

**WAUKESHA COUNTY
MINUTES FOR THE PARK AND PLANNING COMMISSION
THURSDAY, MARCH 6, 2008, 1:00 P.M.
ADMINISTRATION CENTER, ROOM 255/259**

CALL TO ORDER

The meeting was called to order at 1:00 p.m. by Pat Haukohl, Chairperson of the Waukesha County Park and Planning Commission.

Waukesha County Park and Planning Commission Members Present:	Pat Haukohl, Chairperson Walter Baade	Gary Goodchild Bonnie Morris	Walter Kolb Jim Siepmann
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Commission Members
Absent: Betty Willert

Staff Members Present: Richard L. Mace, Planning & Zoning Manager
Elfriede Sprague, Clerk III

Guests Present:	Sandy Campbell Bob Thelen II Dennis Shaw Carolyn Du Puis Jeffrey Schlueter	Diane Zakrewski Jean Brown Ama John Stigler Ezra Meyer	Yvonne Caby John Koepke Rodell Singert Pam Meyer
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CORRESPONDENCE:

Letter from Barb Pinter, dated March 5, 2008, read into record opposing CZ-1577A – Dave Robinson.

MEETING APPROVAL:

Mrs. Haukohl stated she had received an invitation to the Water Wise seminar, to be held March 15, 2008, at Carroll College. No one expressed an interest in attending.

MINUTES:

After discussion Mrs. Morris moved, seconded by Mr. Kolb and carried unanimously, for approval, of the February 21, 2008 Minutes.

PUBLIC COMMENT:

None

CONSIDERATION OF 2008 REQUEST FOR AMENDMENT TO THE WAUKESHA COUNTY DEVELOPMENT PLAN

The following item, which was noted in the “Notice of Public Hearing”, was presented.

- **Brian and Yvonne Caby**, W348 S5119 Waterville Road, Dousman, WI 53118, requests their parcel containing approximately 10 acres, (Tax Key No. OTWT 1682.992) be amended from the Rural Density category (10 acre category under the Town’s Plan and conditioned under the County’s Plan) to the Suburban II Density Residential category (3.0 to 4.9 acres per dwelling unit) to allow the creation of one additional parcel on the approximately 10 acre tract of land.

Mr. Mace identified the property on the aerial map and stated this petition was originally presented at the February 2008 public hearing. Since that time, the Town has reviewed and subsequently denied the Caby's request. The reasons for denial include the desire to preserve the rural character in this area, especially as this property abuts the Kettle Moraine State Forest and Waterville Road, which has been designated as a "rustic road". In 2006, the Town of Ottawa's Master Land Use Plan was updated. In 2007 the County incorporated said Town's Plan. The Town feels this request does not comply with the objectives and standards contained in their recently updated Plan, which includes the protection of the aesthetic appearance of the rural landscape and open space of the Town. To develop this property beyond what the plan allows (10 acre density) is not in concert with the projected needs of the community.

Mr. Goodchild read into record (copy in file) a statement outlining his reasons for denying the Caby's request at both the Town and County level. He commented that on March 3, 2008 he did a site visit to the Caby's property, including the area of ponding on the parcel to the south of their parcel, and there was a large area of water noted. According to the County's topographical maps, there are slopes that accommodate drainage of surface water to the south into said area.

Mrs. Haukohl questioned how a "rustic road" determination is acquired? Mr. Goodchild replied there are many requirements that need to be fulfilled; the rural nature, the landscape (prairie and forested lands), utility lines need to be buried, standards for tree cutting and trimming, reduced speed limits, etc. The whole intent of the "rustic road" status is to create a biking, walking and driving route for the public to enjoy. The community must petition the State for the status and it is a lengthy process. More information on rustic roads is available in a brochure in the Public Works office or on the State website.

Neighbors Dennis Shaw and Jeffrey Schlueter spoke in favor of denial of the request, citing drainage problems and their wish to retain the rural atmosphere of the Town. Carolyn Du Puis spoke in favor of the request, reiterating her reasons as originally presented at the public hearing and gave a history of the changes that have occurred in the area supporting the division. She does not feel it is fair to deny the Caby's request when there are so many divisions/exceptions already that have occurred in the area.

Yvonne Caby stated that before they purchased the land, they checked with the Town regarding the zoning to see if it would allow another residence (for their daughter) to be built on the parcel and were told it would. Subsequently, they have found out that the Master Land Use Plan will not allow it. She understands this is an emotional issue, however does not feel that an additional residence would adversely affect the area. Her daughter intends to build a green home and pointed out that the house would be located in the back area of the lot and would not be seen from the road. The ponding on her neighbor's lot has always been there. The Caby's lot is relatively flat and an additional residence should not create any more runoff to that area.

Mrs. Morris commented she understands the decision is difficult, especially in light of the fact there is a three (3) acre subdivision to the south, and several of the lots to the north have been divided to allow three (3) acre lots; however, since the Town has already denied several other requests for lot division's and the Town's wish is to follow their Master Land Use Plan, she will support their decision. Mrs. Haukohl added that what has been done in the past is in the past. Now the Town has adopted a new Master Land Use Plan and they intend to move forward in support of it, maintaining larger lot sizes in the Town.

Mrs. Caby stated an adjoining 10 acre lot was divided in 1998. The Master Land Use Plan has already been deviated from. Mr. Mace replied that lot division was created under the old Plan and did not know what category the lot was in then, however; the current category does not support further division greater than one residential unit per ten (10) acres.

After discussion, Mr. Goodchild moved, seconded by Mr. Siepmann and carried unanimously, for denial, for the reasons identified earlier and in the “Staff Report and Recommendation”.

• **CZ-1577A (David Robinson) Town of Oconomowoc, Section 14 (Amend Conditions No. 5 and 7 of CZ-1577, Enrolled Ordinance 160-66)**

Mr. Mace presented the “Staff Report and Recommendation” dated March 6, 2006, and made a part of these Minutes. He pointed out the location of the property, on the west side of Norwegian Road, north of C.T.H. “K and stated the petitioner is requesting to amend conditions of his November 2005 rezoning approval. The purpose of the original rezoning was to allow the land to be developed into a 10 dwelling unit cluster type subdivision. This proposed development was to be located on the southern portion of the property along with the access road, so as to preserve the open space, Environmental Corridor (EC) and wetlands on the property. Condition No. 5 of the rezoning prohibited any disturbance of the EC and the Conservancy District, except for walking and hiking trails, picnic areas and a gazebo. Condition No. 7 required the developer to comply with the site distance requirements of the County for the entrance to Norwegian Road. After considerable engineering work and analysis, it was determined that the access road’s original location could not meet the site distance requirements of Condition No. 7 without severe construction modifications to Norwegian Road, which is extremely hilly and contains deep slopes. These modifications would also adversely affect existing driveways on both sides of the road. In an effort to avoid all that disturbance and the severe cutting of said road, the petitioner is requesting an amendment to Condition No. 5. He has proposed to relocate the road to the north and go through a small corner of the PEC, requiring the removal of some of the pines that were planted after 1990. This requires that Condition No. 5 of Enrolled Ordinance 160-66 be amended to allow disturbance of the EC. It is felt by the Town Plan Commission, as well as the Staff of the Town of Oconomowoc and the Department of Parks and Land Use, that this would be a reasonable compromise in an effort to provide safe and adequate access to the 10 parcels being created in the southern part of this property. It is also felt that the pine plantation, though identified as EC by SEWRPC, is not a naturally existing Environmental Corridor, as previous to 1990 it was a cropped field, and then planted by the petitioner. SEWRPC was contacted regarding this new road proposal and they replied relocating the road through the pines should not have any significant impact on the EC, especially since the road was going to be built in such a way as to minimize any runoff into the associated nearby wetlands. However, even though the Town Plan Commission recommended approval of the request, the Town Board unanimously denied it, citing the reasons as stated in their Town Resolution, with the primary reason being the pine plantation is EC and they felt cutting through it would have significant impact.

Mr. Baade asked if site distances on Norwegian Road are affected by the speed limit on the road? Mr. Mace replied that they are. The site distance standards are based on ASTO (American Society of Transportation Officials) standards. Discussion ensued regarding the possibility of reducing the speed limit to allow the access road to remain where originally proposed. Mr. Kolb questioned whether the County had jurisdiction to set rules over Town roads. Mr. Mace answered because this was a rezone of a County Code and the County knew it was unsafe, it was suggested the standard be applied to the rezone and it was incorporated by the Town, as well as the 2005 amending Ordinance.

John Koepke, Town of Oconomowoc Supervisor spoke on the matter. He stated the Town never approved the rezone going through the EC; it was conditioned to stay out of it. This land was removed from the Ag Preservation category because portions of the area did not contain Class 1 or II soils, so when the development was proposed, it was decided to preserve the area as Conservancy. Now, the determination cannot be made that some of the Conservancy land is not that important, just so the development can proceed. He agrees the speed limit is a problem; however a State Statute governs Town road speed limits and the speed limit on Norwegian Road has already been lowered in the last 15 years by 5 m.p.h. It cannot be lowered further unless the State authorizes such changes.

County Supervisor Robert Thelen stated the County and Town approved the rezone with the condition that the road would enter on the southern end of the development; the developer should have studied what could and could not be done better before presenting his proposal. The Town Board feels he needs to find a way to meet the conditions of approval and comply with the wishes of the Town. He is asking that the County support the Town's decision of denial.

Neighboring resident Jean Brown Ama asked the County to support the Town's decision. She added the land needs to be preserved; it is an exquisite piece of property and SEWRPC has rated this to be a Class I wildlife area. The only reason this development was approved was because it was conditioned not to disturb the EC. The new proposal for the road would place it very close to the wetlands, not in the pine tree stand.

Mr. Baade commented that prior to the 1990's, this was crop land; the present owner planted the pine trees. He and several Commission members felt that a small disturbance of the EC through the pines would not be detrimental to it. He asked who made the determination is was EC? Mr. Mace stated the Environmental Corridor designation was made on July 8, 2004 by SEWRPC, after the Planning and Zoning Division Staff requested that a field determination be conducted. Mr. Siepmann felt the environmental impact would be less by relocating the road through the pines than having to make large cuts to Norwegian Road in order to comply with the original conditions.

After discussion, Mr. Baade moved, seconded by Mr. Kolb to approve the petitioner's request to modify Condition No. 5 of EO 160-66 to allow the proposed access road to be located in the southeast corner of the EC in accordance with the Preliminary Plat presented to Staff and according to road specifications approved by Staff.

Mrs. Morris asked Mr. Mace, "What would happen if the County Board voted to approve the petitioner's request?" He replied that if the County were to do something different than what the Town had ruled, the Ordinance that leaves the County Board then returns to the Town and they have 40 days to either concur with the decision of the County Board or reaffirm their previous action. In that case the action does not advance and the Town's decision would be final.

With that understanding, Walter Kolb withdrew his second.

Mr. Siepmann felt the Staff's recommendation to allow the entrance road to be relocated through the pine grove would be a better solution than cutting down Norwegian Road.

He seconded Mr. Baade's motion to approve the petitioner's request.

After further discussion the motion was denied with a 2 to 4 vote. (Mr. Siepmann and Mr. Baade voted to approve the petitioner's request and Mrs. Haukohl, Mr. Goodchild, Mr. Kolb and Mrs. Morris voted against).

Mr. Siepmann moved, seconded by Mr. Kolb and carried with 5 yes votes (Mr. Baade voted no) to deny the petitioner's request to amend Condition No. 5 in accordance with the "Staff Report and Memorandum".

- **SZT-1669 (Camtech, Inc.) Town of Eagle, Section 1, A-P Agricultural Land Preservation District (County and Town) and the A-1a Agricultural District (Town) to the M-1 Limited Industrial District (County and Town), RRE-1 Residential Rural Estate District (Town) and C-1 Conservancy District (County)**

Mr. Mace presented the "Staff Report and Recommendation" dated March 6, 2006, and made a part of these Minutes. He pointed out the location of the property on both sides of S.T.H. 59, southwest of the Village of North Prairie, immediately adjacent to the Mukwonago/Eagle Town line in Section 1 of the Town of Eagle.

Mr. Mace explained that Hwy. 59 divides this property. The east side is to be rezoned to the Light Industrial District and the west side is to be rezoned to the three (3) acre Residential District. The eastern portion is further divided by the Wisconsin & Southern Railroad, which runs through the property. That portion of the property which is southeast of the railroad right-of-way and includes the Shoreland portion of the rezoning, cannot be developed until, or unless, a road is provided from Road X from the south into the property or a connection is provided across the railroad tracks. Lands to the east of the property are rural in nature and include an extensive Primary Environmental Corridor and wetland associated with Jericho Creek, which is designated as a cold water stream. At the February 2008 hearing, many concerns were expressed by "The Friends of the Mukwonago River" ("The Friends") in regards to the impact of the industrial part of the project on water quality in Jericho Creek, which lies approximately 400 to 500 ft. to the east of the subject property. Subsequently, the petitioner and his engineer, "The Friends", and the Town met and developed mutually acceptable conditions to be incorporated into the rezoning. The Parks and Land Use Staff also suggested an additional requirement to provide a 100 ft. wide vegetative buffer along the entire east side of the property and extending north of the railroad. This buffer would provide additional infiltration and a barrier to the wetlands and the PEC along the Creek, which the petitioner and the Town agreed to include in the conditions. SEWRPC has indicated they felt the conditions placed on this property would do an adequate job of protecting the Creek's environmental corridor. One of the conditions requires compliance with WDNR 151, which is a stormwater related condition. Mr. Mace added the Planning and Zoning Division Staff will be reviewing this property again when it returns as a subdivision plat or certified survey map. Planting plans, infiltrations plans, etc., will have to be reviewed and approved. Mrs. Haukohl requested verbiage be added to the Staff Report stating the County's approval is required. Mr. Mace replied he would amend the Staff Report and Recommendation to do so.

Supervisor Pam Meyer stated "The Friends" have worked with the developer and are comfortable with the conditions placed upon this property. Jericho Creek is a very significant natural resource that needs to be protected and preserved. The County and Town need to make sure the project is carefully monitored and that the conditions are met. She considers this a "win/win" situation for "The Friends" and the developer.

After discussion, Mr. Siepmann moved, seconded by Mrs. Morris and carried unanimously for approval, as conditioned by the Town and in accordance with the "Staff Report and Recommendation".

ADJOURNMENT

With no further business to come before the Commission, Mr. Siepmann moved, seconded by Mrs. Morris and carried unanimously to adjourn at 3:35 p.m.

Respectfully submitted,

Betty Willert
Secretary

BW:es