

AGENDA
CITY OF STURGEON BAY
CITY PLAN COMMISSION
Wednesday, January 15, 2014
7:00 p.m.
Council Chambers, City Hall
421 Michigan Street

1. Roll call.
2. Adoption of agenda.
3. Approval of minutes from December 18, 2013.
4. Public comment on non-agenda items.
5. Conditional use request from T.M. Crowley & Associates for approval of a drive-through facility for a proposed pharmacy:

Presentation:
Public hearing:
Consideration of:
6. Consideration of: Sign code amendment to allow electronic message signs in residential districts for churches.
7. Adjourn.

NOTE: DEVIATION FROM THE AGENDA ORDER SHOWN MAY OCCUR.

Notice is hereby given that a majority of the Common Council may be present at this meeting to gather information about a subject over which they have decision-making responsibility. If a quorum of the Common Council does attend, this may constitute a meeting of the Common Council and is noticed as such, although the Common Council will not take any formal action at this meeting.

3:00 p.m.
1/10/14
CN

Plan Commission Members:
Dan Wiegand – Chair
Richard Wiesner
Mike Gilson
Laurel Brooks
Jeff Norland
Steve Parent
Dennis Statz

CITY PLAN COMMISSION
Wednesday, December 18, 2013

A meeting of the City Plan Commission was called to order at 7:20 p.m. by Chairperson Dan Wiegand in Council Chambers, City Hall, 421 Michigan Street.

Roll call: Members Steve Parent, Rick Wiesner, Dan Wiegand, and Laurel Brooks, were present. Members excused: Jeff Norland, Dennis Statz, and Mike Gilson. Also present were Community Development Director Marty Olejniczak and Community Development Secretary Cheryl Nault.

Adoption of agenda: Moved by Ms. Brooks, seconded by Mr. Wiesner to adopt the following agenda, with the removal of item #6:

1. Roll call.
2. Adoption of agenda.
3. Approval of minutes from October 16, 2013.
4. Public comment on non-agenda items.
5. Consideration of: Sign code amendment to allow electronic message signs in residential districts for churches.
- ~~6. Consideration of: Setback from navigable water.~~
7. Adjourn.

Carried.

Approval of minutes from October 16, 2013: Moved by Mr. Wiesner, seconded by Mr. Parent to approve the minutes from October 16, 2013. Carried.

Public comment on non-agenda items: No one spoke during public comment.

Consideration of: Sign code amendment to allow electronic message signs in residential districts for churches: Mr. Olejniczak stated that he has received correspondence from several churches regarding sign regulations related to electronic message signs. Currently, electronic message signs are not allowed in the residential district where most of the churches are located. They are requesting the City to revise the sign code to include electronic message signs.

Mr. Olejniczak went over the current regulations for the electronic message signs, including a maximum size of 32 sq. ft. that is counted toward the maximum size of the overall sign. Only static messages can be displayed with no scrolling, flashing, or animation permitted. Each message must be displayed for a maximum of six seconds, and the signs must be equipped with equipment that automatically can adjust the brightness and contrast based upon ambient conditions.

Since most of the churches are located along arterial or collector streets, having an electronic message sign may not have a significant impact with heavier traffic and mixture of nonresidential uses. The requirement of the static message being displayed for at least 6 seconds will help prevent the signs from detracting from the residential character of the neighborhoods.

Steve Heinz, 211 N. 17th Dr., representing Bay View Lutheran Church, stated that they may have enough funds to purchase an electronic message board. They want to share

events happening in the church, as well as community events. Currently, different signs are used for different messages. The sign they are looking at installing is the same size as the Sturgeon Bay High School. The same brickwork would be used as what is on the church. The size of the message center is 6 feet in length and 2 ½ feet high. The cost of the sign is approximately \$9,000 - \$10,000 without the brickwork.

Charles Stratton, 1066 Bonnie View Dr., also representing Bay View Lutheran Church, stated that they had sent out letters to the neighbors in regard to possibly installing an electronic message sign. There was only one neighbor that had concerns of distraction for cars going by.

Mr. Wiegand felt an electronic message sign in a residential neighborhood should be dealt with on a case by case basis.

Mr. Parent added that churches have a lot of information to get to the public. Equipment could be set up to adjust the brightness at night. The maximum 32 sq. ft. may be too large of a size in a residential district. Mr. Heinz commented that the sign would probably be shut off around 9:00 p.m. every evening.

After further discussion, it was the consensus of the Commission to have Mr. Olejniczak consult with the City Attorney regarding legal issues pertaining to case by case review of proposed electronic message centers and whether rules could be tailored just for churches. Mr. Olejniczak will draft language for case by case applications. One other option is to allow the electronic message sign for churches only.

Adjourn: Moved by Mr. Wiesner, seconded by Mr. Parent to adjourn. Carried. Meeting adjourned at 7:55 p.m.

Respectfully submitted,


Cheryl Nault
Community Development Secretary

EXECUTIVE SUMMARY

Conditional Use – Establishment with Drive-Through Facility – CVS Pharmacy January 10, 2014

Petition: T. M. Crowley & Associates (developer for CVS Pharmacy) petitions for a conditional use permit for a drive-through facility in conjunction with a proposed new pharmacy. The subject property is located at 1407 Egg Harbor Road, which is currently occupied by The Neighborhood Pub.

Existing Conditions: The subject property is currently owned by Paul Stoltman, but there is a purchase agreement with CVS Pharmacy. The site is located at the southeast corner of the intersection of N. 14th Avenue and Egg Harbor Road and is 0.94-acre in size. The Neighborhood Pub restaurant is located very close to the street right-of-way with the parking area wrapping around the building. There is currently driveway access to the both 14th Avenue and Egg Harbor Road.

The subject site and all surrounding properties are zoned General Commercial (C-1). Adjoining to the northeast is the recently developed commercial site containing the Maurices clothing store. Adjoining to the south and southeast are vacant parcels that are owned by the City. The City acquired these lands for use as a future stormwater detention pond in association with planned improvements to Egg Harbor Road. The parcels at the other quadrants of the intersection contain two banks and a hotel. Both of the banks have drive-through facilities.

Comprehensive Plan: The Sturgeon Bay Comprehensive Plan designates this property within the Community Commercial future land use designation. Most of Egg Harbor Road is in that designation. The proposed use fits that category. The only specific recommendations of the Comp Plan that directly impact this site are the installation of traffic signals at the 14th Ave/Egg Harbor Rd intersection and the installation of sidewalk on Egg Harbor Road. The traffic signals were completed two years ago in conjunction with the Walmart development and the sidewalk is slated to be installed in 2015. The proposed development plan identifies the sidewalk and the petitioner has stated their intent to construct their portion of the sidewalk as part of their construction. The proposed pharmacy with drive-through facility does not conflict with the recommendations of the Plan.

Proposed Design: The submitted site plan shows a single-lane drive-through. The service window is at the southeast corner of the building facing away from the streets. There is an approximately 5' x 9' canopy extending out to protect clients during inclement weather. The drive-through lane is one-way around the south and east sides of the buildings. The corner of the building where the service window is situated has been "cut away", which makes turning around the corner an easier maneuver. The entrance to the drive-through facility is from 14th Avenue with exiting to Egg Harbor Road, although vehicles have the option to wrap around the front of the building so they could enter/exit from either street.

The access driveway to/from 14th Avenue has been shifted as far south as possible from its current location. The access driveway to/from Egg Harbor Road is a shared driveway with the Maurices development. The service window is approximately 180 feet from the 14th Avenue right-of-way and about 125 feet from the driving aisle for the parking lot.

Signs for directing traffic associated with the drive-through facility are shown painted on the asphalt on the site plan. "Do not enter" signs are used to prevent vehicles from entering the wrong way. It is unclear if any other directional signs will be used for the drive-through. The Sturgeon Bay Sign Code limits such signs to a maximum of 4 square feet and review/approval by the Aesthetic Design and Site Plan Review Board is required.

Considerations: Under the zoning ordinance, the pharmacy is a permitted use. Only the drive-through facility requires approval of the City Plan Commission through the conditional use. This is generally to ensure that a proposed drive-through will not negatively impact the functionality of the site, neighboring parcels and the adjoining street.

The Community Development Director and City Engineer reviewed the proposed layout for the drive-through facility. The proposal has merit for several reasons:

1. There is plenty of space for stacking of vehicles in the drive-through lane without causing internal conflicts with other on-site traffic movement or impacts to street traffic.
2. The proposed layout minimizes potential conflicts with pedestrians since pedestrians walking into the store from parking spaces do not have to cross the drive-through lane.
3. By relocating the 14th Avenue driveway to the extreme south edge of the property and sharing the Egg Harbor Road driveway with the adjoining commercial development, staff believes there will be no negative impacts to traffic at the Egg Harbor Rd/14th Ave intersection.
4. The location of the service window at the rear corner of the building helps to keep emissions and noise from idling vehicles away from other patrons of the property and has less impact on the architectural aesthetics of the building.
5. The drive-through lane generally follows an existing access easement that the City has to reach the rear portion of the City-owned land. Thus, the lane can also serve as a driveway to the future detention pond on the adjoining land, which might eliminate the need for the City to install its own separate driveway.

The general layout of the revised site plan has been reviewed for zoning compliance. The proposed development meets the City's requirements for setbacks, parking and other regulations, except for the maximum impervious surfaces. The amount of impervious surfaces needs to be reduced by about 1,100 square feet. The site plan can be altered to eliminate some of the parking spaces or walkway areas to meet the rules without impacting the drive-through facility. However, if any alterations do impact the design of the drive-through facility, the provisions and conclusions of this summary might need to be altered.

When the City sold land to enlarge the Neighborhood Pub parcel, the sale included the ability for stormwater to be managed by the planned City detention pond on the adjoining lot. The proposed development will be able to direct runoff onto the City parcel. In addition, CVS shows potential infiltration areas within the landscaped areas of the lot, which should be encouraged.

Fiscal Impact: The fiscal impact of the drive-through facility compared to a pharmacy development without one is not anticipated to be significant. The overall fiscal impact of the proposed redevelopment to replace the existing restaurant with the pharmacy is unknown at this time, but the future assessed value of the property with a pharmacy is anticipated to be higher than the current total assessed value of \$514,500.

Options: The Plan Commission has the authority to approve the conditional use, approve with pertinent conditions, or deny the conditional use.

Recommendation: The design and layout of the proposed drive-through facility meets pertinent City requirements and is not expected to have negative impacts to either the functionality of the site or the public at large. Staff recommends approval of the conditional use for the drive-through facility, subject to the following

condition: Any exterior lighting associated with the drive-through facility must use shielded fixtures such that light is not directly cast skyward or onto adjoining properties.

Prepared by: Marty Olejniczak 1/10/14
Marty Olejniczak Date
Community Development Director

Tony Depies 1/10/2014
Tony Depies Date
City Engineer

CITY OF STURGEON BAY CONDITIONAL USE PERMIT APPLICATION

Date Received: 12-20-13
 Fee Paid \$ 300- + \$50 sign dep.
 Received By: CT

	APPLICANT/AGENT	LEGAL PROPERTY OWNER (if different)
Name	CHARU BHAPALA	PAUL D. STOLTMAN
Company	G.B. WISCONSIN 2, LLC	
Street Address	1165 N. ^{Clark} CHASE ST. Suite 305	1407 EGG HARBOR RD
City/State/Zip	CHICAGO, IL, 60610	STURGEON BAY, WI
Daytime Telephone No.	312 636-5630	
Email Fax No.	CHAPALA@TMCROWLEY.COM	

STREET ADDRESS OF SUBJECT PROPERTY: 1407 EGG HARBOR ROAD
 Location if not assigned a common address: _____

TAX PARCEL NUMBER: 281-62-11000117A

CURRENT ZONING CLASSIFICATION: C-1

CURRENT USE AND IMPROVEMENTS: Restaurant and parking.

IDENTIFY MUNICIPAL CODE SECTION PERTINENT TO REQUEST AND STATEMENT OF SPECIFIC ITEM BEING REQUESTED FOR REVIEW: Section 20.14(2)(h) - Requesting approval of a drive-through facility for proposed pharmacy

ZONING AND USES OF ADJACENT SURROUNDING PROPERTIES:

North: C-1 ; Bank
 South: C-1 ; Vacant lot
 East: C-1 ; Retail
 West: C-1 ; Hotel

PROPOSED USE OF SURROUNDING PROPERTY UNDER COMPREHENSIVE PLAN:

North: Community Commercial

South: " "

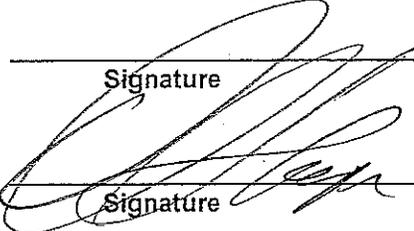
East: " "

West: " "

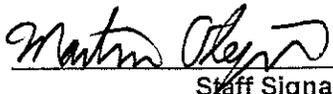
HAVE THERE BEEN ANY VARIANCES, CONDITIONAL USE PERMITS, ETC. GRANTED PREVIOUSLY FOR THIS PROPERTY? No IF YES, EXPLAIN: _____

Attach an 8-1/2" X 11" detailed site plan (if site plan is larger than 8-1/2" x 11", also include 15 large sized copies), full legal description (preferably on disk), 8-1/2 x 11" location map, construction plans for the proposed project, and Agreement for Reimbursement of expenses. Site plan shall include dimensions of property, pertinent structures and buildings, proposed site improvements, signature of person who drew plan, etc.

per X

Property Owner (Print Name)	Signature	Date
<u>CHARLES HAAPPA</u>		<u>12/20/13</u>
Applicant/Agent (Print Name)	Signature	Date

I, Charles Haappa, have attended a review meeting with at least one member of staff and understand that I am responsible for sign placement and following all stages listed on the check list in regard to the applicant.

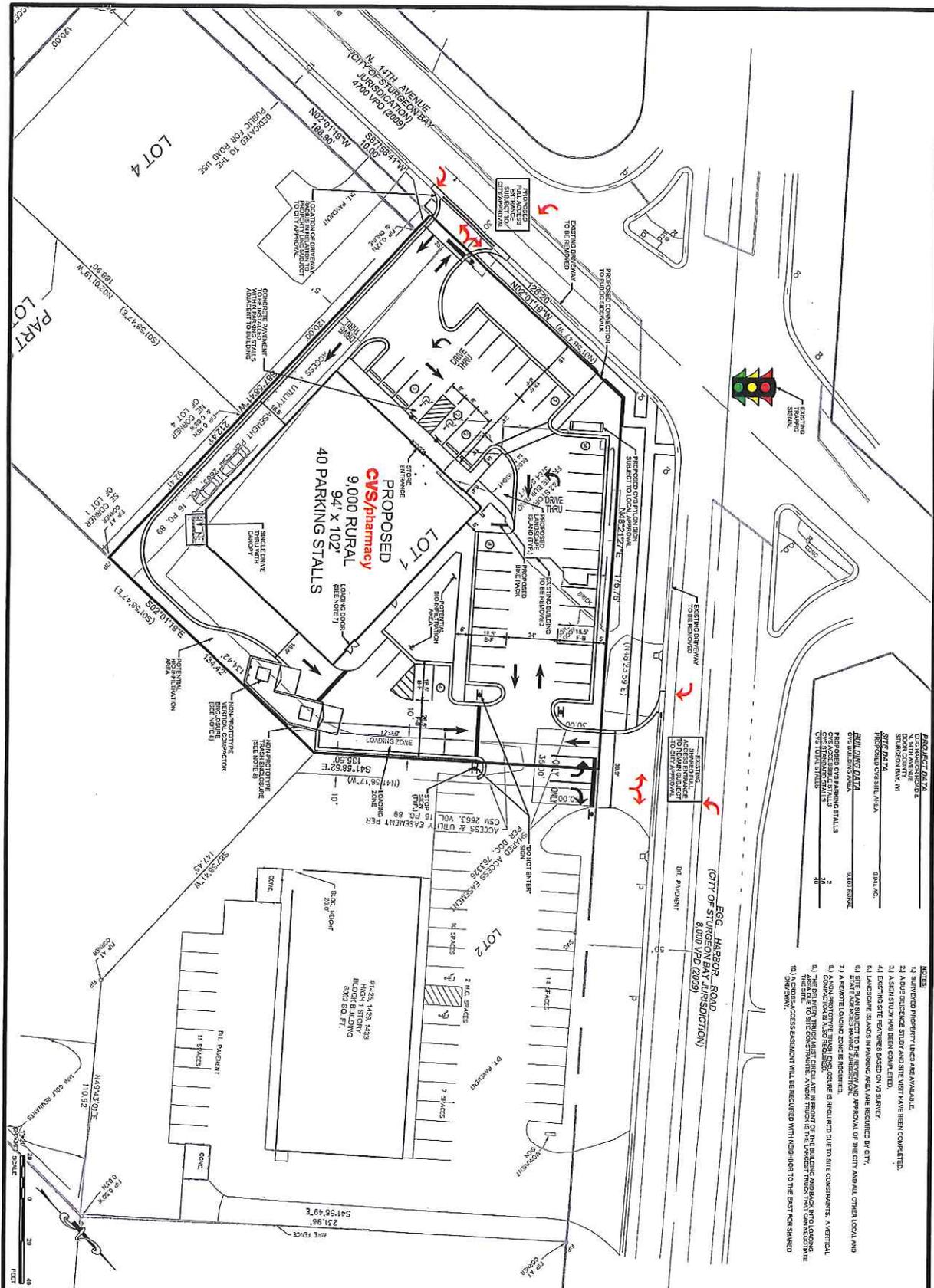
<u>12-20-13</u>		
Date of review meeting	Applicant Signature	Staff Signature

- Attachments:
- Procedure & Check List
 - Agreement For Reimbursement of Expenses

STAFF USE ONLY

Application conditions of approval or denial:

Date _____ Community Development Director _____



PROJECT DATA

PROJECT LOCATION	9,000 RURAL
CITY/COUNTY	STURGEON BAY, WI
OWNER	CVS PHARMACY
DATE	10/20/2013
SCALE	AS SHOWN
DESIGNER	CROWLEY & ASSOCIATES
PROJECT NUMBER	10119
DATE	10/20/2013

- NOTES**
- 1) SURVEY PROPERTY LINES ARE AVAILABLE.
 - 2) A LUMP SUM STUDY AND SITE VISIT HAVE BEEN COMPLETED.
 - 3) A SIGN STUDY HAS BEEN COMPLETED.
 - 4) EXISTING SITE FEATURES BASED ON VIS SURVEY.
 - 5) LANDSCAPE PLANS IN PINK ARE REQUIRED BY CITY.
 - 6) SITE PLAN SUBJECT TO THE REVIEW AND APPROVAL OF THE CITY AND ALL OTHER LOCAL AND STATE AGENCIES.
 - 7) A NEIGHBOR LANDING CONC IS REQUIRED.
 - 8) A SIGN STUDY HAS BEEN COMPLETED.
 - 9) A SIGN STUDY HAS BEEN COMPLETED.
 - 10) A SIGN STUDY HAS BEEN COMPLETED.
 - 11) A SIGN STUDY HAS BEEN COMPLETED.
 - 12) A SIGN STUDY HAS BEEN COMPLETED.
 - 13) A SIGN STUDY HAS BEEN COMPLETED.
 - 14) A SIGN STUDY HAS BEEN COMPLETED.
 - 15) A SIGN STUDY HAS BEEN COMPLETED.

NEW NORTHERN 9,000 RURAL
 STORE NUMBER: 10119
 9,000 RURAL ROAD &
 STURGEON BAY, WI
 DEALER NUMBER: CS# 73464

ENGINEER:
 V3 CONSULTANTS
 7333 SHILOH AVENUE
 SUITE 200
 STURGEON BAY, WI 54221-4220
 PH: 920.734.2200
 WWW.V3CONSULTANTS.COM

CONSULTANT:
 ARCHITECT
 CROWLEY & ASSOCIATES
 719 GASTROLOG STREET, SUITE 1000
 STURGEON BAY, WI 54221-4220
 PH: 920.734.2200
 WWW.CROWLEYANDASSOCIATES.COM

DEVELOPER: T.M.
 CROWLEY & ASSOCIATES
 719 GASTROLOG STREET, SUITE 1000
 STURGEON BAY, WI 54221-4220
 PH: 920.734.2200
 WWW.CROWLEYANDASSOCIATES.COM

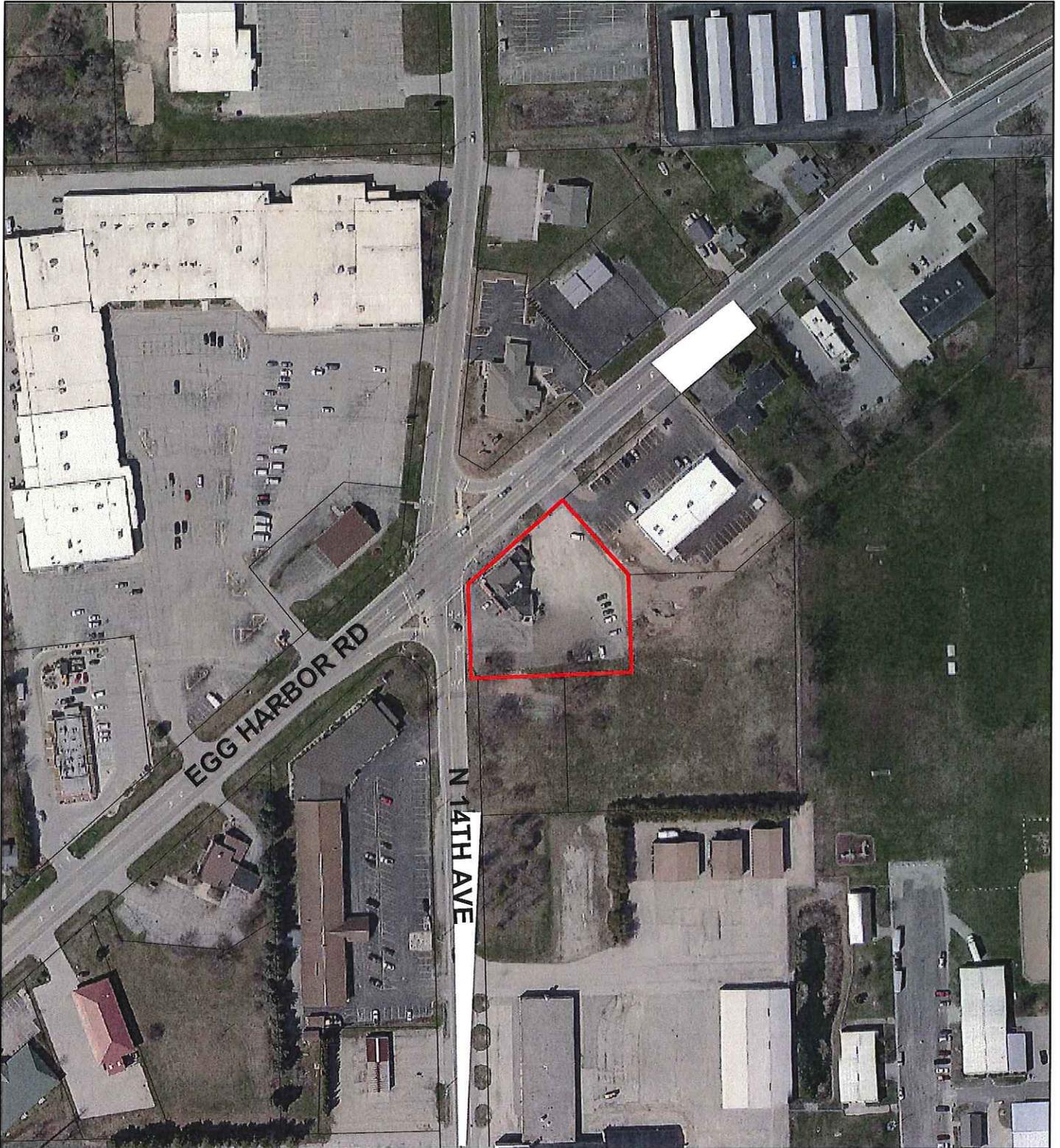
SEAL:

REVISIONS SUBMITTALS:

NO.	DATE	DESCRIPTION
1	10/20/13	ISSUED FOR REVIEW
2	10/20/13	REVISED PER CITY COMMENTS
3	10/20/13	REVISED PER OWNER REVIEW
4	10/20/13	REVISED PER OWNER REVIEW

SHEET NUMBER: QL-1
EXHIBIT: 4.5, 1.b
OPTION: 1 - 1 of 1
COMMENTS: NOT RELEASED FOR CONSTRUCTION

Location Map for Conditional Use Drive-Through Facility For Pharmacy T.M. Crowley & Assoc (CVS Pharmacy)



Subject Property - 1407 Egg Harbor Road

Note: Air photo is from May, 2013.

ADDENDUM TO EXECUTIVE SUMMARY

Title: Sign Code Amendment – Electronic Variable Message Signs in Residential Districts

Additional Information: Based upon discussion at the previous Plan Commission meeting, the City Attorney was asked to weigh in on options for regulating EVMS in the residential district. The City Attorney’s opinion letter is included in the agenda packet. The conclusions are:

1. Making decisions regarding such signs on a case by case basis is not recommended. It likely runs afoul of previous court rulings that sign regulations must be content-neutral.
2. Allowing such signs in the residential districts solely for churches is strongly recommended against. This is due to both content-neutral concern and establishment clause of the 1st Amendment concern.
3. Having different requirements for such signs in the residential districts is OK provided the regulations are content-neutral. So, rules regarding the size, brightness, message interval, etc. would be permissible.

The Attorney also indicates that there is no legal problem with maintaining the current outright ban on such signs in the residential districts.

Based upon the Attorney’s opinion, staff opted not to create a sample ordinance for the case by case review option.

Petition: An online petition was initiated through the Change.org website by Melissa Hadley. The petition states: “Do not change the zoning to allow LED/Neon flashing signs in the residential neighborhoods of Door County WI.” A number of people signed it from around the world (8) and other parts of the United States (24), but there were only two submissions from Sturgeon Bay residents (Josh Hadley and Rose Wodack), and two more from other Door County residents. It is unclear from the language of the petition if the issue at hand is understood because the City already allows LED and neon signs in residential neighborhoods and prohibits flashing signs. It is the strictly the variable message issue that is being considering for amendment.

Options: Assuming the options to do case by case reviews and limit the amendment to just churches are no longer to be considered, the Plan Commission still has the following options to consider:

1. Recommend approval of the sign code amendment to add residential districts to the eligible areas for electronic variable message signs following the current dimensional and operational standards.
2. Add additional restrictions and recommend approval of the amendment. Some examples of the restrictions that have been put forth include smaller size limit than the 32 sq. ft. used for commercial districts, longer time interval between message changes than the 6 seconds currently used in commercial areas, and time limits on the use of such signs (such as 6 AM to 9 PM).
3. Reject the request to amend the code (EVMS would still be prohibited in the residential districts).

Prepared by: 
Martin Olejniczak
Community Development Director

1-10-14
Date



JAMES R. SMITH
RANDALL J. NESBITT†
RICHARD A. HAUSER
DAVID L. WEBER**†
JON R. PINKERT
JENNIFER C. HOBART
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STURGEON BAY, WISCONSIN 54235-0089
TELEPHONE (920)743-6505
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HERMAN J. LEASUM (1910-2006)

RETIRED:
JEFFERY M. WEIR
ROGER PINKERT
MARK A. JINKINS

* Court Commissioner
** Also licensed in Iowa
† Certified Civil Trial Specialist by
National Board of Trial Advocacy

WRITER'S E-MAIL rnesebitt@pinkertlawfirm.com

NORTHERN DOOR OFFICE:
2294 SUNSET DRIVE
SISTER BAY, WISCONSIN 54234
TELEPHONE (920) 854-2616

January 7, 2014

Mr. Marty Olejniczak
Community Development Director
City of Sturgeon Bay
421 Michigan Street
Sturgeon Bay, WI 54235

Re: Sign Code Amendment

Dear Marty:

Your December 26th memo on this matter outlines the concerns of the Plan Commission related to potential amendments to the sign code related, in particular, to electronic variable message signs. The concern in general inquires as to what type of regulation would implicate protections under the United States and Wisconsin constitutional provisions related to free speech. Before going into the specifics of the questions raised by the Plan Commission, I think it might be helpful to cite some language from a Wisconsin Court of Appeals case from 2000 relating to sign regulation, which quoted a United States Supreme Court case:

While signs are a form of expression protected by the free speech clause, they pose distinctive problems that are subject to municipalities' police powers. Unlike oral speech, signs take up space and may obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. It is common ground that governments may regulate the physical characteristics of signs.

State v. Ovadal, 2000 WI App 94 at ¶17, citing *City of Ladue v. Gilleo*, 512 U.S. 43 (1994).

So, from the onset, it is apparent that the U.S. Supreme Court and Wisconsin Appellate Courts recognize that sign regulation occupies a special category when impeding free speech as guaranteed by the first amendment of the U. S. Constitution. With that said, I will address the specific questions that you have raised:

1. Can a case by case review process be established for variable message signs in residential districts? This would be similar to the conditional use process in the zoning code.

There is no doubt that the city can prevent variable message signs in residential districts. There was discussion in a 1981 U. S. Supreme Court case entitled, *Metromedia, Inc. v. San Diego*, 453 U.S. 490 (1981), which concluded that there was no doubt that the twin goals of a municipal ordinance of traffic safety and the appearance of the city are substantial government goals. In a residential district, it is easy to justify the prevention of electronic message signs on the basis that they degrade the appearance of neighborhoods and they distract drivers such that public safety is affected.

The applicable U. S. Supreme Court cases have determined that content based regulations are presumptively unconstitutional. *R. A. V. v. City of St. Paul*, 505 U.S. 377 (1992). To regulate content-based speech in a public forum, the state, or in this case the city, must show that the regulation serves a compelling interest, is narrowly drawn and uses the least restrictive means to further the articulated interest. *Perry Education Association v. Perry Educators Association*, 460 U.S. 37 (1983).

It is apparent in reviewing a number of these cases that the regulation of signs must be content-neutral. The city has no basis in regulating the message of the speech other than from a zoning standpoint. Anytime message-based regulations are involved, as cited above, they are presumed to be unconstitutional.

Therefore, applying these cases to the question raised by the Plan Commission, it is apparent that a case by case review process for signs delves into dangerous waters and may be difficult to defend. Defense of an outright ban of variable message signs in residential neighborhoods would be easily justified based upon aesthetic and public safety purposes. Once the city steps off of that outright ban and into a case by case inquiry, the suggestion can just as easily be made that the inquiry was resolved against an applicant based upon the content of the speech as opposed to the location or design of the sign. Adoption of a case by case review process for variable message signs opens the city up to first amendment challenges which would likely be expensive and very time consuming for city staff.

2. Can churches be singled out for allowance of these signs or must all permitted uses in a district be treated the same?

The city can defend a ban on variable message signs in residential districts with its statement that such signs degrade the aesthetic look of a neighborhood, and present public safety dangers by distracting drivers. Any exceptions made effectively eliminate the justification of the city to impose restrictions on variable message signs. If the neighborhood aesthetics are not degraded when a church has a variable message sign, and if public safety is

not affected by a variable message sign from a church, why would it be affected by variable message signs of other owners?

Keeping the essential basis of sign regulation that it must be content-neutral in mind, there is no doubt that the allowance of content from a church or religious organization, while prohibiting the sign content of others in the area is favorable to one group over others and would likely be considered a regulation of content rather than sign design. The other issue implicated when creating a classification separating out churches is the establishment clause in the First Amendment of the U. S. Constitution. Singling out churches for special treatment will create an exception that will make the regulations subject to first amendment free speech constitutional challenges, and also add a potential additional challenge related to religious establishment. It would not be a good idea.

3. Can the residential districts have tighter restrictions if such signs are allowed?

Variable message signs are allowed in industrial and commercial zoning districts. It is entirely appropriate to restrict those types of signs to those districts, and not to allow them in residential districts based upon neighborhood aesthetics and public safety reasoning.

Any regulation of variable message signs must be content-neutral. The city would be allowed to regulate the speed of messages, the size of the signs, the extent of flashing and brightness of signs, and other factors which are all content-neutral.

If variable message signs are permitted in residential districts, they must be permitted for all uses, subject to content-neutral limitations. I would strongly suggest against exceptions for religious organizations, or attempts to regulate signs on a case by case basis. We will be creating classifications that are difficult to justify, and difficult to defend against challenges.

If you would like to address this further, or have further specific inquiries, please let me know.

Sincerely,

PINKERT LAW FIRM LLP



Randall J. Nesbitt

RJN:hb

cc: Mr. Steve McNeil

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Petitioning Marty Olejniczak

Sturgeon Bay WI Plan Commission: Deny the use of LED/Neon light signs in Door County WI residential neighborhoods



Petition by
Melissa Hadley
sturgeon bay, WI

Door County Wisconsin is a beautiful Tourist Area. Would you like to see your residential neighborhoods flooded with LED lights at night while driving through the scenery?

I say NO WAY!

The Sturgeon Bay Planning commission is considering a proposal by a local church to allow **Lighted LED Signs** in residential area's. The counsel is considering allowing these unattractive signs to churches only. Not a local Lions Club, Knights of Columbus Hall or any other entity, **ONLY** the church.

Remember that the city of Sturgeon Bay took away street lights due to the cost of electricity thus making residential city streets darker... this will only make these lighted signs **ALL** that much **BRIGHTER!**

These signs can be distracting to a driver making it very dangerous, especially at night as your eye is drawn to the sign rather than the sidewalk, pedestrian or bicyclist.

Also think of the homeowners who live near by. These lights will be shining in windows at night, all night. These types of signs will diminish property values, the sense of tranquility in your own home as well as erode the residential character of the city's neighborhoods

Then think of the sheer number of potential signs that could be erected. Maple Street is the perfect example, having 4 churches in less than an 8 block radius.

We wish to keep our neighborhood as it is without those eyesores. It's nothing short of selling out the tranquility of the neighborhood.

Please help keep Door County Beautiful. Sign my petition!

EXECUTIVE SUMMARY

Title: Sign Code Amendment – Electronic Variable Message Signs in Residential Districts

Background: Section 27.12(4) of the Sturgeon Bay Sign Code regulates electronic variable message signs. These are the digital reader boards that several businesses and institutions have installed in the City. They are permitted in the commercial and industrial districts and have several requirements and restrictions. However, the City received a request from several churches to amend the code to allow such signs in the residential zoning districts, which is where most of the churches are located.

From time to time the City gets inquiries from churches about electronic message centers as part of their signs. Currently, there is only one such sign located within a residential district. The Sturgeon Bay High School is zoned R-4, but erected its digital message center several years ago after it was granted a variance by the Common Council.

The current regulations for the electronic message centers include:

- Maximum size of 32 square feet (which is counted toward the maximum size of the overall sign).
- Only static messages can be displayed with no scrolling, flashing, or animation permitted.
- Each message must be displayed for a minimum of six seconds.
- Such signs must be equipped with equipment that automatically can adjust the brightness and contrast based upon ambient conditions.

Note: The rules regarding message display were adopted fairly recently so most of the existing electronic message signs were grandfathered.

The electronic message signs are becoming very prevalent throughout the region and offer advantages that the traditional manual reader boards do not. Many non-profit organizations, such as schools and the YMCA have found them to be cost effective means to get their messages out. The churches feel they should be allowed to use this technology as well, but nearly all of them are zoned residential.

A few points in favor of amending the code to allow such signs in the residential districts include:

1. Almost all of the churches are located along arterial or collector streets (especially Maple Street and Michigan Street). Due to their heavier traffic and mixture of nonresidential uses, these streets have less of a "pure" residential character, so adding electronic signs might not have a significant impact.
2. The new requirement for only static messages displayed for at least 6 seconds will help prevent the signs from detracting from the residential character of the districts.
3. The City recently adopted an aesthetic design and site plan review process that all nonresidential development must go through, including signs for churches. Thus, the City's design board would have authority to reject or require modifications to any such signs that were deemed inappropriate.
4. The overall size limits for signs in the residential districts are less than the commercial districts. So, the electronic message portion of the sign (if allowed) will typically be smaller than such existing signs in the commercial districts. For churches in the residential districts, wall signs are limited to one square foot of sign per foot of building fascia up to a maximum of 50 square feet. Ground signs are limited to 16 square feet on lots up to ½-acre and 32 square feet on lots greater than ½-acre. Therefore, even

though the electronic message portion of signs can be up to 32 square feet, it is likely that the overall size rules will ensure that the square footage of the electronic message portion of church signs will be smaller.

The Plan Commission should consider the request from the churches and determine whether to recommend an ordinance revision to Council. A basic amendment to accomplish the request from the churches is attached. It simply adds residential to the list of districts that are eligible for electronic viable message signs. If desired, the Commission could seek to include additional provisions that would apply to the residential districts. Examples include:

- a) List just churches as the only use that is permitted to install such signs (not other uses such as schools);
- b) Have tighter size limits for the electronic message portion of the sign (e.g. 16 or 24 sq. ft.);
- c) Increase the minimum length of display time for each message (e.g. 30 seconds or 1 minute); or
- d) Restrict the signs to certain areas (e.g. facing arterial or collector streets only).

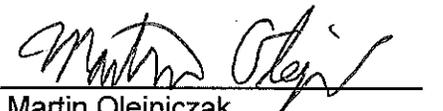
Fiscal Impact: Other than the cost of publishing the code amendment (if adopted), there is no anticipated fiscal impact.

Options: The Plan Commission has several options to consider, including the following:

1. Recommend approval of the sign code amendment to add residential districts to the eligible areas for electronic variable message signs.
2. Add additional restrictions (as appropriate) and recommend approval of the amendment.
3. Reject the request from the churches (make no change to the code).

Recommendation: Planning staff recommends options 1 or 2, but prefers option 1 because it is less complicated to administer and the existing rules and design process will likely prevent any abuses or inappropriate use or operation of such signs.

Prepared by:


Martin Olejniczak
Community Development Director

12-14-13
Date

(g) Banners on the east and west city banner site standards will be permitted with the following additional restrictions:

1. Use of city owned banner sites to promote events outside the city shall only be allowed upon receipt of authorization from the community protection and services committee or chairman of said committee.
2. Banners shall not include any commercial advertising or promotions, other than listing corporate sponsors.
3. Temporary banners for events being held within the City of Sturgeon Bay will be given priority for use of city owned banner sites.
4. All permitted banners must be removed by expiration date on the permit.
5. A hold harmless agreement shall be signed at the time the permit is issued.

(h) If city property has been reserved for the purposes of conducting such social or civic event, one banner may be erected on such property without requiring a sign permit, provided the banner is not displayed for more than 24 hours prior to or after such event and provided such banner meets all other banner requirements of this subsection.

 (4) *Electronic variable message signs (EVMS)*. The sign inspector may issue a special sign permit for a EVMS in the commercial and industrial zoning districts. The sign inspector shall apply the following standards in reviewing the proposed sign:

(a) *Dimensional standards.*

1. EVMS shall meet the sign setback regulations for the appropriate zoning district.
2. EVMS shall not be permitted where they attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or device. EVMS shall not be permitted where they prevent the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.
3. The illuminated or message display area of the EVMS shall be included within the area to be regulated as the maximum area of a sign for the site. The message display area shall not exceed 32 square feet.

(b) *Operational standards.*

1. The EVMS shall only display static messages and such displays shall not have movement, animation or scrolling, or the appearance or illusion of movement.
2. EVMS shall not be used as flashing signs or lights.
3. Each message displayed by the EVMS shall remain for a minimum of 6 seconds.
4. Each change of message must be accomplished within one second.
5. All EVMS must be equipped with photosensitive equipment which automatically adjusts the brightness and contrast of the sign in direct relation to the ambient outdoor illuminations.

6. Commercial messages displayed by a EVMS may promote only goods or services provided by companies occupying the site on which the sign is erected.
7. EVMS must be maintained in safe and orderly condition, and so as to be able to display messages in a complete and legible manner.
8. All EVMS shall comply with the minimum operational standards for EVMS contained in this section.
9. Subsections 1, 3, and 4 of section 27.12(4)(b) shall not apply to any existing electronic variable message signs as of the adoption date of this subsection.

(5) *Pennants, balloons and other similar articles.* The sign inspector may issue a special sign permit for pennants, balloons and other similar articles in connection with a special promotion or event, subject to the following requirements:

- (a) No wires or metallic materials will be used to attach such pennants.
- (b) No pennants shall be located in the vision triangle.
- (c) No pennants shall be located in such a manner that obstructs vehicular movement on the premises.
- (d) All pennants shall be set back from the property line five feet or more.
- (e) No pennants shall be erected in such a manner that any portion of the pennants is 20 feet or more in height or higher than the first floor level, whichever is greater.
- (f) Special permits for pennants shall be issued for a maximum of 30 days per calendar year.
- (g) All existing temporary pennants, balloons or similar articles shall comply with the restrictions applicable to such signs contained in this chapter.

(6) *Off-premises emergency medical facility directional signs.* Off-premises emergency medical facility directional signs are permitted subject to review and approval by the city plan commission, and issuance of a sign permit by the building inspector. Application containing maps and drawings showing proposed sign location, size, and design shall be submitted to the city plan commission. Upon plan commission approval, the building inspector may issue a special sign permit.

(7) *Cooperative ground signs.* A cooperative ground sign shall only be permitted under circumstances where there is benefit to both the petitioning business or uses and the city. Upon city plan commission approval, the sign inspector may issue a special sign permit for a cooperative ground sign identifying and/or advertising two or more separate uses or businesses, with the total land area consisting of five acres or more, subject to the following:

- (a) All uses which are to be identified upon the sign are located upon contiguous parcels of property, or are contiguous to an associated planned unit development.
- (b) The sign must be located upon a parcel occupied by one of the uses or businesses.

Proposed amendment to allow electronic variable message signs in the residential zoning districts

Option 1 – Allowed using same rules as commercial districts

Subsection 27.12(4) of the Sturgeon Bay Sign Code is amended as follows:

(4) Electronic variable message signs (EVMS). The sign inspector may issue a special sign permit for a EVMS in the residential, commercial and industrial zoning districts. The sign inspector shall apply the following standards in reviewing the proposed sign:

[rest of Subsection not changed]

Option 2 – Allowed but with extra rules

The following is a sample. The specific rules within the residential districts can be modified, eliminated or created as desired by the plan commission.

Subsection 27.12(4) of the Sturgeon Bay Sign Code is amended as follows:

(4) Electronic variable message signs (EVMS). The sign inspector may issue a special sign permit for a EVMS in the residential, commercial and industrial zoning districts. The sign inspector shall apply the following standards in reviewing the proposed sign:

(a) Dimensional standards.

[par. 1 & 2 not changed]

3. The illuminated or message display area of the EVMS shall be included within the area to be regulated as the maximum area of a sign for the site. The message display area shall not exceed 32 square feet in the commercial and industrial districts and shall not exceed 24 square feet.

(b) Operational standards.

[par. 1 & 2 not changed]

3. Each message displayed by the EVMS shall remain for a minimum of 6 seconds in the commercial and industrial districts and 30 seconds in the residential districts.

[par. 4 through 9 not changed]

10. EVMS located within the residential districts shall only be operated between the hours of 6 A.M. and 9 P.M. Such signs shall not be illuminated or used during other hours.