

**WAUKESHA COUNTY
MINUTES OF THE PARK AND PLANNING COMMISSION
ADMINISTRATION CENTER, ROOM AC 255/259
THURSDAY, NOVEMBER 19, 2009, 1:00 P.M.**

CALL TO ORDER

Bill Mitchell, Chairperson, called the meeting to order at 1:00 p.m.

Commission

Members Present: Pat Haukohl Bob Peregrine Jim Siepmann
 Walter Kolb Bill Mitchell Bonnie Morris

Commission

Members Absent: Gary Goodchild

Staff

Members Present: Richard L. Mace, Planning and Zoning Manager
 Kathy Brady, Secretary Supervisor

Guests Present:

Bob Kwiatkowski: ZT-1694
Alan L. Schultz: SCU-1511
Brian Pionke: ZT-1694
Brian DuPont: SCU-1511
Bret Achtenhagen: CU-1517
Rob Williams: CU-1513
Greg Maniaci: Audience member

CORRESPONDENCE: NR 115

Chairperson Mitchell asked Mr. Mace (regarding NR 115) to explain the issues which were agreed upon to reduce the zoning around the lakes in relationship to impervious surfaces? Mr. Mace responded, a revision was proposed for additions to buildings located a minimum of 35' to a maximum of 75' from the shore with mitigation and a minimum 35' vegetative buffer, however, it was not approved. Depending on the size of the parcel and how much buffer there is, a maximum of 20% impervious surface, including gravel driveways, stone walkways, walkways to the lake or around the home, garages, accessory buildings, etc. would be allowed. Mrs. Haukohl asked, "If an existing cottage, located 50' from the shore was destroyed in a fire could it be rebuilt?" Mr. Mace replied, it would be permissible on the exact same building pad. Another item discussed was that two (2) years would be given to bring the Zoning Codes in order. He indicated that a number of changes would need to be made to our Zoning Code regulations.

Chairperson Mitchell suggested as more details become available if Staff could present them to the Commission at a future meeting. Mr. Mace agreed.

MINUTES

Approval of the November 5, 2009, Minutes

Mrs. Haukohl moved, seconded by Mr. Peregrine, and carried by a vote of 5 to 0 (Mr. Siepmann abstained from voting as he did not attend the meeting) for approval, of the November 5, 2009, Minutes.

PUBLIC COMMENT

Chairperson Mitchell asked if anyone from the audience wished to address the Commission? With no public comment, he moved to the next item on the agenda.

- **ZT-1694 (Town Board of Eagle)**

Mr. Mace presented the "Staff Report and Recommendation" dated November 19, 2009, and made a part of these Minutes. He indicated the request is for text amendments to repeal and recreate the Town of Eagle Zoning Code and the Official Zoning Map of the Town of Eagle.

Mr. Mace pointed out the new Zoning Map is attached to the "Staff Report and Recommendation" and asked if there were any questions? Mrs. Haukohl asked if the Town of Eagle participated in the Comprehensive Planning effort, to which Mr. Mace replied, "Yes" and added they had joined late (during the second half of the effort). Mrs. Haukohl asked, "Why is the Zoning Code and Map being adopted before the Land Use Plan is adopted for the Town of Eagle?" Mr. Mace replied, the Zoning Map being proposed is consistent with the Comprehensive Development Plan for Waukesha County and is compatible with the Town Plan adopted November 10, 2009. Mrs. Haukohl asked how the Town would treat lands currently located in the Ag Preservation District since the State's Farm Preservation Law had changed? Mr. Pionke, Town Planner, replied the new law requires a per acre conversion fee (\$900 per acre) to be collected from land owners who rezone out of Ag Preservation after January 1, 2010. He noted that two (2) parcels of the Town were being removed from the Ag Preservation to avoid the conversion fee if they decide to rezone at a future date. All Ag Preservation landowners in the Town were notified and invited to informational meetings regarding the changes.

Mr. Kwiatkowski, Town of Eagle Chairperson indicated the Town has been working on updating their Zoning Code for approximately two (2) years. He noted, the last update to the Town's Zoning Code was in 1980. Many changes were made to modernize and streamline the language in the Code. Another important change was the reduction of Zoning Districts in the Town. Previously, there were 23 with only 16 being mapped. This number has now been reduced to 13 Zoning Districts.

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

- **SCU-1511 (Alan L. Schultz) Town of Delafield, Sections 13 and 24**

Mr. Mace presented the "Staff Report and Recommendation" dated November 19, 2009, and made a part of these Minutes. He pointed out the location of the property at N23 W28992 Louis Avenue in the Town of Delafield on the aerial photograph and indicated the request is for legal non-conforming use status for more than one living unit to allow the removal of the existing duplex, single-family residence, and shed from the property and the construction of a two-unit condominium building.

Mr. Mace indicated the property is located on the south shore of Pewaukee Lake. The property currently contains a single-family residence, a duplex and a shed. The duplex is partially located in the right-of-way of Louis Avenue. The petitioner is proposing to remove the existing structures and construct a new two (2) family condominium on the property. As part of the project the new structure would be located 24 ft. from the road right-of-way. The Town of Delafield required that a portion of the right-of-way not utilized for road purposes be vacated. Mr. Dupont, Project Engineer (from Jahnke and Jahnke) said the right-of-way would be vacated not only in front of Mr. Schultz's property but in addition, two (2) properties to the east and one (1) property to the south. Mr. Mace noted that a Condominium Plat would be required. The petitioner is requesting to keep the existing duplex until May 2010 to allow the current renters to complete their lease. The Town does require removal of the duplex as part of their Conditional Use Order, however, the Town may revise some of their conditions to allow the above. He suggested, if the Town's conditions are modified regarding the timetable for the removal of the buildings and the review and submittal of the Certified Survey Map and Condominium Plat, the matter would not have to come back

before the Waukesha County Park and Planning Commission. He also suggested that financial guarantees for the removal of the buildings, review and submittal of the Certified Survey Map and Condominium Plat be required.

Mr. Schultz (petitioner) explained that the property is located on a small slope and to eliminate drainage problems for the property to the west he would like to start construction where the current single-family residence is located. Mr. Dupont added, that if too much area is disturbed at one time it would be difficult to restore the grass area in the front with construction equipment trying to get to the house site in the back. If the entire area was disturbed at once, there would also be concern of adverse drainage to the neighbor's property to the west. Chairperson Mitchell asked the petitioner if he understood that the duplex is required to be removed, to which Mr. Schultz replied, "Yes".

After discussion, Mrs. Haukohl moved, seconded by Mr. Peregrine, and carried unanimously for approval, as conditioned, in accordance with the "Staff Report and Recommendation" with the understanding that if the Town of Delafield modifies the timetable for the removal of the buildings, and the preparation, review and submittal of the Certified Survey Map and Condominium Plat, the matter will not have to come back before the Waukesha County Park and Planning Commission. In addition, financial guarantees for the removal of the buildings, the preparation, review and submittal of the Certified Survey Map and Condominium Plat shall be required at the discretion of the Planning and Zoning Division Staff.

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.

• **CU-1513 (Irene Boschuetz) Town of Oconomowoc, Section 20**

Mr. Mace presented the "Staff Report and Recommendation" dated November 19, 2009, and made a part of these Minutes. He pointed out the location of the property, immediately south of S.T.H. 16 and east of Pennsylvania Street in the Town of Oconomowoc on the aerial photograph and indicated the request is for approval of a Residential Planned Unit Development (PUD) containing three, duplex type condominiums on 4.6 acres.

The entrance to the development will be directly across from Arlene Lane. Mr. Williams, from TDI Associates, presented the Site Plan of the development and pointed out the boundary of the wetland. He noted the buildings are located 75' from the wetland, and under a PUD a 25' setback is allowed from the road if approved as part of the PUD. Mr. Peregrine pointed out that at the Town of Oconomowoc Plan Commission meeting regarding this matter, there were concerns relating to the adequacy of the retention basin. He further explained, there is a culvert which runs across Pennsylvania Avenue into a wetland. During heavy rain events in June and July, the water ran over Pennsylvania Avenue and flooded the street. He suggested that the situation should be evaluated. Mr. Williams said that most of the water is coming from off site, via a ditch from Highway 16 and the development has no control over it. The storm water is being reviewed by the Town and County and so far it has been preliminarily approved. Mrs. Haukohl pointed out that Condition No. 4 refers to the Town and County reviewing and approving a Storm Water Management Plan. Mr. Peregrine wanted the record to show that there is a problem on Pennsylvania Street with runoff during heavy rain events and flooding occurring. Mr. Mace noted that the Land Resources Division would look at what happens to the water on the site and how it drains from the site. He suggested that wording be included in the motion that the Land Resources Division examine the possible flooding on Pennsylvania Street as was experienced during the 2008 storm events.

After discussion, Mrs. Morris moved, seconded by Mr. Peregrine, and carried unanimously for approval, as conditioned, in accordance with the "Staff Report and Recommendation". In addition, the Commission expressed concern and suggested the Waukesha County Land Resources Division (during their review) examine the possibility of Pennsylvania Street flooding due to the water from the retention pond on the development being carried into the wetland to the west as was experienced during the 2008 storm events.

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.

• **CU-1517 (Bret Achtenhagen) Town of Ottawa, Section 24**

Mr. Mace presented the "Staff Report and Recommendation" dated November 19, 2009, and made a part of these Minutes. He pointed out the location of the property, at S43 W34465 Forest Court in the Town of Ottawa on the aerial photograph and indicated the Conditional Use request is for after-the-fact land altering activities to construct a sport court and proposed land altering activities to extend the driveway, remove and transplant trees and re-seed a portion of the yard.

Mr. Mace indicated the petitioner brought in 120 cubic yards of topsoil and 30 yards of No. 1 and No. 2 stone to level an area and construct a sport court. He presented photographs of the disturbance to the Commission. Chairperson Mitchell asked Mr. Achtenhagen if he constructs these types of projects as part of his business? Mr. Achtenhagen replied, "Yes", and stated he is also a landscape contractor. Mr. Mace explained that this project was a small fill type project for elevating the grade of the subject area which requires a Conditional Use Permit. He pointed out that the petitioner processes many permits through the Planning and Zoning Office and wondered why he did not apply for permits. Mr. Achtenhagen said he spoke with a member of the Staff about the project, explaining the area was slightly sloped and 8 to 10 inches would be leveled off one end of the project and moved to the other end. He said no fill or gravel was brought in, however, there was 85 yards of screened topsoil brought in after the concrete was poured and 20 or 30 tons of stone was brought in to put under the concrete. The Staff also asked him if the grade change would require a retaining wall. Since the grade wasn't being significantly altered and he wasn't going to bring in more than 15 yards of fill he didn't feel he needed a Conditional Use Permit. He wasn't aware that the topsoil or the structural stone under the concrete constituted fill. He indicated the Staff explained to him that if more than 3,000 sq. ft of area is disturbed and/or more than 15 yds. fill are brought into the site to alter the grade, it would be considered fill. In addition, he said his neighbors complain about everything he does. When someone from the County inspected his property after a complaint had been made in the fall, they told his wife that there was nothing wrong with what he was doing. In the spring, when the violation was levied against him, he replied to the County that he was told in the fall that everything was acceptable. As it turned out, when his property was inspected in the fall (by a County Sanitarian) it was regarding the septic tank, not the fill.

Mrs. Haukohl asked if the area was Environmental Corridor? Mr. Achtenhagen replied "Not in the location of the project." Mrs. Morris asked if a fine was given to the petitioner from the Town for earth-altering without a permit? Mr. Mace replied, "No", however the petitioner did pay double the fee for the after-the-fact request.

After discussion, Mr. Peregrine moved, seconded by Mr. Kolb, 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, Mrs. Haukohl moved, seconded by Mrs. Morris to adjourn at 2:30 p.m.

Respectfully submitted,

Bonnie Morris / Kab

Bonnie Morris
Secretary

BM:kab