WAUKESHA COUNTY
MINUTES OF THE PARK AND PLANNING COMMISSION
THURSDAY, FEBRUARY 24, 2005, 1:00 P.M.

CALL TO ORDER
Mareth Kipp, Vice-Chairperson, called the meeting to order at 1:00 p.m.

Commission Members Present:	Mareth Kipp	Pat Haukohl	Gary Goodchild
	Walter Kolb	Ellen Gennrich	Betty Willert

Commission Members Absent: Walter Baade, Chairperson

Staff Members Present: Kathy Moore, Senior Planner
Kathy Brady, Secretary Supervisor

Guests Present:	Mr. and Mrs. Joseph Wesolowski	Attorney Dean Richards
	Roger Dupler	Mark Wesner
	Lloyd Williams	

PUBLIC COMMENT
Vice-Chairperson Kipp asked if anyone from the audience wished to address the Commission? There being no one, she moved to the next item on the agenda.

MINUTES

- ***Mrs. Willert moved, seconded by Mr. Goodchild and carried unanimously, for approval of the November 18, 2004, Minutes.***

- ***Mrs. Willert moved, seconded by Mrs. Gennrich and carried unanimously, for approval of the January 27, 2005, Minutes.***

- **SZ-1559 (Greg and Kathy Nickolaus) Town of Oconomowoc, Section 36 (R-3 Residential District to the B-2 Local Business District)**

Ms. Moore presented the "Staff Report and Recommendation" dated February 24, 2005, and made a part of these Minutes. She pointed out the location of the property at N50 W34725 Wisconsin Avenue in the Town of Oconomowoc on the aerial photograph.

Ms. Moore indicated the property is located on Wisconsin Avenue in the Town of Oconomowoc, with frontage on Florence Lake. The property contains a single-family residence and a 36' x 24' detached garage. The present zoning is R-3 Residential District under the Shoreland jurisdiction. The petitioners are proposing to rezone the property to the B-2 Local Business District to convert the existing detached garage to a bait and tackle shop. Adjacent properties include single-family homes to the north. Vice-Chairperson Kipp asked where is the location of the nearest other commercial property? Ms. Moore replied, directly across the street. There was some concern at the public hearing regarding parking on the property including the owner's and potential customer's vehicles, the parking of existing commercial/construction vehicles on the property (including dump trucks and a bobcat), storage of materials such as wood and old fence materials and garbage, cigarette butts, etc., which had been left on the ice of Florence Lake by the owner's of the property. They also questioned if the customers of the bait and tackle shop would have access to Florence Lake through the subject property. Mr. Kolb asked if the owner's reside in the residence on the property and expressed concerns regarding the garbage and

junk on the property? Ms. Moore answered, the owners live on the property, however, no formal complaints have been received regarding the junk on the property. Mrs. Gennrich asked if a condition should be added stating the property be cleaned up? Ms. Moore replied, it would be included in the Site Plan/Plan of Operation for the business. From what she understood, the petitioners are proposing to locate the business in the detached garage. Vice-Chairperson Kipp clarified the bait and tackle shop would be located in the detached garage and the petitioner's would live in the single-family residence on the property. Ms. Moore replied, "Yes". Mrs. Haukohl asked if the customers would have access to the lake? Ms. Moore responded, "No". Mrs. Willert asked how wide is the property, to which Ms. Moore replied, approximately 208' wide. Mrs. Haukohl expressed concerns that all of the neighbor's issues are addressed. Mr. Kolb asked if it should be conditioned that the vehicles and junk items be removed from the property? Ms. Moore reiterated that it would be addressed in the Site Plan/Plan of Operation.

After discussion, Mrs. Gennrich moved, seconded by Mrs. Willert and carried unanimously, for approval, as conditioned, in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

- **SCZ-1555 (Mark Wesner) Town of Vernon, Section 14 (RRD-5 Rural Residential Density District 5 to the R-1 Residential District)**

Ms. Moore presented the "Staff Memorandum" dated February 24, 2005, and made a part of these Minutes. She pointed out the location of the property south of the Vernon Highlands Addition No. 1 Subdivision in the Town of Vernon on the aerial photograph.

Ms. Moore indicated the Commission recommended denial of the rezoning at the January 13, 2005, Commission meeting. Mr. Kolb explained the Land Use, Parks and Environment Committee considered the matter on February 1, 2005, and subsequently sent the matter back to the Commission as further information regarding the property was brought forth. Vice-Chairperson Kipp said as she remembered, the Commission had concerns because the request contained the wrong Tax Key No. Ms. Moore said the annexation of the (correct) property would go before the Village of Big Bend Board this evening. She further explained, when the petitioner purchased the property, the legal description was incorrect which resulted in the petitioner's deed being incorrect. The incorrect information was subsequently filed with the Village of Big Bend as part of the annexation request and the Town of Vernon pointed out that the two parcels in the legal description were incorrect at the last Commission meeting. This issue has now been corrected.

Mrs. Haukohl said, at the January 13, 2005, Commission meeting, the rezoning was denied not only because of the annexation issue but because of the high groundwater in the area. In the Minutes from the Town, the Town Planner indicated the matter was denied at the Town level because of the annexation issue and because there were no plans for dealing with stormwater runoff and the high groundwater. She realizes the annexation issue was a mistake and has been cleared up, however, there are still issues with high groundwater. She asked if the present zoning of RRD-5 Rural Residential Density District 5 is compliant with the Waukesha County Development Plan? Ms. Moore replied, "No", because the County Development Plan indicates the land should be in the Low Density Residential category, one-acre category, 20,000 sq. ft. to 1.4 acres per dwelling unit. She further explained the RRD-5 Rural Residential Density District 5 is a holding district in the Town of Vernon. Properties were placed in holding categories for the opportunity to review specific layouts or proposals rather than pre-zoning areas up front in accordance with the adopted Land Use Plan.

Ms. Moore stated the property has a long history generated by the Town, allowing it to be divided and removing Deed Restrictions. The petitioner ended up with the last piece of the property, and the development proposed is consistent with the Town Plan. Vice-Chairperson Kipp said the "Staff Memorandum" states the petitioner has withdrawn his request to rezone the Zoning Code portion of the amendment in light of the fact that he is annexing the property to the Village of Big Bend, so the matter of the Zoning Code is moot. Ms. Moore pointed out the portion of the property within the Shoreland area and noted the rest is under the County Code. Now that the property is going to be in the Village, the only part the County has jurisdiction over is the Shoreland area and the rest is in the jurisdiction of the Village of Big Bend. The only way the petitioner can change the Shoreland area, which is not Conservancy from RRD-5 Rural Residential Density District 5 to the R-1 Residential District is through the Waukesha County Board.

Mr. Goodchild asked if the road had already been built? Ms. Moore answered "Yes", and added that there was a previous rezoning for a road crossing to allow the Conservancy to be filled for the road. She indicated it is a Town Road but was unsure how it would be maintained with the annexation. Mr. Wesner said the loop connecting Highland Drive and Sunset View Drive would be annexed to the Village. There was discussion regarding the future road to Artesian Avenue. Ms. Moore indicated the petitioner's layout shows a street extension to the east, which ultimately will go south. Vice-Chairperson Kipp pointed out the Shoreland change to the R-1 Residential District is 9.5 acres and the Shoreland change to the C-1 Conservancy District is 0.58 acre. Mr. Goodchild asked if the Village would be responsible for stormwater runoff? Ms. Moore replied, "Yes", the County's Stormwater Ordinance must be complied with in the annexed area. Mr. Wesner submitted a Preliminary Plat, which indicated the location and building envelopes for the proposed lots. Mr. Goodchild said the sizes of the lots on the Preliminary Plat do not include the transmission easement, which would make them much smaller. Vice-Chairperson Kipp noted the Commission is not considering the Plat itself. She asked where the stormwater retention would be located? Mr. Wesner answered, on Lot 1. Ms. Moore said the Commission is being asked to reconsider their previous action of January 13, 2005, only to amend the District Map of the County Shoreland Code to change the area from RRD-5 to R-1 and the C-1 Conservancy would stay the same.

Mrs. Gennrich said some of the property is not appropriate for the zoning category that the Land Use Plan indicates. Mrs. Haukohl agreed. Mr. Kolb stated, if the rezoning was denied, the Village could come back and approve smaller lots outside the Shoreland area and allow five-acre density with one acre minimum lots in the County Shoreland jurisdiction.

Mr. Kolb moved, seconded by Mrs. Willert and carried by a vote of 4 to 2 (Mrs. Gennrich and Mrs. Haukohl voted against) to <u>reconsider</u> the Commission's previous action of January 13, 2005.

There was further discussion regarding what type of septic systems would be utilized. Mr. Wesner indicated all of the lots would be mound systems. Ms. Moore said the Staff would recommend to the Village that the lots have "Basement Statements" and how much grading would be allowed. Mrs. Gennrich said that high groundwater issues should be considered when Land Use Plan amendments are requested. Ms. Moore indicated that groundwater issues are unknown until soil tests are completed, as soils tested are not done upfront. Mrs. Haukohl said she could not support the rezoning because she felt it was not good land use planning due to the high groundwater issues and the slopes of the property. Mrs. Gennrich said the petitioner has reasonable use of his land today and the question is how many lots should be allowed. Mr. Kolb asked, if the petitioner is complying in every way with the Waukesha County Land Use Plan, are the reasons for denial predicated on something the petitioner has done or something he is not complying with? He added the petitioner has complied with every single item. Mrs. Gennrich indicated the Town denied the request due to other reasons besides the annexation.

Mrs. Haukohl reiterated the Town Planner said there were other issues besides the annexation such as the proposal did not meet the Town's criteria for stormwater management, soil borings and conservancy areas were not mapped. Mr. Wesner said, "That was at the time of the Town's meeting, not at the current time." Ms. Moore agreed that it is not in the record. Vice-Chairperson Kipp said the Town recommended against the rezoning because they basically had no jurisdiction over it anyway. Ms. Moore said if the Commission is concerned about stormwater retention and facilities, a condition could be added stating the development would have to comply with the Waukesha County Construction Site Erosion Control and Storm Water Management Ordinance and limitations could be placed on filling or grading concerns, such as the basement floors would have to be 1' above the groundwater table. The Commission agreed.

Mr. Wesner said that before he purchased the property, the developer to the north put in a subdivision with the intent to have the two roads go through to Artesian Avenue. It was his understanding that Mr. Kalk, was against that type of development and would not sell the land, therefore the subdivision stopped at the property line. He indicated there is never standing water in the drainage ditch and it is always dry until it rains because water drains southwest to the lowest point. At the north property line there is a farmers tree line and rock line which was unofficially reinforced years ago to help stop water runoff from Sunset View Drive from entering the property which contains the natural drainage swale. The homeowners on the north side of the tree line basically had a 2' dam next to their property line. Runoff from all 40 homes and the roads to the north comes down with no place to go except south and west. He stated the stormwater drainage was never addressed and last two properties in the subdivision to the north retain all of the water on their lots. Mrs. Gennrich asked what conditions could be added to address the drainage? Ms. Moore suggested the rezoning could be conditioned upon the development complying with the Waukesha County Construction Site Erosion Control and Storm Water Management Ordinance and the Stormwater Plan and the development take into consideration alleviating the surface water drainage from the subdivision to the north. In addition, verification be submitted from the Village Engineer that he has complied with all of the conditions of the Ordinance. Mrs. Haukohl suggested a condition be added that the development must comply with the Shoreland Ordinance and no variances would be permitted. The Commission agreed. Mrs. Gennrich asked how many lots would be allowed? Ms. Moore replied, approximately eight, one-acre lots.

After a lengthy discussion, Mr. Kolb moved, seconded by Mrs. Willert and carried unanimously, for <u>approval</u>, in accordance with the "Staff Memorandum" with the following added conditions:

1. ***The development must comply with the Waukesha County Construction Site Erosion Control and Storm Water Management Ordinance. Prior to final Plat approval, certification must be submitted to the Waukesha County Planning and Zoning Division Staff by the Village of Big Bend Engineer that he has reviewed the Erosion and Stormwater Plans and that they have complied with the abovementioned Ordinance. The Stormwater Plan for the development must address the surface water drainage problems from the subdivision to the north.***

2. ***The development must comply with the Waukesha County Shoreland and Floodland Protection Ordinance and no variances to those requirements will be permitted.***

The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

- **CZ-1561 (Robert Gummo and David Olshefski) Town of Vernon, Section 1 (R-1 Residential District to the B-3 General Business District)**

Ms. Moore presented the "Staff Report and Recommendation" dated February 24, 2005, and made a part of these Minutes. She pointed out the location of the property at S68 W22715 National Avenue, in the Town of Vernon on the aerial photograph.

Ms. Moore indicated the petitioner's request for rezoning the property to the B-3 General Business District was for the construction of mini warehouse storage units. She pointed out that the Town of Vernon Board denied the request based on the fact that the proposed use is not consistent with the Town or County Land Use Plans and that not enough Building Plans, Site Plan/Plan of Operations details were submitted. The Commission decided they could not approve the request without the Town's approval and because the request is inconsistent with both the Town's and County's Development Plans.

After discussion, Mrs. Gennrich moved, seconded by Mrs. Haukohl and carried unanimously, to deny the rezoning, in accordance with the "Staff Report and Recommendation".

- **ZT-1563 (Randy and Brenda Schuett) Town of Mukwonago, Section 14 (A-1 Agricultural District to the R-1 Residential and R-H Rural Home Districts)**

Ms. Moore presented the "Staff Report and Recommendation" dated February 24, 2005, and made a part of these Minutes. She pointed out the location of the property, on the east and west sides of S.T.H. 83, south of Sugden and Frog Alley Roads in the Town of Mukwonago on the aerial photograph.

Ms. Moore indicated the approximately 66-acre property contains the original farmstead and a 4.5-acre parcel, which contains a new single-family residence. The petitioner intends to create a five-acre parcel containing the original farmstead (proposed to be rezoned to the R-H Rural Home District). A 16-lot subdivision would be created on the remainder of the property and the 4.5-acre parcel with the new single-family residence will become a lot in the proposed subdivision. The area on the west side of S.T.H. 83 (approximately 14 acres) is under the CRP and will be a separate outlot which will not be owned in common by the subdivision property owners. Mr. Goodchild pointed out where the high-pressure natural gas line would run through the subdivision. He indicated it would run east and west through the north portion of the proposed subdivision. Vice-Chairperson Kipp asked how the gas lines would be identified on the Plat? Ms. Moore replied, it would be shown as an easement on the Plat. Mrs. Haukohl asked, if there would be a transfer of density from the west side of the road to the east side of the road? Ms. Moore replied, the current zoning of the property only allows a development as a Planned Unit Development (PUD), and because the issue of where S.T.H. 83 will be re-routed, it was not practical that the outlot be an undividable interest as part of a PUD with all of the subdivision lot owners, because the State would have to deal with all of the parties involved when widening the highway. It has been indicated the widening of S.T.H. 83 most probably would be on the west side, which would be retained by Mr. Schuett as an outlot. Mrs. Gennrich said since the property is currently zoned A-1 Agricultural, should the rezone be conditioned so the 13 acres would be changed to C-1 Conservancy when it comes out of the CRP? Ms. Moore responded, that Condition "O" of the Town addresses that concern. Mrs. Gennrich clarified the property would be 3-acre density with 1.5 acre lots. Ms. Moore replied, "Yes." Mr. Goodchild felt the widening of the S.T.H. 83 may be on the west side because of the high pressure and fiber optic ATT lines.

After discussion, Mrs. Willert moved, seconded by Mrs. Gennrich and carried unanimously, for approval, as conditioned, in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

- **CU-1395 (Joseph and Deanna Wesolowski) Town of Vernon, Section 16**

Ms. Moore presented the "Staff Report and Recommendation" dated February 24, 2005, and made a part of these Minutes. She pointed out the location of the property on the aerial photograph and stated the petitioner is requesting a Conditional Use Permit for an in-law unit.

Ms. Moore indicated the petitioner is requesting to construct a new residence with an in-law unit. The submitted plans show the in-law unit being accessed from a second front door, which is in conflict with the requirement of the Waukesha County Zoning Code, which states that a common entrance should be designed so that it does not appear to be a duplex. The Town of Vernon Plan Commission conditioned that the location of the entrance door comply with the Zoning Code prior to the release of the Zoning and Building Permits. Mr. Wesolowski clarified that he must submit new plans for the location of the entrance door to the Planning and Zoning Division Staff before permits would be issued. Ms. Moore replied, "Yes" and cautioned that the house should be designed for the current grade of the property.

After discussion, Mrs. Haukohl moved, seconded by Mr. Goodchild and carried unanimously, for approval, as conditioned, in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

- **(Lloyd Williams) Town of Delafield, Section 25**

Ms. Moore presented the "Staff Memorandum" dated February 24, 2005, and made a part of these Minutes. She pointed out the location of the property at W289 N520 Hwy G in the Town of Delafield on the aerial photograph and stated the petitioner is requesting a lot not abutting a public road.

Ms. Moore indicated the Planning and Zoning Division Staff is currently reviewing the Preliminary Plat for the Shepards Pass South Subdivision, located on the southwest shore of Etter Lake. She said the design of the plat has changed. The property was previously before the Commission as an amendment to the Waukesha County Development Plan, a rezoning and a Conditional Use. The Preliminary Plat as submitted, extends the public road just past a cul-de-sac to the north to be know as Williams Bay Court and the public road would come in off of C.T.H. "G". The intent is to get an easement over the future public road to Lot 11, which is three-acres in size. Because it is a Planned Unit Development (PUD) all of the open space needs to be created up front so the deeds have a description for their common area. There is a separate agreement with the Town regarding extending the road to the property to the south and east, in that whoever benefits from it would pay for the extension of the road. Lot 11 is located at the east end of the public road, is over three acres in size and is within the fall zone of the 263' cell tower. The petitioner is proposing to create a lot serviced with a private easement over a future road extension within the fall zone of the cell tower. The future road extension would be constructed when Lot 11 is re-divided with an easement over the 66' right-of-way to service the three-acre lot. She pointed out the location of the easement and said the intention is not to build anything on Lot 11 at this point, however, the open space must be created and the lot would be created by default. Lot 11 is allowed to be divided in the future to create another lot.

Vice-Chairperson Kipp asked if the farmstead is included in the PUD and if the petitioner would retain the 13 acres? Ms. Moore replied, "Yes". Attorney Richards explained it comes under the Town's Ordinance, which allows the common open space owned by the homeowners association to continue to be tilled and have Ag Preservation. He said that Mr. Williams does not want to develop Lot 11 or 12 now and may not in the future, however, in addition to it being a PUD they wanted to set everything up properly. They wish to receive permission for the lots at this time, whether they would be developed or not. The entire 66' strip to the corner is subject to an offer of dedication to the Town. The Town would have the right to take the dedication. The Town has requested that Mr. Williams post a Letter of Credit

to finish the portion of the road so that before Lot 11 were sold the Town could decide to keep the private drive or if a public road would be needed. Vice-Chairperson asked if the cell tower would be replaced? Attorney Richards replied "No".

Ms. Moore asked if the intent was for a 33' or a 66' easement? Attorney Richards replied 66'. Ms. Moore suggested a 33' easement be placed on the Plat to Lot 11 with a restriction on the face of the Plat that the lot may not be re-divided until there is a 66' public road.

After discussion, Mrs. Gennrich moved, seconded by Mr. Kolb and carried unanimously, for approval, as conditioned, in accordance with the "Staff Memorandum". The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

ADJOURNMENT

With no further business to come before the Commission, Mrs. Gennrich moved, seconded by Mrs. Willert to adjourn at 2:25 p.m.

Respectfully submitted,

Ellen Gennrich
Secretary

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