

WAUKESHA COUNTY
MINUTES OF THE PARK AND PLANNING COMMISSION
ADMINISTRATION CENTER, ROOM AC 255/259
THURSDAY, JUNE 17, 2010, 1:00 P.M.

CALL TO ORDER

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

Commission

Members Present: Bill Mitchell Pat Haukohl Walter Kolb
Gary Goodchild Jim Siepmann Bob Peregrine

Commission

Members Absent: None

Staff

Members Present: Jason Fruth, Senior Planner
Peggy Tilley, Senior Land Use Specialist
Kathy Brady, Secretary Supervisor

Guests Present: Jeffrey Miller from
David Frank Landscape: John and Ann Hansen (Misc. Item)

CORRESPONDENCE: None.

MEETING APPROVAL: None.

MINUTES Approval of the May 20, 2010, Minutes

- *Mr. Peregrine moved, seconded by Mr. Siepmann and carried unanimously for approval of the May 20, 2010, Minutes, as corrected.*

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.

SCHEDULED MATTER

- **1:00 p.m. Appointment of Nominating Committee for Park and Planning Commission Officers**

Chairperson Mitchell indicated the members of Nominating Committee would be Mr. Siepmann, Mrs. Haukohl and Mr. Peregrine. The report of the Nominating Committee and Election of Officers will be heard at the next scheduled Park and Planning Commission meeting.

- **SCU-1459A (The Gardens of StoneBank LLC) Town of Merton, Section 20**

Mr. Fruth presented the "Staff Report and Recommendation" dated June 17, 2010, and made a part of these Minutes. He pointed out the location of the property at the northeast corner of C.T.H. "K" and West Shore Drive in the Town of Merton on the aerial photograph and indicated the request is to amend the existing Conditional Use Permit for the cemetery operation to remove those portions of the property that fall outside of the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance.

Mr. Fruth indicated that correspondence was recently submitted from the owner and petitioner stating they were withdrawing their request from the Town of Merton for both the crematorium and the chapel. Chairperson Mitchell asked if the matter should be withdrawn from the agenda? Mr. Fruth replied, "No," and added that Attorney Richards, representing the petitioner was contacted and he requested the matters be left on the agenda in order to clarify jurisdiction of the property, regardless of the project. He explained the history of the property. The Kettle Moraine Presbyterian Church (located east of the subject property) owned a cemetery on the grounds until 2007, when the cemetery acreage was divided and sold to the Tribute Company. The shoreland jurisdictional area on the property is located mainly on the southern portion of the parcel with the improvements being requested on the northwest corner of the site. Attorney Richards questioned under what jurisdiction does the County have to comment on the specific use on the part of the site which was located outside of the shoreland jurisdiction. The Planning and Zoning Division Staff discussed the matter with the Waukesha County Corporation Counsel who indicated, that in this case, it would be more appropriate to define the actual shoreland jurisdictional boundaries (areas within 1,000' of a lake or pond, areas within 300' of a river or stream and associated floodplains.) Historically, the entire parcel is included if shoreland is partially located on any part of the parcel. In the future, the Planning and Zoning Division Staff will deal with these types of situations on a case by case basis.

Mrs. Haukohl asked if in the future, the County would have authority over what happens to a particular parcel even if the requested use is not located within the shoreland boundaries (but there is shoreland on the property) and could affect drainage, runoff, a conservancy, etc. within the shoreland area? Mr. Fruth responded, in the future it would be a judgment call between the Planning and Zoning Division Staff and potentially the Waukesha County Corporation Counsel regarding the specific request being made.

Chairperson Mitchell pointed out that the Commission needs to be consistent in making decisions. If the requested use is located within 1,000' from a lake or pond and/or 300' from any other navigable body of water – streams, ditches, or floodplain then the County would have jurisdiction, otherwise not. Mr. Peregrine added that the Waukesha County Shoreland and Floodland Protection Ordinance does not provide for any extraterritorial jurisdiction. Ms. Tilley said that the conditions of the Conditional Use will still apply to the portion of the cemetery within the County's jurisdiction.

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.

• PO-10-MRTT-1 (The Gardens of StoneBank, LLC) Town of Merton, Section 20

Mr. Fruth presented the "Staff Report and Recommendation" dated June 17, 2010, and made a part of these Minutes. He stated the request was related to the previous Conditional Use SCU-1459A.

After a brief discussion, Mr. Peregrine 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.

• **SCU-1459B (Kettle Moraine United Presbyterian Church) Town of Merton, Section 20**

Mr. Fruth presented the "Staff Report and Recommendation" dated June 17, 2010, and made a part of these Minutes. He pointed out the location of the property at N66 W32690 C.T.H. "K" in the Town of Merton on the aerial photograph and indicated the request is for termination of the Conditional Use Permit for the existing church because the use does not fall within the jurisdiction of the Waukesha County Shoreland Floodland Protection Ordinance.

Mr. Fruth indicated a Conditional Use Permit was approved for the church operation in 2007. At that time, the Planning and Zoning Division Staff considered the entire parcel (with partial shoreland jurisdiction) to be subject to the review of the County. A small portion of the northeast corner of the church property falls within the County's jurisdiction and none of the existing buildings or church is within the County's jurisdiction. The Waukesha County Corporation Counsel indicated that in this case, it would be more appropriate to define the actual shoreland jurisdictional boundaries (areas within 1,000' of a lake or pond, areas within 300' of a river or stream and associated floodplains.) Ms. Tilley added, since the use is not located within the County's jurisdiction, the request is to terminate the County's existing Conditional Use Permit. She added that the Town of Merton's Conditional Use Permit would still apply. Mrs. Haukohl asked if the County would review access to the property from the County Highway, to which Mr. Fruth replied, "Yes," the Department of Public Works is responsible for access points. Ms. Tilley added that the Waukesha County Storm Water and Erosion Control Ordinance requirements would still apply as well to these sites even if they are located outside of the shoreland jurisdiction.

Chairperson Mitchell pointed out that according to the Corporation Counsel's opinion, the County only has jurisdiction for the actual shoreland areas of properties and the uses being located within such boundaries. This is a major change as to how things have been done for years.

After discussion, Mr. Peregrine moved, seconded by Mr. Goodchild, and carried unanimously for approval to terminate the County's Conditional Use Permit for the existing church and cemetery, 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.

• **SCU-1530 (Mary and Richard Bock) Town of Merton, Section 11**

Mr. Fruth presented the "Staff Report and Recommendation" dated June 17, 2010, and made a part of these Minutes. He pointed out the location of the property at N83 W29172 Florencetta Heights in the Town of Merton on the aerial photograph and indicated the request is for land altering activities associated with the construction of new retaining walls and new stairways.

Mr. Fruth indicated the property is located on the northwest corner of Lake Keesus in the Town of Merton. The total area of disturbance will be approximately 2,500 sq. ft. and approximately 25 cu. yds. of fill will be utilized (amounts of fill over 15 cu. yds. require a Conditional Use Permit.) The pillars supporting a deck on the lakeside of the residence are leaning away from the residence due to the freeze/thaw cycle. Due to the steep slopes on the property, a retaining wall is being proposed to stabilize the slope along with an additional wall and new stairways. The main retaining wall will be a maximum height of 7.5 ft. constructed of boulders. The steps will be three (3) ft. wide and constructed of lannon stone. No disturbance or land altering activities will be allowed in the Primary Environmental Corridor and orange construction fencing is required to be installed to protect those particular areas.

In addition, the flood elevation set by FEMA for Lake Keesus is approximately 970' amsl, which is causing many property owners around the lake issues with setbacks. However, a new study of the floodplain has been submitted to FEMA which could be revised to 959.66' amsl, possibly in September 2010. Ms. Tilley explained, the difference in flood elevation could be 10 ft. No permits would be able to be issued for land-altering activities until the flood elevation is revised. An existing stone area may be disturbed with one of the new retaining walls and is currently located within 75' of the lake. If removal and replacement of the stone area is necessary, a permit and variances would be required. She pointed out that no neighbors commented at the public hearing.

After discussion, Mrs. Haukohl 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.

• **John and Ann Hansen (David J. Frank Landscape Contracting, Inc.) Town of Oconomowoc, Section 24**

Mr. Fruth presented the "Staff Report and Recommendation" dated June 17, 2010, and made a part of these Minutes. He pointed out the location of the property at N65 W34753 Road J in the Town of Oconomowoc on the aerial photograph and indicated the request is for replacement retaining walls within 5 ft. of the east property line.

Mr. Fruth indicated the property is located on the northwest side of Okauchee Lake, containing extremely steep slopes and three (3) existing lannon stone retaining walls which are failing. The property to the west contains a developed residential lot and to the east, a vacant lot. The proposed replacement retaining walls are located within 75' of the lake, however, they are necessary for erosion control. All three tiers of the walls will be landscaped to provide screening. The walls would be 4 ft. in height and constructed of a Keystone Engineered Compact Hewnstone. No-mow turf and turf stone is being proposed near the shore. Mrs. Haukohl asked for a description of turf stone, to which Mr. Fruth replied it is a lattice type stone product that allows grass to grow up, in and around the stone. Mr. Miller, Landscape Architect from David J. Frank Landscape Contracting, Inc., added that it provides soil stabilization of the area near the shore. The turf stone would be placed in an area between the two (2) piers for winter storage of boats, piers, etc. There would not be any impact on the soils being utilized. In addition, the plant materials being used will be of considerable size and the project was designed to have the least amount of environmental impact as possible. The Town is scheduled to consider the request on June 21, 2010.

After discussion, Mrs. Haukohl 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, Mr. Siepmann moved, seconded by Mrs. Haukohl to adjourn at 1:50 p.m.

Respectfully submitted,

Walter Kolb / Kab

Walter Kolb
Acting Secretary

WK:kab

