

The meeting was called to order at 7:00 PM by Mayor Tutaj. Following the Pledge of Allegiance and a moment of silence for the community, roll call was taken.

Present: Mayor Tutaj, Alderpersons Wattawa, Schandel, Brickner, Feirer, Damon and Drew

Also Present: City Administrator Johnsrud, City Attorney Alexy, City Clerk/Treasurer Uecker, City Engineer Dejewski, Police Chief Hunter, Fire Chief Poplar, Building Inspector Meerschaert and interested citizens

Statement of Open Meetings Compliance:

City Clerk/Treasurer Uecker stated that the meeting had been properly posted and noticed.

Public Hearing:

- Change of Zoning – 4698 South Whitnall Avenue (Planet Fitness)

Presentation:

- None

Consent Agenda:

Moved by Alderman Feirer, seconded by Alderwoman Schandel to place on file with reference in the minutes and approve all items listed under Consent Agenda on the January 21, 2020 Common Council Agenda. Motion carried.

Items Removed from Consent Agenda:

- None

Recommendation of Action from Committees/Commissions/Boards:

Moved by Alderman Wattawa, seconded by Alderman Damon to approve the Concord Contract – Campbell Development in an amount not to exceed \$120,430. Motion carried.

Moved by Alderman Wattawa, seconded by Alderman Feirer to authorize the City Engineer to fill the new positions in the Department of Public Works. Motion carried.

Resolutions and Ordinances:

Moved by Alderwoman Schandel, seconded by Alderman Wattawa to introduce and adopt an Ordinance to Conditionally Rezone Certain Lands in the City of St. Francis as B-2 General Business District with a Special Use Under §455-28(C) of the City of St. Francis Zoning Code – 4698 South Whitnall Avenue, Unit 3 PIN 591-9987-004. Motion carried. **Ordinance No. 1457**

Moved by Alderman Damon, seconded by Alderwoman Schandel to introduce and adopt a Resolution Naming Brandon Wier for 2020 Citizen of the Year for the City of St Francis, Wisconsin. Motion carried. **Resolution No. 2796**

Discussion Items with Possible Action:

- Update on Quiet Zone

Moved by Alderman Wattawa, seconded by Alderman Brickner to refer to the Board of Public Works the issue of the Quiet Zone. Motion carried.

Appointments to Committees/Commissions/Boards:

- None

Correspondence with Possible Action or Referral to Committees/Commissions/Boards:

Moved by Alderwoman Schandel, seconded by Alderman Wattawa to place on file with reference in the minutes the correspondence dated January 16, 2020 from Chief Hunter regarding sale of 2013 Ford Transport Van and to approve the sale of the van to the City of Cudahy in the amount of \$18,000. Motion carried.

Moved by Alderman Damon, seconded by Alderman Feirer to place on file with reference in the minutes the correspondence dated January 2, 2020 from Project Concern regarding Leap of Love 5K Fun Run/Walk and to approve the application for the event. Motion carried.

Announcement by Mayor Concerning Closed Session:

Moved by Alderman Brickner, seconded by Alderman Damon to convene into closed session pursuant to Wis. Stat. sec. 19.85(1) (g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved. Items for discussion: 2525 East Crawford Avenue, 3770 South Pennsylvania Avenue and 2040 East St. Francis Avenue. The following voted "aye": Alderman Wattawa, Alderman Damon, Alderman Feirer, Alderwoman Schandel, Alderman Drew, and Alderman Brickner. Motion carried.

Time: 8:02 p.m.

Adjourn:

Moved by Alderman Wattawa, seconded by Alderman Damon to adjourn. Motion carried.

Time: 8:52 p.m.

MINUTES OF THE COMMON COUNCIL MEETING HELD JANUARY 21, 2020

STATE OF WISCONSIN

CITY OF ST. FRANCIS

MILWAUKEE COUNTY

ORDINANCE NO. 1457

AN ORDINANCE TO CONDITIONALLY REZONE CERTAIN LANDS
IN THE CITY OF ST. FRANCIS AS B-2 GENERAL BUSINESS DISTRICT
WITH A SPECIAL USE UNDER § 455-28(C) OF
THE CITY OF ST. FRANCIS ZONING CODE
4698 South Whitnall Avenue, Unit 3
PIN 591-9987-004

WHEREAS, an Application dated November 27, 2019 has been filed by Cory Kilsdank, as agent for BDP St Francis WI, LLC, a Wisconsin limited liability company d/b/a “Planet Fitness – St. Francis” (“Applicant”), and on behalf of TCB – Whitnall, LLC as the owner of certain lands in the City of St. Francis, to rezone the lands described herein and incorporated by reference as Exhibit A (the “Subject Property”); and

WHEREAS, Unit 3 of the Subject Property is currently zoned as part of the B-2 General Business District; and

WHEREAS, the Applicant seeks to operate a 24-hour health club d/b/a Planet Fitness – St. Francis within Unit 3 of the Subject Property; and

WHEREAS, § 455-61 of the City of St. Francis Zoning Code defines a “health club” as an “Establishment for the conduct of indoor sports and exercise activities, along with related locker and shower rooms, offices and classrooms, where use of such establishment is offered on a membership basis; and

WHEREAS, Applicant has represented that its operation on the Subject Property will be open and staffed on a 24/7 basis, except for certain major holidays, and will employ 10-20 persons, serving between 500-1,000 customers per day; and

WHEREAS, Applicant has represented that, in addition to cardio and strength equipment, it intends to provide tanning beds, massage chairs, and hydromassage; and

WHEREAS, a health club may only be conducted in the B-2 General Business District if a Special Use is approved by the Common Council under §§ 455-28(C) and 455-48 of the City of St. Francis Zoning Code following a public hearing and receipt of Planning Commission recommendations; and

WHEREAS, the Applicant has supplied all required data pursuant to § 455-48(D) of the City of St. Francis Zoning Code including, but not limited to all information required under § 455-47 of the City of St. Francis Zoning Code, in sufficient detail to permit the evaluation of the approval criteria set forth in § 455-48 of the City of St. Francis Zoning Code; and

WHEREAS, the Application and related information provided by Applicant has been available for public inspection in the office of the City Clerk since November 27, 2019; and

WHEREAS, the Application was considered by the City of St. Francis Planning Commission at a regular meeting held on December 18, 2019 upon due notice to the public; and

WHEREAS, pursuant to § 455-48(E), entitled "Review", prior to making any recommendation to the Common Council regarding the requested Special Use approval, the Planning Commission reviewed the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, street access, traffic generation and circulation, drainage, sanitary and storm sewer, water systems, landscaping, park requirements and proposed plan of operation in relation to the standards and considerations detailed in § 455-48 of the City of St. Francis Code of Ordinances; and

WHEREAS, § 455-48(F) of the City of St. Francis Code of Ordinances provides that no special use permit shall be recommended or granted pursuant to Chapter 455 of the City Code of Ordinances unless the applicant shall establish the following:

- (1) Chapter and Comprehensive Smart Growth Plan purposes and intent. The proposed use and development will be in harmony with the general and specific purposes for which Chapter 455 was enacted and for which the regulations of the zoning district in question were established and with the general purpose and intent of the City of St. Francis Comprehensive Smart Growth Plan or element thereof.
- (2) No undue adverse impact. The proposed use and development will not have a substantial or undue adverse or detrimental effect upon or endanger adjacent property, the character of the area, or the public health, safety, morals, comfort, and general welfare and will not substantially diminish and impair property values within the community or neighborhood.
- (3) No interference with surrounding development. The proposed use and development will be constructed, arranged, and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable zoning district regulations.
- (4) Adequate public facilities. The proposed use and development will be served adequately by essential public facilities and services, such as streets, public utilities, including public water supply system and sanitary sewer, police and fire protection, refuse disposal, public parks, libraries, schools, and other public facilities and utilities, or the applicant will provide adequately for such facilities.
- (5) No traffic congestion. The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets. Adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (6) No destruction of significant features. The proposed use and development will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.

- (7) Compliance with standards. The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Common Council pursuant to the recommendations of the Planning Commission.

WHEREAS, the Planning Commission has recommended to the Common Council for the City of St. Francis ("Common Council") that the requested zoning be made and that the General Development/Site Plan be approved upon satisfaction of certain conditions that are incorporated herein; and

WHEREAS, the Planning Commission in making its recommendation, and the Common Council, having carefully reviewed the recommendation of the Planning Commission in making its determination as to the approval of the zoning requested, have given consideration to the following "considerations" as required by § 455-48(H) of the City of St. Francis Code of Ordinances:

- (1) Public benefit. Whether and to what extent the proposed use and development at the particular location requested are necessary or desirable to provide a service or a facility that is in the interest of the public convenience or that will contribute to the general welfare of the neighborhood or community.
- (2) Alternative locations. Whether and to what extent such public goals can be met by the location of the proposed use and development at some other site or in some other area that may be more appropriate than the proposed site.
- (3) Mitigation of adverse impacts. Whether and to what extent all steps possible have been taken to minimize any adverse effects of the proposed use and development on the immediate vicinity through building design, site design, landscaping, and screening.
- (4) Establishment of precedent of incompatible uses in the surrounding area. Whether the use will establish a precedent of, or encourage, more intensive or incompatible uses in the surrounding area.

WHEREAS, notice having been properly given, a public hearing was held before the Common Council on January 21, 2020 as required by said Section 455-48(C); and

WHEREAS, having determined that all procedural and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such rezoning on the health, safety, and welfare of the community and the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved as well as the impact on the community as to noise, dust, smoke, odor, and others, hereby determines that the rezoning will not violate the spirit or intent of the Zoning Code for the City of St. Francis, will not be contrary to the public health, safety, or general welfare of the City of St. Francis, will not be hazardous, harmful, noxious, offensive, or a nuisance by reason of noise, dust, smoke, odor, or other similar factors and will not, for any other reason, cause a substantial adverse effect on the property values and general desirability of the neighborhood as long as the operation is conducted pursuant to the following conditions and in strict compliance with the same and is consistent with the recommendations found in the City of St. Francis comprehensive plan;

MINUTES OF THE COMMON COUNCIL MEETING HELD JANUARY 21, 2020

NOW, THEREFORE, the Common Council of the City of St. Francis, Milwaukee County Wisconsin, DO ORDAIN AS FOLLOWS:

SECTION 1: Commencing upon the date hereof, the Zoning Map of the City of St. Francis is hereby conditionally amended to rezone Unit 3 of the Subject Property B-2 General Business District – Special Use to permit operation by the Applicant of a health club providing cardio and strength equipment, and tanning beds, massage chairs, and hydromassage, subject to initial and continued compliance with the conditions stated in Section 2 of this Ordinance being fully met.

SECTION 2: CONDITIONS IMPOSED.

The rezoning of Unit 3 of the Subject Property to permit operation of a health club as set forth in the Application dated November 27, 2019 and related plans and materials submitted by the Applicant and on file in the office of the City Engineer is hereby granted subject to compliance with all of the following conditions:

1. The Subject Property shall be used in compliance with all applicable provisions of the City Code including, but not limited to fire safety, noise, parking, public health, sign regulations, and zoning regulations.
2. The Applicant is required and must have all plans current, approved by the Planning Commission for the City of St. Francis, and on file with the Planning Commission for the City of St. Francis. The Applicant shall be entitled to amend or change any plan contemplated herein subject to the aforementioned conditions and subject to the Planning Commission for the City of St. Francis approval and without a public hearing, if such amendments and/or change is not a substantial change from the original plan as approved and as allowed herein.
3. Permitted and special uses for the Subject Property shall be as set forth in § 45528, B-2 General Business District, of the City of St. Francis Zoning Code, as amended from time-to-time.
4. Signage identifying the name and type of business shall be in compliance with the City of St. Francis Code of Ordinances.
5. Applicant's use of the Subject Property, including but not limited to the lot layout, shall be in substantial conformity with the Application, site plan, plan of operation, and related plans considered by the Planning Commission at its meeting on December 18, 2019.
6. Prior to the commencement of any work on the Subject Property, the Applicant shall submit a signage plan to the Planning Commission and Building Inspector for their approval.
7. In light of 24-hour operations on the Subject Property being limited to Unit 3, Applicant shall be responsible for installing, monitoring, and maintaining CCTV cameras as recommended by the St. Francis Police Department.
8. The Applicant shall be required to obtain any and all required licenses and permits from the City, County, State, and Federal Government. If any license or permit is issued, any and all conditions of the same are incorporated herein and made a part of this Ordinance.

MINUTES OF THE COMMON COUNCIL MEETING HELD JANUARY 21, 2020

9. The Applicant shall comply with all Federal, State, County, and local rules, codes, ordinances, and regulations in the construction, operation, and maintenance of the Subject Property. In the event any applicable law(s), regulation(s), condition(s), restriction(s), and/or ordinance(s) conflict, the more restrictive shall control.
10. The Applicant is required to properly maintain the Subject Property at all times and in full compliance with the property maintenance ordinance provisions of the City of St. Francis, as amended from time-to-time, to the satisfaction of the Building Inspector.
11. No junk shall be accumulated or stored on the Subject Property.
12. Any amendment to any of the plans submitted by the Applicant in conjunction with the Application must be submitted to, and approved by the individuals, body, and/or bodies that originally approved said plan(s).
13. The Applicant must pay all fees, costs, and assessments due and owing to the City of St. Francis and all costs and expenses incurred by the City of St. Francis, including legal and engineering fees and costs, arising out of or related to the Application, the review thereof, this Ordinance, and subsequent development of the Subject Property.
14. Any application for use of, or construction on, the lands described on Exhibit A, is an acknowledgement by Applicant that the Subject Property are subject to these conditions of approval. Applicant waives any claim(s) that it may have against the City of St. Francis, including, but not limited to, claims for damages, costs, and expenses, and claims of vested rights to the proposed development of the Subject Property, in the event any owner(s) of the Subject Property do not agree to the required terms.
15. Applicant shall satisfy all comments and concerns of the Building Inspector, City Engineer, Fire Chief, and Health Department pertaining to the Application and subsequent development and operation on the Subject Property under this Ordinance.
16. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In the case of a question as to the classification of use, the question shall be submitted to the Planning Commission for determination.
17. No use is hereby authorized unless that use is conducted in a lawful, orderly, and peaceful manner. Nothing in this Ordinance shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption, or exception to any law, ordinance, order, or rule of either the City of St. Francis, the County of Milwaukee, the State of Wisconsin, the United States of America, or other duly constituted authority except only to the extent that it authorizes a nonconforming use of the Subject Property in specific respects expressly described herein. This Ordinance shall not be deemed to constitute a building permit, nor shall this Ordinance constitute any other license or permit required by City Ordinance or other law or regulation.
18. The special use hereby granted shall be subject to all limitations set forth in § 455-48(L) of the City of St. Francis Zoning Code, as amended from time to time.

19. The special use granted under this Ordinance may be amended, varied, or altered only pursuant to the procedures and subject to the standards and limitations provided in Chapter 455 of the City of St. Francis Zoning Code for its original approval.
20. Any violation of this Ordinance shall constitute a violation of the Zoning Ordinance for the City of St. Francis and shall be subject to the enforcement procedures contained in the City of St. Francis Zoning Code, as amended from time-to-time, and such other remedies as may be available to the City of St. Francis under Wisconsin law.
21. The special use granted under this Ordinance, shall be subject to acceptance in writing by the Applicant and Owner.

SECTION 3: SEVERABILITY.

The several sections of this Ordinance are declared to be severable. If any section or provision thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such declaration shall apply only to the specific section(s) or portion(s) thereof directly specified in said declaration, and shall not affect the validity of any other provisions, sections, or portions of the Ordinance, which shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this Ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE.

This Ordinance shall take effect upon its passage and posting/publication as provided by law.

Passed and adopted at a regular meeting of the Common Council of the City of St. Francis this 21st day of January 2020.

City of St. Francis

By: /s/Ken Tutaj
Mayor

ATTEST:

/s/Anne B. Uecker, MMC/WCPC
City Clerk/Treasurer

APPLICANT ACCEPTANCE

I, the authorized agent of the Applicant, hereby accept the terms of this Ordinance in its entirety.

Dated this 22nd day of January 2020.

By: /s/Mike Dubrynto

Mike Dubrynto [Spell Name]

Manager [Title]

BDP St Francis WI, LLC

PROPERTY OWNER ACCEPTANCE

I, the undersigned authorized agent of the Property Owner hereby accept the terms of this Ordinance in its entirety .

Dated this 28th day of January 2020.

By: /s/Anne Andino

Anne Andino [Spell Name]

Authorized Representative [Title]

TCB – Whitnall, LLC

Exhibit A

Legal Description of Subject Property

Whitnall Square Legal Description

4698 S. Whitnall Avenue

Parcel ID – 591-9987-004

Parcel I

The North 117 feet of Lot 13, the North 117 feet of the West 10 feet of the West 10 feet of Lot 12 and all of Lot 14, in Block 2 in Sivyer and Betz Addition to Townsite of Cudahy in the South East ¼ of Section 22, Township 6 North Range 22 East, in the city of St. Francis, county of Milwaukee, State of Wisconsin.

Parcel II

That part of the South East ¼ of Section 22, Township 6 North, Range 22 East, in the City of St. Francis, County of Milwaukee, State of Wisconsin, which is bounded and described as follows: Commencing at a point in the South line of said ¼ section, 1367 feet West of the Southeast corner thereof: running thence West along the said south line, 129 feet to a point, thence North on a line parallel with the East line of said ¼ Section, 358.41 feet to a point, North 30° 29' 35" East 158.46 feet to a point, thence South 11° 29' 48" East, 184.74 feet; thence south 89° 57' East, 50 feet to the West line of Sivyer and Betz Addition to the Townsite of Cudahy; thence south along the West line of said Subdivision 134 feet to a point; thence North 89° 57' West, 47 feet to a point; thence South and parallel to the East line of said ¼ section, 180 feet to the point of commencement, except the most Southerly 60 feet thereof conveyed to Milwaukee for highway purposes.

Parcel III

An easement for vehicular and pedestrian traffic over the East 25 feet of Lot 15, in Block 2 except the South 20 feet thereof, in Sivyer and Betz Addition to Townsite of Cudahy in the South East ¼ of Section 22, township 6 North, Range 22 East, in the City of St. Francis, County of Milwaukee, State of Wisconsin, Recorded as Document No. 4815903.

Parcel IV

Parcel 1 of Certified Survey map No. 4083 and Parcel 2 of Certified Survey Map No. 4525, both being a part of the South West ¼ of the South East ¼ of Section 22, Township 6 North, Range 22 East in the City of St. Francis, Milwaukee County, Wisconsin together with lands in the South West ¼ of the South East ¼ of Section 22, Township 6 North, Range 22 East in the City of St. Francis, Milwaukee County, Wisconsin all being more particularly described as follows: Beginning at the North West corner of said parcel I: thence South 89° 58' 11" East 538.00 feet to a point, said point thence due South 10 feet to a point thence South 89° 58' 11" east 658.00 feet to a point said point being on the center line of South Illinois Avenue; thence due South 320.00 feet to a point, thence North 89° 58' 11" West 40.00 feet to a point, thence South 30° 29' 35" West 158.46 feet to a point; thence due South 298.41 feet to a point; thence North 89° 58' 11" West 104.48 feet to a point; thence North 69° 16' 00" West 528.14 feet to a point thence North 20° 45' 00" East 265.31 feet to a point, said point being the North West corner of said Parcel 2; thence North 89° 58' 11" West 263.63 feet to a point thence North 41° 51' 55" West 161.21 feet to a point said point being the Southeast corner of said Parcel I: thence due West 200.00 feet to a point; thence due North 210.00 feet to the point of beginning.

Parcel V:

MINUTES OF THE COMMON COUNCIL MEETING HELD JANUARY 21, 2020

Parcel 2 of Certified Survey map No. 4083 recorded on August 24, 1981 in Reel 1397, Image 929 as Document No. 5495961, being a part of the South West $\frac{1}{4}$ of the South East $\frac{1}{4}$ of Section 22, Township 6 North, Range 22 East, in the City of St. Francis, County of Milwaukee, state of Wisconsin.

RESOLUTION NO. 2796

**RESOLUTION NAMING BRANDON WIER FOR 2020
CITIZEN OF THE YEAR FOR THE CITY OF ST. FRANCIS, WISCONSIN**

At a regular meeting of the Common Council of the City of St. Francis, Milwaukee County, Wisconsin held on the 21ST day of January, 2020 a quorum being present and a majority of the Council voting therefore, said Council does resolve as follows:

WHEREAS, BRANDON WIER has been employed at PDQ Tooling Inc. as a Sales Engineer since 2012; and

WHEREAS, BRANDON WIER is a member of Root River Church where he is security for the Kids Zone and donates time as a Royal Family Kids Camp counselor; and

WHEREAS, BRANDON WIER is an active participant on the St. Francis Days board, the St. Francis Pageant board, the Music in the Park board, and currently is President of the St. Francis Civic Association;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of St. Francis, Milwaukee County, Wisconsin, on behalf of itself and all the residents of the City of St. Francis that it hereby highly commends BRANDON WIER for years of valuable service to the City of St. Francis, AND HEREBY CONFERS UPON HIM THE TITLE OF THE ST. FRANCIS CITIZEN OF THE YEAR FOR 2020.

PASSED and APPROVED this 21st day of January, 2020

ATTEST: /s/Anne B. Uecker, MMC/WCPC

City Clerk/Treasurer

/s/Ken Tutaj

Mayor