existing valuations

In order to maximize the design and development opportunities it would be advantageous to apply the PDD process of the Whitefish Bay zoning code. The minimum area for application to a PDD is 50,000 square feet without a qualifying exception. The combined parcels of 412 – 424 Silver Spring Drive are .601 acres, or 26,180 square feet, which is below the minimum area for application of the Planned Development District without a qualifying exception.

We are requesting an amendment to the zoning code that will allow a qualifying exception to the PDD process for parcels smaller than 50,000 square feet if the parcel is adjacent to a currently existing PDD development and is located in the Silver Spring Business district. There currently is a qualifying exception for parcels smaller than 50,000 square feet to be developed under the PDD – if the parcel is adjacent to a parcel designated for the public good.

There is a PDD development to the north of our site, The Beaumont Apartments. The PDD process allows increased input from the community, greater freedom for design expression, and the potential to maximize the value of the parcel.

See current zoning map (2/7/2018) with the subject site noted with a star below:



The Silver Spring corridor in Whitefish Bay is truly historic and a gem of the Milwaukee area. The charm and character of the district are unique to the region and a driver for the desirability of residential living in Whitefish Bay. The character of the district must be maintained for generations to come and we have that sentiment at the utmost of mind when considering a redevelopment along this corridor. The zoning amendment change to allow for a PDD development on our site will provide us and the community the broadest opportunity and design freedom to assure the anticipated development maximizes its opportunities.

Currently, 412-424 Silver Spring is an ~11,000 square foot 1-story retail building built in 1954. The façade, retail bays (depth and functionality), and parking constraints make the building functionally obsolete. In our view, unless a re-creation is executed, maintaining a strong retail contribution to the district will be challenging over the long-term horizon. It is worth noting that there are currently 7 retail bays vacant with nearly 16,000 square feet of space available along E. Silver Spring Drive. 430 Silver Spring is an ~7,000 square foot building built in 1960. Associated Bank has made this location their Whitefish Bay home for many years. They would like to upgrade the space and renovate the building, but that hasn't been economically feasible until this opportunity. Associated Bank is an active partner in the redevelopment and will be the anchor retail space for the mixed-use development, maintaining their Whitefish Bay presence.

Catalyst Construction and Development has been developing and constructing projects in the Milwaukee since 2004. The firm has completed several million square feet of projects with expertise in a broad spectrum of commercial uses. Catalyst has built several mixed-use residential projects of similar scale in various Milwaukee area communities over the past decade with an appreciation of the importance of the unique characteristics of each Milwaukee neighborhood.

The principal of Foster Capital, Brandt Foster, is a past resident of Whitefish Bay and lived in the community for nearly a decade, owning a home in the Village from 2011 until 2019. Brandt and his wife spent time raising their family in Whitefish Bay and enjoyed the Silver Spring business corridor. Their time in Whitefish Bay allowed Brandt to develop an appreciation of the community and a desire to continue to improve the neighborhood. Brandt is an experienced real estate financier, with participation and responsibility for numerous developments, loans, and acquisitions in all property types across the United States.

We look forward to discussing this new opportunity with the Planning Commission, Village Board, and Community Stakeholders in the coming weeks.

Respectfully,

Catalyst

Thomas Baade  
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Cc: Brandt Foster, Foster Capital

ORDINANCE NO: 1871

**An Ordinance to Repeal and Recreate Section 16-19 of the Municipal Code with Regard to Minimum Area Requirements for Planned Development Districts**

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The Village Board of the Village of Whitefish Bay, Milwaukee County, Wisconsin does ordain as follows:

Section One: Section 16-19B(2)(C) of the Municipal Code is hereby repealed and recreated to read as follows:

(c) When undertaken in an area adjacent to an area zoned for public buildings and grounds or planned development, the minimum area shall be 25,000 square feet and the area may be separated by a public street or alley.

Section Two: All ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby and to such extent repealed.

Section Three: This ordinance shall take effect and be in force from and after its passage and posting.

PASSED AND ADOPTED by the Village Board of Trustees of the Village of Whitefish Bay this \_\_\_ day of \_\_\_\_\_, 2020.

VILLAGE OF WHITEFISH BAY

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Julie Siegel, Village President

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Jaimie Krueger, Village Clerk