

**WAUKESHA COUNTY
MINUTES OF THE PARK AND PLANNING COMMISSION
ADMINISTRATION CENTER, ROOM AC 255/259
THURSDAY, JULY 20, 2023 - 1:00 P.M.**

CALL TO ORDER

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

Commission

Members Present: James Siepmann Richard Morris Robert Peregrine
William Groskopf Gary Szpara

Commission

Members Absent: None

Staff

Members Present: Ben Greenberg, Senior Planner
Sandy Scherer, Senior Planner
Kathy Brady, Support Staff Supervisor

CORRESPONDENCE: None

MINUTES: Approval of the June 15, 2023, Minutes

After discussion, Mr. Peregrine moved, seconded by Mr. Morris and carried unanimously for approval, of the June 15, 2023, Minutes, as presented.

Chairperson Siepmann welcomed Mr. Szpara as a new member of the Park and Planning Commission.

PUBLIC COMMENT: None.

SCHEDULED MATTER

- **1:00 pm** **Public Hearing for RZ123**, Create the Waukesha County Floodland Protection Ordinance.

Mr. Greenberg indicated that the finalized FEMA map panels and a new flood insurance study which covers a large area of Waukesha County must be adopted by communities that are responsible for regulating floodplain zoning. FEMA established a deadline of October 19, 2023. He described the location of floodplain zoning jurisdiction in Waukesha County as being across the floodplain areas of all townships. The County does not have zoning authority in cities or villages. The maps were released in draft form approximately 7 years ago. It was a thorough process where FEMA and DNR held community open houses, displayed the draft maps, addressed any concerns and he noted there was an appeal period for members of the public and communities to respond. In addition, the State provides a model ordinance which incorporates all federal and state minimum floodplain zoning standards, which need to be incorporated into local ordinances. He added that local jurisdictions have the right to be more restrictive than the state and federal standards in their respective ordinances.

Mr. Greenberg explained that the map changes in the townships were minor. Many of the changes were from tributaries to the Fox River (the Fox River watershed was studied). Additional studies included a stretch of Spring Brook in the Town of Genesee. Other changes were made to the A Zones, which are 100 year flood zones that were based on the last known flood of record. The proposed ordinance would consolidate floodplain zoning regulations into a single ordinance, separating them from the current Waukesha County Shoreland and Floodland Protection Ordinance. Mr. Greenberg noted that Waukesha County is more restrictive than the state standards. He noted there would be minor modifications to propose

additional flexibility for property owners that have existing floodplain development. Currently, if a property is located in a floodplain, in order to make a minor modification (change out a window enclosure), there is a requirement that a full flood proofing of that structure must be done which could cost \$10,000 +. The new ordinance would provide some flexibility to do non-substantial improvements without the requirement of meeting all of ridged floodproofing standards. The DNR has approved the draft floodplain ordinance submitted by the County. The floodplain maps will follow in the upcoming months with the ordinance and maps being effective by October 19, 2023.

Mr. Morris asked about the Village of Lisbon to which Mr. Greenberg explained that they (Village) are taking on the responsibility of adopting the map panels.

Chairperson Siepmann asked if there were any questions from the Commission. Mr. Groskopf commented that homeowners of lake properties would need to look at both ordinances separately from now on, to which Mr. Greenberg replied "Correct".

Chairperson Siepmann asked if there were any questions from the audience?

Peter Jensen, W345 S10489 Cty Hwy E – Mr. Jensen, Chairperson for the Eagle Spring Lake Management District, noted that he was in support of the separation of shoreland and floodplain zoning rules into two ordinances and was in support of the proposed modifications to the regulations. In addition, he shared the concerns of two property owners with lots on one of the islands on Eagle Spring Lake who believe that the FEMA maps do not take into account the topography of the island. They felt a mapping error had occurred.

Mr. Greenberg said it could be a matter of FEMA's lack of map resolution for the model which spans a large area. He asked if the concern was that FEMA has not taken into account the elevation which structures sit at and not that the floodplain elevation of Eagle Spring Lake is incorrect? Mr. Jensen said the floodplain elevation of Eagle Spring Lake is incorrect and there is a new dam failure analysis study being done. It looks like the islands on the maps are listed at zero elevation. Mr. Greenberg said it could have been that FEMA's topographic model ignored small islands because of the small land area. He thought a Letter of Map Amendment (LOMA) could be submitted. Mr. Jensen said the concern with the LOMA process is that the property owner would have to get a surveyor and it would add significant expenses, which is not related to anything they have done. He felt this was a technical error and was not caught by anyone in the system and homeowners which are situated on high elevations should not have to undergo thousands of dollars of expense in order to issue a LOMA.

Mr. Greenberg stated the County had no control over the federal flood insurance requirement. He was unsure what the recourse would have been had this issue been presented to FEMA at the open houses when the maps were being reviewed. FEMA provides the County a flood elevation and the County regulates a base flood elevation. Maps can be off and are considered a general representation of where the boundaries start and stop. Mr. Jensen said the residents were hoping that in the process of the maps being approved, the technical specialist for the County would look at this and say that there is an error with multiple properties, and this is an opportunity to correct the error. He added it could take months for property owners to go through the LOMA process as well as the associated expense.

Chairperson Siepmann agreed with Mr. Jensen and asked if the County could notify FEMA of the error so those residents do not have to pay the expense of a LOMA due to an error in mapping on their part. Mr. Greenberg said that the County knows that the map does not represent the 100 yr. floodplain on the island and if someone would apply for a permit, typically a survey showing elevations is submitted. Chairperson Siepmann asked if the County could make a phone call to FEMA about the obvious mapping error and could it be corrected? Mr. Greenberg responded the County would be happy to reach out to the DNR and get

recommendations from them. Mr. Szpara commented if the homeowner chose to sell the property or to get a loan to do improvements, the bank goes on what the floodplain maps show, and the property would definitely be considered in a flood zone and the bank would force them to get flood insurance. Mr. Greenberg added the County can get recommendations for these types of issues and it seems like FEMA didn't take into account the ground model.

Don Reinbold, N73 W32385 River Road, asked about floodplain regulations around North Lake. He stated the importance of maintaining the flood protection provided by the zoning in place (North Lake Overlay District). Mr. Greenberg responded that the study does not change anything for the area around North Lake and FEMA's flood elevations will not change.

Shane Schlieve, W378 S5089 W. Pretty Lake Road, had questions about septic systems in floodplains and environmental corridors. Mr. Greenberg indicated that he did not believe that you can locate a septic system in a floodplain, however, he suggested Mr. Schlieve contact the Environmental Health Division.

Sandy Scherer, Ottawa Town Planner, provided a number of administrative considerations and suggestions in writing.

Chairperson Siepmann asked if there were any other comments from the audience or Commission, there being none, he closed the public hearing at 1:28 pm and moved to the next item on the agenda.

- **Public Hearing for RZ124**, Text Amendments to the Waukesha County Shoreland and Floodland Protection Ordinance to repeal numerous floodplain standards and other minor floodplain and shoreland related amendments.

Mr. Greenberg indicated these text amendments are to extract the floodplain language from the Shoreland Code. In addition, there were 2 minor Acts, 105 and 200, passed into law relating to fencing issues along roadways and minor adjustments to the access and view corridor provisions (caps on maximum and minimum sizes). Mr. Groskopf asked if the Shoreland Ordinance would have a new name? Mr. Greenberg responded, "Yes". There will now be 2 Ordinances, the Waukesha County Floodland Protection Ordinance and the Waukesha County Shoreland Protection Ordinance.

Chairperson Siepmann asked if there were any other comments from the audience, Committee or Commission, there being none, he closed the public hearing at 1:31 pm and moved to the next item on the agenda.

- **RZ123 (Waukesha County Park and Planning Commission)**

Mr. Greenberg indicated the request is for the creation of the Waukesha County Floodland Protection Ordinance.

Mr. Morris asked what type of motion should be made regarding the mapping error revisions discussed in the above public hearing? Chairperson Siepmann said the Ordinance could be moved forward to the County Board, noting FEMA's adoption deadline of October 19, 2023 and added that the Planning and Zoning Division staff should look into the mapping issues with possible islands and waterways in the County. Mr. Greenberg agreed, and said he understood the concerns. Mr. Groskopf asked if this was only isolated to islands on Eagle Spring Lake? Mr. Greenberg replied, he was unsure, however, it warrants looking into the issue. Mr. Greenberg brought up the floodplain on several different islands throughout the County on the aerial photograph and those islands did not have this issue. He added that FEMA's deadline of October 19, 2023, is a hard deadline and he was unsure what would happen if the deadline was missed, but what could happen is that the community could be kicked out of the flood insurance programs.

After a brief discussion, Mr. Morris moved, seconded by Mr. Szpara and carried unanimously, for approval, as conditioned, in accordance with the “Staff Report and Recommendation”, with the recommendation that the Planning and Zoning Division staff contact FEMA and DNR regarding the floodplain mapping on islands located on Eagle Spring Lake.

- **RZ124 (Waukesha County Park and Planning Commission)**

Mr. Greenberg indicated the request is to amend the text of the Waukesha County Shoreland and Floodland Protection Ordinance (SFPO) by repealing numerous floodplain standards and other minor floodplain and shoreland related amendments.

Mr. Greenberg referred to the overview given above during the public hearing for RZ124. No additional information was requested from the Commission or public.

After a brief discussion, Mr. Peregrine moved, seconded by Mr. Groskopf and carried unanimously, for approval, as conditioned, in accordance with the “Staff Report and Recommendation”.

- **RZ118 (Waukesha County Park and Planning Commission-Text Amendment), Towns of Genesee and Mukwonago**

Mr. Greenberg indicated the request is to amend the text of the Waukesha County Shoreland and Floodland Protection Ordinance to incorporate the Laitsch Dam Failure Analysis.

Mr. Greenberg indicated that public hearings were held in the Towns of Genesee and Mukwonago related to adopting the Laitsch Dam Failure Analysis study into the local zoning ordinance. The dam failure analysis includes information as to where water would go in case of a dam failure. The Willow Spring Lake Management District is the owner/manager of the dam. The DNR approved the dam failure study and the requirement of Waukesha County is to adopt the study into the local floodplain zoning ordinance. No concerns were raised at either of the public hearings. The lands which will be impacted are generally open space and conservancy lands, with the exception of a Genesee subdivision outlot. Lands within the dam failure shadow are currently zoned and regulated as floodplain.

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

- **RZ119 (Waukesha County Park and Planning Commission-Map Amendment) Towns of Genesee and Mukwonago**

Mr. Greenberg indicated the request is to rezone lands within the dam failure zone downstream of the Laitsch Dam from the HG High Groundwater with an EC Environmental Corridor Overlay and P-I Public and Institutional Districts to the C-1 Conservancy Overlay District.

Mr. Greenberg indicated this is the companion map amendment to RZ118 (above).

After a brief discussion, Mr. Peregrine moved, seconded by Mr. Szpara and carried unanimously, for approval, in accordance with the “Staff Report and Recommendation”.

- **CU73 (Hans Weissgerber) Town of Oconomowoc, Section 36**

Mr. Greenberg indicated the request is for an extension of the one year trial period for the existing unspecified Conditional Use.

Mr. Greenberg indicated the existing Conditional Use and Site Plan/Plan of Operation was for a seasonal concession stand and related recreational uses on an island in Okauchee Lake. Although no permits have been issued to date, a condition of approval was that there would be a one year trial period so that the Town and County could monitor the performance of the operation and its effect on surrounding neighbors and the lake. The petitioner is still working on meeting the conditions and addressing some logistical issues with food service and licensing. The extension is being requested so they can work on these issues and operate for a year. The petitioners are aware that even with the extension they will still be under a one year limitation.

Ms. Marks, petitioner, explained they are working out the food logistics for the operation which would be a barge type commercial kitchen going back and forth to the island. She explained, in order to satisfy the conditions, they need to get plans together and to proceed with the operation properly and it will not happen until early spring 2024. Currently, they are working on the aesthetics of the island, replacing boards on the piers to make everything safe. She indicated, in the past, there was a well and electric service on the island and they are looking into whether it can be brought back up-to-date. Mr. Peregrine asked if she had discussed the plans with Mr. Herrmann, Town Administrator/Planner? Ms. Marks responded, “Yes”, and further explained it was not going to come into fruition in a timely manner.

After discussion, Mr. Peregrine moved, seconded by Mr. Groskopf 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.

- **SP172 (Hans Weissgerber) Town of Oconomowoc, Section 36**

Mr. Greenberg indicated the Site Plan/Plan of Operation request is related to the previous Conditional Use (CU73) listed above.

After a brief discussion, Mr. Peregrine moved, seconded by Mr. Groskopf 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.

- **CU91 (Shane Schlieve) Town of Ottawa, Section 28**

Mr. Greenberg indicated the request is for conditional use approval for a small engine repair/handyman limited family business.

Ms. Scherer indicated the property contains an existing residence with attached garage and a 24’ x 30’ detached accessory building. At the public hearing, several neighbors spoke and expressed concerns regarding the details of the business and how it would be regulated.

- Waste product disposal – The petitioner indicated they would be disposed of through Safety Kleen or other businesses or recycled at the Town Hall site.
- Testing of equipment and noise generated – The petitioner indicated that he is limited to set hours of operation and could close the overhead door as the building is ventilated by HVAC.
- Storage – All items must be stored within the detached garage

- Property inspection – The property must be available for inspections.
- Illuminated signage – No illuminated signage allowed.
- Property values – The CU is not transferrable.
- Retail sales – There will be no retail sales allowed on the property, however the petitioner indicated that he may wrap boats off site and store them off site as part of the business.

Ms. Scherer explained the types of services allowed such as servicing lawnmowers, tractors, snow blowers, snow mobiles, weed trimmers, rototillers, boats, etc. Handyman services would include offsite painting, gutter cleaning, window washing, yard cleanup, etc. Hours of operation would be 9:00 am to 5:00 pm, no more than 25 hrs. per week.

Ms. Scherer suggested a condition be added stating that “The petitioner is allowed to park one (1) van or pickup truck (with a trailer if needed), used in the business by the occupant of the property so long as it does not become a nuisance to the neighborhood.” The Commission agreed. Chairperson Siepmann asked if all equipment, boats, etc. would be stored inside the accessory building. Ms. Scherer replied, that is what is being asked of the petitioner because the surrounding area is residential. The petitioner indicated if needed, he could rent an off-site commercial storage building. Ms. Scherer pointed out that the business approval is conditioned for a one year trial basis. Mr. Schlieve asked when the one year trial period begins, to which Ms. Scherer replied, the date the permit is issued.

After discussion, Mr. Peregrine moved, seconded by Mr. Morris and carried unanimously, for approval, as conditioned, in accordance with the “Staff Report and Recommendation” with an added Condition No. 33:

- 33. *The petitioner is allowed to park one (1) van or pickup truck (with a trailer if needed), used in the business by the occupant of the property so long as it does not become a nuisance to the neighborhood.***

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.

• **SP196 (Shane Schlieve) Town of Ottawa, Section 28**

Mr. Greenberg indicated the Site Plan/Plan of Operation request is related to the previous Conditional Use (CU91) listed above.

After a brief discussion, Mr. Morris moved, seconded by Mr. Peregrine 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. Szpara to adjourn the meeting at 1:56 p.m.

Respectfully submitted,

Robert Peregrine

Robert Peregrine
Secretary

RP:kb

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