

**WAUKESHA COUNTY  
MINUTES OF THE PARK AND PLANNING COMMISSION  
ADMINISTRATION CENTER, ROOM AC 255/259  
THURSDAY, MARCH 21, 2019 - 1:00 P.M.**

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**CALL TO ORDER**

Mr. Peregrine, Chairperson, called the meeting to order at 1:00 p.m.

Commission

Members Present: Richard Morris                      James Siepmann                      Robert Peregrine  
                                 William Mitchell                      Thomas Michalski

Members Absent: William Maslowski

Staff

Members Present: Jason Fruth, Planning and Zoning Manager  
                         Sarah Spaeth, Legislative Policy Advisor  
                         Amy Barrows, Senior Planner  
                         Kathy Brady, Support Staff Supervisor  
                         Paige Drew, Administrative Specialist

**CORRESPONDENCE:**

None.

**MINUTES**    Approval of the February 21<sup>st</sup>, 2019, Minutes

*After discussion, Mr. Morris moved, seconded by Mr. Mitchell and carried unanimously for approval, of the February 21<sup>st</sup>, 2019, Minutes as presented.*

**PUBLIC COMMENT**

None.

**SCHEDULED MATTERS**

- **1:00 p.m. Consideration of the Year 2019 Requests for Amendments to the Comprehensive Development Plan for Waukesha County**
- **3A – Waukesha County Park and Planning Commission (Leverence), Town of Merton**  
Amend the property from the Low Density Residential category (20,000 sq. ft. to 1.4 acres of area per dwelling unit) to the Mixed Use category.

Mr. Fruth indicated the parcel is situated on the Delafield/Merton town-line. The Lyndale Shops are on the parcel to the south, and the owner resides on the property to the north. The Town of Merton has similarly considered and approved a change to the Mixed Use category. No public comments were made at the Public Hearing. Waukesha County Planning and Zoning Division Staff recommends approval with a few conditions for two reasons. One, the Mixed Used category is broad. Secondly, the unique terrain on the property is heavily wooded and steep. Mr. Fruth noted the Waukesha County Planning and Zoning Division Staff have recommended a condition that no more than 15% of the lot area be disturbed in the future.

Mr. Siepmann questioned the total area of the parcel. Mr. Fruth stated the property is a little larger than 5 acres. In the (EC) Environmental Corridor District, there is a provision that allows for 15% of the lot area up to 32,670 sq. ft. of disturbance.

*After brief discussion, Mr. Mitchell moved, seconded by Mr. Michalski and carried unanimously for approval, as conditioned, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

- **4A – Waukesha County Park and Planning Commission (Downtown Okauchee District), Town of Oconomowoc**

A comprehensive amendment for the Downtown Okauchee area within the Town of Oconomowoc.

Mr. Fruth pointed out the Mixed Use and category changes on the map. He noted the purpose of the Downtown Okauchee Advisory Committee was to generate a specific plan for the area, with specific accommodations defined in the Downtown Okauchee Zoning Ordinance. Mr. Fruth introduced Amy Barrows, Senior Planner, to the Park and Planning Commission to further discuss the amendment.

Ms. Barrows indicated she had described the project in much depth at the Public Hearing and she briefly summarized the project. Several comments were made at the Public Hearing relating to the Downtown Okauchee District and Land Use Plan amendment. Waukesha County Planning and Zoning Division Staff considered all of the comments that took place during the Public Information Meeting. She went on to address the comments made at the Public Hearing.

- Peter Puestow, a member of the Downtown Okauchee Committee and Okauchee resident for 65 years, noted his support for the project and the support of many residents in the area for the project.
- A resident located on the north side of Wisconsin Avenue questioned if more properties could be included in the project area. Waukesha County Planning and Zoning Division Staff stated, they are not seeking to incorporate more properties now; however, in the future if expansion is appropriate, the district and plan area could be adjusted.

A few other citizens came to the meeting with concerns regarding groundwater supply. There are a few property owners that have point wells along Road B. Ms. Barrows noted site design requirements do require groundwater supply to be reviewed, and all state requirements be met in any new development. The Waukesha County Planning and Zoning Division Staff and Waukesha County Environmental Health Division Staff met and concurred that they needed to look at the groundwater supply on a site by site basis, depending on the specific development details. The Waukesha County Environmental Health Division Staff also noted, point wells that serve Road B are very shallow wells and are not constructed for longevity.

Ms. Barrows indicated concern from the public regarding the representation of residents on the Downtown Okauchee Advisory Committee. The Waukesha County Planning and Zoning Division Staff believed they had a good cross-section of individuals from the Downtown Okauchee Area. Ms. Barrows stated, in order to revitalize the Downtown Okauchee District, perspective from local developers was crucial. One of the residents on the committee is a realtor working on larger projects in the Downtown Okauchee District, her input and concerns have been helpful. Residents from different areas of the project served on the committee. Residents were chosen from different parts of the study area, including the south-side of Lake Drive, the south-side of east Wisconsin Avenue, and next-door to the Weissgerber's Golden Mast Inn. The Waukesha County Planning and Zoning Division Staff attempted to make sure they had a good cross-section of people.

Ms. Barrows stated it is important to note that 55 people came to the Public Information meeting and mostly were supportive of the project. Everyone within the project area and 300 ft. of the project area were individually notified regarding the Public Information meeting and Public Hearing.

- A public comment suggested that the proposed amendments affect a greater area than Downtown Okauchee. Ms. Barrows explained that some of the code amendments do affect areas beyond Okauchee; however, the Public Information meeting was specific to the Downtown Okauchee District.
- Concern was raised regarding whether the changes affect non-conforming properties. Ms. Barrows met with the concerned property owner for a few hours after the Public Hearing meeting and clarified what the code amendments are attempting to accomplish. She went on to explain that the code amendments, with regards to nonconforming structures, would produce a relaxation in standards rather than tightening them.
- One household commented on their perceptions of whether the Downtown Okauchee District would be successful. They believe the amendments and improvements will be unsuccessful, as 10 years ago, the Town of Oconomowoc attempted to improve the sewers and sidewalks, and there are still several vacant properties. Ms. Barrows emphasized the goal behind the project is to encourage economic growth and bring residents to the area. More residents living within a walkable distance may patronize businesses. It is important to note the main objective of the code amendment is to provide an opportunity so improvements can be made. Waukesha County Planning and Zoning Division Staff cannot ensure the success of businesses, but are attempting to provide opportunity in a downtown area to accommodate improvements.

Ms. Barrows noted there were no more comments to be addressed from the Public Hearing meeting. Waukesha County Planning and Zoning Division Staff recommends approval of the Land Use Plan amendments with the condition that the land uses proposed must be consistent with the uses provided in the Downtown Okauchee District.

*After discussion, Mr. Siepman moved, seconded by Mr. Michalski and carried unanimously for approval, as conditioned, in accordance with the “Staff Report and Recommendation”.*

- **5A – Waukesha County Park and Planning Commission (Brahm), Town of Ottawa**

Mr. Fruth pointed out the location of the property in part of the NW ¼ of Section 11, T6N, R17E, Town of Ottawa, on the aerial photograph. More specifically, the property is located along Upper Hunters Lake. He indicated that the request is to amend the property from the Suburban II Density Residential category (3.0 to 4.9 acres of area per dwelling unit) to the Medium Density Residential category (6,000 to 19,999 sq. ft. of area per dwelling unit), to allow the County Development Plan designation for Lot 1 to be consistent with other surrounding properties.

*After a brief discussion, Mr. Michalski moved, seconded by Mr. Siepman and carried unanimously for approval, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

- **6 – Waukesha County Park and Planning Commission (Amendments to Chapter 9 regarding the mailing of Public Hearing Notices)**

Request to revise the language in Chapter 9 of the Waukesha County Comprehensive Development Plan regarding mailing of public hearing notices for plan amendments.

Mr. Fruth indicated the text amendment is to slightly revise the mailing procedure for the annual amendment process. Specifically, rather than mailing individual notices to all owners of outlots, the Waukesha County Planning and Zoning Division Staff would send the notice to the individuals on the tax listing. When there is no individual listed, the Waukesha County Planning and Zoning Division Staff would then attempt to locate the appropriate homeowner’s association contact. Two speakers at the Public Hearing meeting expressed concern. Mr. Fruth reiterated the State Statute does not require mailings, the Waukesha County Planning and Zoning Division is going above and beyond what the State Statute requires in providing notices to neighbors. Statute does require there be a thirty day notice, which will continue to be done. A majority of the home owner’s associations are sending information via e-mail, and are able to reach a large group of individuals quickly and cost effectively. The Waukesha County Planning and Zoning Division is spending a sizeable amount of money on postage, paper, and staff time for notices that are near outlots. The Waukesha County Planning and Zoning Division Staff recommends approval of this minor change.

*Mr. Michalski moved, seconded by Mr. Morris and carried unanimously for approval, as conditioned, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

- **RZ29 (Waukesha County Park and Planning Commission), Town of Oconomowoc**

Proposed text amendments to the Waukesha County Shoreland and Floodland Protection Ordinance to incorporate a new Downtown Okauchee District, incorporate provisions required by State Statute,

and to modernize various code provisions.

Mr. Fruth invited Amy Barrows, Senior Planner, to explain the proposed text amendments. Ms. Barrows noted very few changes have been made since the Public Hearing, minor amendments were made to the code itself. The Wisconsin Department of Natural Resources (WDNR) is requiring that a provision within the ordinance that allows retaining walls within 75 ft. of the shore be removed in order to comply with State Statute. If a retaining wall is required for erosion control purposes that would have to be justified through a variance process.

Ms. Barrows noted the code currently allows structures within the offset area beside lot lines if they are clustering with an adjacent similar structure. The WDNR requested the Waukesha County Planning and Zoning Division Staff add a bit more clarification. For example, a boat house can only be constructed close to the side lot line if the adjacent structure on the adjacent lot is also a boathouse.

Ms. Barrows went on to clarify that language had been added to the amendment allowing minimum first floor less than 850 sq. ft. under certain circumstances. The sentence structure has been changed, as the objective was not clear. The Waukesha County Planning and Zoning Division Staff removed a provision from the substandard lot provisions per State Statute, and the WDNR informed Waukesha County Planning and Zoning Division Staff the provision should only be removed in the zoning code and not the shoreland code. The provision was reinserted into the shoreland code. All other matters regarding the text amendments are as proposed at the Public Hearing meeting.

*After discussion, Mr. Siepmann moved, seconded by Mr. Mitchell and carried unanimously for approval, as conditioned, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

- **RZ30 (Waukesha County Park and Planning Commission)**

Proposed text amendments to the Waukesha County Zoning Code to incorporate provisions required by State Statute and to modernize various code provisions.

Mr. Fruth noted the proposed text amendments to the Waukesha County Zoning Code are designed to be a companion set of amendments to the Waukesha County Shoreland Code. He invited Amy Barrows, Senior Planner, to briefly explain. Ms. Barrows stated the Waukesha County Planning and Zoning Division Staff made generally the same minor changes in the Waukesha County Zoning Code as they did with the Waukesha County Shoreland Code relative to non-Okauchee topics. The goal is to make the codes consistent with each other.

*After brief discussion, Mr. Michalski moved, seconded by Mr. Mitchell and carried unanimously for approval, in accordance with the “Staff Report and Recommendation”.*

- **RZ31 (Waukesha County Park and Planning Commission)**

Proposed text amendments to the Waukesha County Shoreland and Floodland Subdivision Control Ordinance to incorporate minimum lot size and width requirements for the newly proposed Downtown Okauchee District.

Mr. Fruth invited Amy Barrows, Senior Planner, to briefly explain. Ms. Barrows stated the Waukesha County Planning and Zoning Division is proposing to incorporate the Downtown Okauchee District

in the lot width and size table in the Shoreland and Floodland Subdivision Control Ordinance. The Waukesha County Planning and Zoning Division included the Downtown Okauchee District with the minimum lot size of 14,000 sq. ft. and lot width of 84 ft. The Downtown Okauchee District and most districts contains provisions that allow someone to apply for a planned unit development (PUD), which can result in waivers from these provisions.

Mr. Peregrine inquired as to how much of the area is shoreland? Ms. Barrows stated the entire Okauchee project area is shoreland.

***After discussion, Mr. Morris moved, seconded by Mr. Sipemann and carried unanimously for approval, as conditioned, in accordance with the “Staff Report and Recommendation”.***

- **RZ33 (John Matter), Town of Lisbon, Section 29**

Mr. Fruth pointed out the location of the property at W263 N6314 Ridge Drive on the aerial photograph. He indicated that the request is to rezone the property from the A-10 Agricultural District (Town) to the A-5 Mini Farm District (Town).

Mr. Fruth indicated the rezone is subject to the Town of Lisbon Zoning Code, adding that the parcel is roughly 12 acres in size. A recreational ski area is located immediately to the east of the parcel, and the lands to the south and the west have been platted for residential use. The property is proposed to be split in two lots. The division of the parcel requires a rezone from a ten (10) acre category to a five (5) acre category. From the development plan perspective, the property is in the Rural Density and other Agricultural Land (RDAOAL). The RDAOAL is a five (5) acre density category in the Town of Lisbon. The proposal to go down to a five (5) acre lot size would be consistent. This is a special planning area where the Village of Sussex Extra Territorial Plan Designation is implemented, the Village has the property similarly designated. Mr. Fruth noted everything is in order from a land use standpoint. Mr. Matter, the property owner, stated his house is on the south side of the parcel. He would like to divide the land in half. The north property was used as farm field; however, he plans on selling the northern half to another family.

***After discussion, Mr. Siepmann moved, seconded by Mr. Morris and carried unanimously for approval, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.***

- **RZ21 (Text Amendment), Town of Vernon**

Mr. Fruth indicated the request is for Text and Map Amendments to the Town of Vernon Zoning Code.

Mr. Fruth indicated the Town of Vernon adopted their own Zoning Code over two (2) years ago. The Town would like to make relatively minor changes to improve administration. For example, they would like to eliminate the floor area ratio provisions in favor of a building footprint scheme. Mr. Fruth noted this will ease the process when dealing with split jurisdictional parcels that have the same set of rules. A draft of the Town of Vernon Zoning Code was shared with the Waukesha County Planning and Zoning Division Staff, who had dialogue with Mr. Mularkey, Town of Vernon Planner, on a number of topics.

Mr. Fruth mentioned several other matters the Town of Vernon would like to modify, such as bringing the Town Board into the Conditional Use approval process and Site Plan review process. Waukesha County Planning and Zoning Division Staff cautioned that bringing in an additional body may slow the review and approval processes down. Mr. Fruth noted most towns who do involve their Town Board into the approval process combine their meetings into one evening.

The Town of Vernon is proposing to alter their permit issuance process. The Town began issuing zoning permits as of two (2) years ago. The Zoning Administrator will now be the sole permit issuance entity, rather than the Town Building Inspector. Other minor changes the Town has proposed include establishing a minor relief for wetland setback, slight modifications relative to parking stall widths and zoning map changes.

The map changes rezone properties from the R-1a Residential District to the R-1 Residential District. The R-1a Residential District has become identical to the R-1 Residential District over time, and the change would simplify the ordinance. The stretch along Enterprise Drive in the Town of Vernon is an industrial area. Mr. Fruth mentioned the Waukesha County Planning and Zoning Division Staff has been conversing with the Town for many years to simplify the zoning scheme along Enterprise Drive. When the Town wrote their new zoning provisions a few years back, they refined their B-3 General Business District to be more successful in regulating the light industrial uses on Enterprise Drive. Waukesha County Planning and Zoning Division Staff believes this is a huge step in a positive direction, because the very lengthy set of conditions were difficult to interpret.

The Town of Vernon also made changes to their land use matrix. They transitioned to a matrix system listing all of the different uses when they adopted their code. Mr. Fruth noted the final change the Town is making is in regards to adding language relative to the new Conditional Use Law, reminding the public that demonstration of substantial evidence is needed in consideration of Conditional Uses. The Town believes they need to take time to fully assess their Conditional Use provisions and are not prepared to do so within this set of amendments; however, they want start by adding minor modernized language into their Zoning Code. Waukesha County Planning and Zoning Staff recommends approval of this request.

***After discussion, Mr. Mitchell moved, seconded by Mr. Michalski and carried unanimously for approval, in accordance with the “Staff Report and Recommendation”.***

• **CZ-1837B (Soli Deo Gloria LLC and Petra and Mike Dekan), Town of Ottawa, Section 1**

Mr. Fruth pointed out the location of the property on the east-side of Waterville Road, south of Glacial Drumlin State Trail and north of Parry Road on the aerial photograph. He indicated that the request is to rezone the property from the P-I Public and Institutional District to the AD-10 Agricultural Density District 10.

Mr. Fruth indicated the request is for a rezone in the Town of Ottawa on the east-side of Waterville Road. This will be the third rezone application submitted for the property noted above. In 2016, Waukesha County approved a rezone that specifically had a lot layout of three lots, with a transfer of the southerly acreage to the neighbor to the south. The condition that came forth as part of said rezone action required an easement negotiation with the Ice Age Trail Alliance. The Ice Age Trail Alliance has had a Trail Corridor Plan on this property for a few decades. When that matter was taken up, the owners of the property were concerned about said condition. The advice given by the Park and Planning Commission and Waukesha County Planning and Zoning Division Staff then was if they

were dissatisfied with the condition, they should not record the Certified Survey Map (CSM), and the rezone wouldn't become effective. Subsequently, they filed an application to seek the condition be removed, advancing to the point of a Town meeting. The Town recommended denial, on the merits of their adopted Park and Open Space Plan. Waukesha County Planning and Zoning Division Staff prepared a recommendation for denial; however, the request was withdrawn and never advanced to the point of the Park and Planning Commission or County Board acting on the request. Before Waukesha County Planning and Zoning Division Staff acted, the petitioners withdrew their request and filed a new application.

Mr. Fruth noted there has been progress, an easement document has been prepared showing an easement on the left side of the property hugging Waterville Road and along the south property line. The south property line is adjacent to a narrow strip of existing ownership by the Ice Age Trail. The desired corridor is on the east-side of the property; however, the owners of the property continue to decline interest in the trail corridor on the east-side of the property. The Ice Age Trail is agreeable working with the west-side of the property.

Mr. Fruth mentioned a draft agreement has been circulating around for a while, the application has been on hold. The public hearing for this case was held on December 4, 2017. The Town of Ottawa adjourned the item no fewer than seven (7) times to allow the parties to negotiate an agreement, which has yet to be accomplished. There continues to be some degree of dispute about who should pay for what, as far as the preparation of the CSM. The Town and Waukesha County are not involved in the matter of payment. Waukesha County Planning and Zoning Division Staff is recommending approval of the rezoning, without conditions, which was the Town of Ottawa's recommendation. The Town feels if, and when, the concept CSM affiliated with this request comes forward, they will have to consider the Park and Open Space Plan. Their Land Division Ordinance calls conformance to the Park and Open Space Plan.

Mr. Fruth noted from a plan compliance there are two (2) layers to be considered, (Basic Land Use and Park and Open Space. The plan category of Rural allows for a minimum of ten (10) acre density. He indicated it could, and should, be dealt with at the land division review stage by the Town. The Waukesha County Planning and Zoning Division Staff is recommending approval without conditions.

Mr. Mitchell questioned why the Park and Planning Commission should approve the rezone request before the agreement has been signed? Mr. Fruth explained the Waukesha County Planning and Zoning Division has to react to each application on the table, how the Town wants to proceed, and what the Town recommends. The Town hopes for resolution in the form of a signed agreement or easement. They would like to have seen an agreement materialize by now, as it has been two (2) years the parties have been in negotiation.

Mr. Peregrine inquired why the process has occupied so much time? Mr. Fruth stated he could not fully answer the question; however, the correspondence from the previous month indicates that it seems to be a disagreement on how much compensation should be provided to have the surveyor add the easement on the CSM. The property owner believes the addition of the easement on the CSM is a cost that has increased because of the length of time the case has extended. There has been a change in the surveying firm involved. Mr. Fruth noted what he has seen on the agreement documents, the Ice Age Trail is committing to pay a lump sum and contribute payment relative to preparation of the CSM. There is still dispute between the two parties on the contribution amount.



Mr. Michalski asked for further clarification from Mr. Fruth. Mr. Fruth stated the proposal is straightforward, the request is for a zoning category change. The owner of the property would like to properly rezone to a category to allow them to use it for some sort of residential purpose in the future. At present, the P-I Public and Institutional District designation on a farm field and woods no longer makes sense, because the institutional user that owned the property sold it a number of years ago. The change out of P-I Public and Institutional District to a large lot rural zoning category fundamentally makes sense, and noted the request is to simply change the designation.

*After discussion, Mr. Morris moved, seconded by Mr. Mitchell and carried unanimously for approval, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

**ADJOURNMENT**

*With no further business to come before the Commission, Mr. Mitchell moved, seconded by Mr. Siepmann to adjourn the meeting at 1:44 p.m.*

Respectfully submitted,

*James Siepmann*

James Siepmann  
Secretary

JS:pd

(PLEASE FILL OUT COMPLETELY AND PLEASE PRINT. THANK YOU.)

NAME	ADDRESS	PHONE NUMBER	IN ATTENDANCE FOR THE MATTER OF:	RELATIONSHIP TO PETITIONER
John Matter	6263 N634 Ridge Dr. Lisbon WI 53089	414 745-1338	Land Division	
Pat Leverage	N48 W 283 20 Lynndale Road	262-352-2265	Leverage Rezone	
Steve Aistow	N49 W 28674 Chandon Dr. Hartland	414-254-4200		
Michelle Frederick	N63 W 23388 Silver Spring Dr. #210 Sussex	414-208-5643	Matter Land Division	Buyer