

**WAUKESHA COUNTY
MINUTES OF THE PARK AND PLANNING COMMISSION
ADMINISTRATION CENTER, ROOM AC 255/259
THURSDAY, MARCH 19, 2020 1:00 P.M.**

CALL TO ORDER

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

Commission

Members Present: Robert Peregrine Richard Morris William Mitchell
James Siepmann and Robert Hamilton (via teleconference)

Members Absent: William Maslowski Thomas Michalski

Staff

Members Present: Jason Fruth, Planning and Zoning Manager

CORRESPONDENCE: None.

MEETING APPROVAL: None.

MINUTES Approval of the February 20, 2020, Minutes

Mr. Mitchell moved, seconded by Mr. Morris and carried unanimously for approval, of the February 20, 2020 Minutes as presented.

PUBLIC COMMENT

One person commented that the timing and hours of the public hearing and this meeting are not convenient for the general public to attend. He indicated that most people work during the day and are not able to attend and express their opinions.

Another person asked if future meetings could be virtual where anyone who is not here could participate, and where the public could access the meeting without being physically present?

Mr. Fruth replied as this situation continues to evolve, he anticipated that County staff would be looking into alternatives. He added that there was not enough lead time to prepare this type of technology for this meeting, and staff is doing the best they can to accommodate. He stated the type of alternative meetings would be a county wide decision made by county leaders.

SCHEDULED MATTER

- **1:00 p.m. Public Hearing to amend the text of the Waukesha County Shoreland and Floodland Protection Ordinance relating to animal keeping regulations (RZ61)**

At 1:05 p.m., Chairperson Peregrine read the Notice of Public Hearing into the record.

Mr. Fruth gave an overview of the amendments. He stated that there would be two consecutive public hearings, one for the Waukesha County Shoreland and Floodland Protection Ordinance, which applies to areas 1,000 ft. from a lake or 300 ft. from a river or full extent of the floodplain. The next public hearing would be for the Waukesha County Zoning Code which only applies in the Towns of Ottawa and Oconomowoc, non-shoreland areas. Mr. Fruth indicated most of the changes are parallel within both Ordinances, and there are some unique issues related to matters other than animals.

Mr. Fruth gave an overview of the proposed animal provisions. He noted that these amendments were prompted by requests from individuals wanting to keep chickens on smaller properties within the county. The present ordinance limits the keeping of chickens (as other animals) to parcels of generally three to five acres (minimum) in size. County staff reached out to other town planners within the county and invited all 11 town planners to discuss baseline information of what others have learned and implemented in their communities. Approximately one-half of the town planners met with county staff and shared their experiences and input. They indicated that backyard chicken keeping regulations have generally been lightly used and they have issued permits approximately once or twice a year. The town planners indicated that there had not been problems or nuisance violations. They did express interest to streamline the general language of the ordinances pertaining to the keeping of animals. Currently, there are approximately 20 districts within the ordinances which all cascade back to one another and eventually to the A-1 District where many of the animal regulations are described.

Mr. Fruth indicated the amendments predominantly relate to the keeping of chickens. At a recent Town of Eagle meeting he was asked to speak to the proposed changes. During a general public comment period, many speakers expressed concerns of changing the rules for the keeping of horses. He clarified that was not what was being proposed by the County, and if anything, the rules were being eased in most districts to allow the keeping of livestock on three acres rather than five acres. He explained, the amendments include the flexibility to allow for the keeping of 20 chickens, in addition to one head of livestock for the first three acres of land. Present language in the ordinance indicates one or the other is allowed. The amendment would allow easing of current regulations. Horses and other large livestock would be allowed on parcels of three acres in size in all of the general residential districts of the shoreland ordinance. The five acre limitation which existed in some districts is being proposed to be reduced to three acres. In addition, there are minor changes to the ability to cultivate or grow crops on smaller parcels easing the current restrictions.

There were discussions on the number of chickens, the permitting process and rules for coops and enclosures. The towns with backyard chicken keeping provisions generally allow between four and six chickens and the town planners felt that five was a good number for the county to bring forward. Subsequently, a recommendation was established for chicken keeping being allowed on lots as small as 20,000 sq. ft. (approximately ½ acre). Ultimately, language in the amendment being brought forward allows backyard chicken keeping on lots a minimum of one acre in size. The Town of Ottawa asked for this change. There were specific requests from several towns. The Town of Brookfield indicated that they are not interested in allowing backyard chicken keeping at all, as they consider themselves an urban town, and do not have the resources to handle violations and nuisance complaints, etc. The Town of Eagle said that they have had in effect for some period of time (10 years), a provision allowing (animals/horses) on parcels as small as one acre and that they prefer it rather than three acres. The county is not proposing to change the three acre rule-only to relax the acreage requirement from five acres to three acres in a couple of zoning districts for consistency. The Town of Eagle asked if there could be a unique arrangement for split jurisdictional parcels (part shoreland and part town jurisdiction). The Planning and Zoning Division staff created and added language to the proposed amendments indicating when the property is more than 50% Town of Eagle jurisdiction it would defer to their animal keeping rules. He indicated that a written comment was received from a resident in the Town of Eagle who offered concerns at the town meeting. She thanked the county for being responsive to the request made at the Eagle meeting. Several phone calls were received today before the hearing. All callers were informed that e-mails and written comments would continue to be taken. He noted that no action is going to be taken today as this is only the public hearing for the amendments.

Mr. Fruth explained some of the non-animal amendments being proposed. The C-1 Conservancy and Environmental Corridor district references in the ordinance are being proposed to be converted to the overlay system. There were requests from individuals in the Town of Delafield for the maximum wall height for boathouses to be reduced by one foot for concerns regarding lake views, etc. He stated that there are other miscellaneous changes prompted by the Department of Natural Resources comments relative to the prior set of amendments (Okauchee District amendments).

Chairperson Peregrine opened the hearing for public comments. He asked speakers to limit public comments to three minutes.

Several people spoke regarding the amendments and the comments are summarized below:

- One individual expressed that he did not think that everyday cleaning of coops makes sense. He wanted language changed to say the best use of chicken manure was to dig it into ground to grow gardens. He also felt that the requirement for chickens to be kept 50 ft. from lot lines is too far. He asked that 20 to 25 ft. be considered. He also stated a preference for chicken coops to have a dirt floor and use a composting method with deep piling of pine shavings, let them accumulate throughout the winter which keeps the chickens most healthy.
- A Town of Mukwonago citizen noted that the Town of Mukwonago does not regulate bee keeping regardless of lot size or zoning. He stated that bees are critical to our food supply and stated that, without pollination, there are no crops and this needs to be considered. He noted that many of the Town of Mukwonago lots under shoreland zoning are less than three acres in size and contain lake frontage. He felt lot size should not be a consideration. To be consistent with the principals of few laws and less government control, he suggested that bees not be regulated at all. He stated that it is desirable for the Waukesha County Shoreland zoning to be consistent with the Town of Mukwonago zoning wherever possible. He noted that there will be confusion for Town of Mukwonago residents regarding applicable ordinances, and enforcement and penalties will arise if there is two sets of rules.
- A City of Waukesha citizen stated she has chickens and knows friends and family that have chickens (outside of the city) and neither has one acre of land. She agreed with less government control over the lot size for the keeping of chickens for those that have under one acre of land. She had concerns with the proposed placement of coops and manure requirements. She thought there were too many regulations and restrictions for people who want to have recreational chickens.
- An Eagle Town Supervisor stated that Eagle is a unique town as far as equine animals. He has lived there for 26 years and the rule has always been one horse per acre. Three acres was the minimum lot size for one horse. There are some parcels that have shoreland on their property, possibly a pond. This would restrict the number of horses allowed on that type of property. On non-shoreland properties you are allowed to have five horses on five acres. People have been doing this for a long period of time and there would be two sets of rules. Residents purchased properties so they could have one horse per acre. Many properties would lose value if this amendment is approved.
- The Town of Eagle Chairman stated that he agreed with the above statements. He asked Mr. Fruth if a letter was received by e-mail from him yesterday and if it was forwarded to the Commission members? Mr. Fruth replied "Yes". He presented a map to the Commission showing the Southern Unit of the Kettle Moraine State Forest, farmland preservation properties and the shoreland jurisdiction. He stated

that the town does not have control over the State Forest which is regulated by the Department of Natural Resources and the county. Residents want to keep the one horse per acre rule, as it has always been. Many residents are horse riding enthusiasts on the surrounding trails. In the memo, it states that other towns' comments were taken into consideration. He is asking that the Town of Eagle be exempt. It would be impossible for residents to understand cutting it down to one horse per three acres. What would residents do if they had to get rid of their horses? Who would police or monitor this rule? In addition, there are two horse boarding facilities which would lose their livelihood if the amendment goes through.

- A town resident explained that she has had horses for many years and that horses are herding animals that need other horses to live with to avoid anxiety. She expressed opposition to allowance of only one horse on a three acre property and felt it would be bad for the health of the animal. She stated that most people have at least two horses because of this.
- A question was asked as to whether emails would be allowed to be entered as public hearing comments because some people were not able to come or didn't know the meeting was going to be held today? Mr. Fruth replied e-mails and written correspondence would be accepted.
- A question was asked as to whether the public hearing would be held open? Mr. Fruth replied "No," but written comments will be accepted for the next two weeks.

Mr. Fruth said the Planning Staff would analyze the comments heard today. He noted (regarding the three horses per one acre rule) that the Town of Eagle was subject to the County's Zoning code going back to the late 1950's. The rule was one horse per acre since the late 1950's until 1990. There was a major Town Code overhaul approximately 10 years ago and that may be when the one acre rule came in. The Planning Staff will attempt to respond to all questions and comments heard here today as well as the written comments. A member of the audience clarified that the Town of Eagle rule is one horse per acre, but there is also a rule that you must have three acres to have any horses, and then you can have three horses on three acres, to which Mr. Fruth stated that he understood.

Chairperson Peregrine asked if there were any other comments from the audience, Committee or Commission, there being none, he closed the Public Hearing at approximately 1:35 pm.

- **Public Hearing to amend the text of the Waukesha County Zoning Code relating to animal keeping regulations (RZ62)**

At 1:35 p.m., Chairperson Peregrine read the Notice of Public Hearing into the record.

Mr. Fruth indicated this public hearing pertains to the non-shoreland areas of the Towns of Oconomowoc and Ottawa. The same text amendments apply as in the first public hearing except the unique shoreland provisions.

Mr. Mitchell asked if the Town of Oconomowoc Planner or the Town of Ottawa submitted any written comments. Mr. Fruth replied that the Town of Ottawa expressed a preference for a one acre minimum lot size for residential chicken keeping, not the 20,000 sq. ft. originally proposed. No concerns were raised by the Town of Oconomowoc.

Chairperson Peregrine asked if there were any other comments from the audience, Committee or Commission, there being none, he closed the Public Hearing at approximately 1:37 pm.

Consideration of the Year 2020 Requests for Amendments to the Comprehensive Development Plan for Waukesha County

• **2(A) Year 2020 amendment to the Comprehensive Development Plan.**

Phyllis B. Cramer, W380 S2602 CTH Z, Dousman, WI, 53118-9555, requests property located in part of the SW ¼ of Section 9, T6N, R17E, Town of Ottawa (Tax Key No. OTWT 1619.999.005), be amended from the Primary Environmental Corridor category to the Farmland Preservation with Environmental Corridor Overlay category, to complete a transfer of adjacent lands process.

Mr. Mitchell noted that he had no issues with the request.

After a brief discussion, Mr. Mitchell 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.

• **3 (A) Year 2020 amendment to the Comprehensive Development Plan.**

The Waukesha County Park and Planning Commission, 515 West Moreland Blvd., Waukesha, WI 53188, requests comprehensive amendments to the land use plan mapping for various properties within the Town of Vernon. The proposed amendments are being brought forward in response to recent amendments adopted by the town relative to the Town of Vernon Comprehensive Plan.

Mr. Fruth stated that this is a town wide mapping amendment for the Town of Vernon. Most of the mapping amendments are located in the northeast portion of Town of Vernon, near the Village of Big Bend. The Planning and Zoning Division Staff worked with the town to modernize and update the various land use designations.

Mr. Hamilton suggested that in the Staff Analysis section of the Staff Report and Recommendation the sentence that reads “The town expressed a desire to be competitive to the Village of Big Bend in being able to offer comparable densities to what the village would allow in near-boundary areas” the word “competitive” be replaced with “comparable”. Mr. Fruth clarified that the town’s goal is to not lose out on development proposals and he recommended that the wording stay as written.

After discussion, Mr. Hamilton moved, seconded by Mr. Siepmann 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.

• **4A – Amy Hudson and James Derrick – Town of Waukesha**

Amy Hudson and James Derrick, 6508 W. Lincoln Avenue, West Allis, WI 53219-2045, request property located in part of the SE ¼ of Section 34, T6N, R19E, Town of Waukesha (Tax Key No. WAKT 1432.998.004), be amended from the Suburban I Density Residential (1.5 to 2.9 acres of area per dwelling unit) category to the Mixed Use category, to allow for a self-storage facility. The Other Open Lands to be Preserved areas on the property will remain unchanged.

Mr. Fruth indicated the property is located along STH 164 in the Town of Waukesha. This amendment must be approved prior to the land being rezoned to the B-3 General Business District. Mr. Mitchell asked if the Town of Waukesha had taken action on this request? Mr. Fruth replied that he attended the public hearing for the rezoning and noted that the town asked the petitioner to come back with more details regarding the proposal. They are continuing to work their way through the process. Mr. Morris asked if that was the reason for the conditional approval of the amendment. Mr. Fruth replied that the Mixed Use category is broad and the Planning and Zoning Division staff thought it was important to distinguish the allowable uses of residential and commercial in case the proposal could not move forward as a self-storage facility.

After discussion, Mr. Morris 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.

• **4B - Waukesha County Park and Planning Commission (Waukesha T/Board) - Town of Waukesha**
The Waukesha County Park and Planning Commission, 515 West Moreland Blvd., Waukesha, WI 53188, requests comprehensive amendments to the land use plan mapping for various properties within the Town of Waukesha. The proposed amendments are being brought forward in response to recent amendments made to the Town of Waukesha Comprehensive Plan.

Mr. Fruth indicated a number of the properties are located along STH 164 and STH 59 corridors along with several properties along the west bypass route.

After a brief discussion, Mr. Mitchell moved, seconded by Mr. Hamilton 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.

• **RZ40 (Town of Delafield Board-Text Amendment)**

Mr. Fruth explained the request is a text amendment to repeal and recreate certain sections of Chapter 17 and all of Section 17.05 of the Town of Delafield Zoning Code relating to conditional use provisions.

Mr. Fruth indicated the town has converted certain conditional uses to permitted rather than conditional, changed some conditional uses to prohibited and created enhanced standards and provisions. Of note, one change is to shift the residential Planned Unit Development (PUD) option to the land division ordinance. The town indicated that they were concerned about being constrained by the rules of conditional use laws and thought they could administer residential PUDs by adopting those standards into their land division control ordinance. In addition, there are a few zoning districts that have historically only allowed for subdivision development via residential PUD and clustered open space developments. The town is proposing an option which would allow for conventional lots, as long as they are five acres in size or more. Some of the uses being deleted would be unlikely to occur any longer in a more suburban town such as Delafield. Mr. Fruth noted that the Planning and Zoning staff shared comments on the first version of the text amendments and the town made some minor revisions to their amendments in response.

Mr. Mitchell asked, if after discussions with the town, they were clear on the policy changes they wanted to enact and what effect it would have, to which Mr. Fruth replied “Yes”.

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

RZ63 (Town of Waukesha Board-Text Amendment)

Mr. Fruth explained the request is a text amendment to repeal and recreate numerous sections of the Town of Waukesha Zoning Code relating to conditional use provisions.

Mr. Fruth stated that the town previously advanced an ordinance (RZ43) relating to conditional use provisions which was approved by the Park and Planning Commission on July 18, 2019. Before the ordinance went to the County Board, the town requested it be tabled. The town subsequently advanced an alternative ordinance.

Mr. Fruth explained in the original ordinance (RZ43) the town intended to repeal temporarily all of the conditional use options. In the new ordinance, the town is preserving the conditional use options that they feel have sufficient standards. The town has added language which states that for any of the options that are repealed, they would become legal nonconforming. In addition, provisions have been added stating that owners and petitioners would be able to propose amendments even though the use type may have been repealed. The new set of text amendments has greatly reduced the number of conditional use types and preserved the ones which are the most likely to occur in the town and they will continue to work on developing standards for other use types and plan to bring forward another amendment in the future.

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

• **CU45 (Heaven City Development Company) Town of Vernon, Section 19**

Mr. Fruth pointed out the location of the property at S91 W27850 W. National Avenue in the Town of Vernon on the aerial photograph. He indicated the request is amend the existing conditional use permit to reduce the acreage that is subject to an existing legal nonconforming conditional use permit for multi-family use, terminate the temporary sale of fireworks, allow existing uses or modifications that are allowed in the B-2 District without conditional use approval and terminate the restaurant use and replace with a retail gift store.

Mr. Fruth indicated the former Heaven City Restaurant and a number of other uses are located on the property. The property is located on the north side of I-43, outside of the Village of Mukwonago, along the Fox River. The property is large and contains wooded acreage. The property owner is requesting to lease the vacant main restaurant building to a business which would like to conduct estate sales from the premises. The amended conditional use is being modified to reduce the area and the owner would like to divide off several parcels in the far northeast portion of the property. This would result in the conditional use being modified to better align with the developed/developable portion of the site and to allow subsequent proposals and amendments to come forward if they are compliant with the B-2 District. Proposals would be allowed to petition by right, rather than going through a public hearing each time a use may change.

After discussion, Mr. Hamilton moved, seconded by Mr. Siepmann 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.

ADJOURNMENT

With no further business to come before the Commission, Mr. Morris moved, seconded by Mr. Mitchell to adjourn at 1:50 p.m.

Respectfully submitted,

James Siepmann

James Siepmann
Secretary

JS:kb