

**WAUKESHA COUNTY
MINUTES OF THE PARK AND PLANNING COMMISSION
ADMINISTRATION CENTER, ROOM AC 255/259
THURSDAY, NOVEMBER 21, 2019 - 1:00 P.M.**

CALL TO ORDER

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

Commission

Members Present: Robert Peregrine James Siepmann Richard Morris
 William Maslowski Thomas Michalski William Mitchell

Members Absent: None.

Staff

Members Present: Jason Fruth, Planning and Zoning Manager
 Amy Barrows, Senior Planner
 Paige Drew, Administrative Specialist

CORRESPONDENCE: None.

MEETING APPROVAL: None.

MINUTES: Approval of the October 17, 2019, Minutes.

After discussion, Mr. Siepmann moved, seconded by Mr. Michalski and carried unanimously for approval, of the October 17, 2019, Minutes as presented.

PUBLIC COMMENT: None.

• **RZ50 (Campbell 2006 Joint Revocable Trust) Town of Waukesha, Section 31**

Mr. Fruth pointed out the location of the property located at W273 S6201 River Road, in the Town of Waukesha on the aerial photograph. He indicated the request is to rezone the property from the A-1 Agricultural District to the RE Residence Estate District.

Mr. Fruth indicated the proposed rezone for the property is subject to both the Town of Waukesha Zoning Ordinance and the Waukesha County Shoreland Ordinance. The farm is located on Highway I, south of the City of Waukesha. The property is bisected by the Fox River. The proposal is for an individual to acquire acreage east of the river and construct a new home on the property. The Town's zoning requirement is 20 acres for the A-1 Agricultural District, whereas Waukesha County's zoning requirement is three (3) acres; thus, a rezone is not required from Waukesha County. The RE Residence Estate District is a three (3) acre category. The Town and County plans both show Rural Density Residential, which is a five (5) acre density category.

Mr. Fruth further explained that the Park and Open Space Plan shows future County Greenway on the property. There are State owned lands located immediately to the east of the property. The Greenway that is being proposed will encompass the environmental corridor and wetland areas along the Fox River. The County has not been able to come to terms with the prospective buyer and current owner of the property on obtaining acreage along the Fox River at this time;

however, Mr. Fruth noted he anticipates the property will stay in the Park and Open Space Plan regardless.

Mr. Fruth stated that the trail planning has not been completed. Heading north of Highway I, there is a possibility for portions of the trail to occur along said highway, as it may be difficult to maneuver around the development in the area. Mr. Fruth also noted that a Certified Survey Map (CSM) is being proposed by the owners. The next item on the Agenda is for a remnant parcel waiver that would allow for the two parcels to be separated without surveying the westerly acreage.

After discussion, Mr. Siepmann moved, seconded by Mr. Maslowski 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.

- **PPC19 014 (Campbell 2006 Joint Revocable Trust) Town of Waukesha, Section 31**

Mr. Fruth pointed out the location of the property located at W273 S6201 River Road, in the Town of Waukesha on the aerial photograph. He indicated the request is for a remnant parcel waiver.

Mr. Fruth indicated the remnant parcel waiver relates to RZ50. The acreage that would be excluded is all lands located to the west of the Fox River, which is roughly 52 acres. At present, there are no immediate plans for a future subdivision on the land. The goal of the remnant parcel waiver is to spare the expense of surveying all of the additional acreage at this time.

After brief discussion, Mr. Morris moved, seconded by Mr. Maslowski 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.

- **RZ49 (Robert F. & Carol O. Smart Family Trust/Carol O. Smart Survivor Trust) Town of Waukesha, Section 14**

Mr. Fruth pointed out the location of the properties include the STH 164 road right-of-way and lands located on the north side of STH 164, directly north of Infinity Fields Baseball Park, in the Town of Waukesha on the aerial photograph. He indicated the request is to amend the map and text of the Waukesha County Shoreland and Floodland Protection Ordinance to modify the regulated floodplain of the C-1 Conservancy Overlay Zoning District consistent with updated floodplain modeling and in order to accommodate an extension to Tenny Avenue located in the City of Waukesha.

Ms. Barrows described the location of the rezone. The City of Waukesha is directly adjacent to the west and north and the Town of Waukesha land is to the east. Mr. Smart owns a parcel in the City of Waukesha, a wooded area where Pebble Brook passes through, and a triangular parcel subject to the request. In the City of Waukesha, Mr. Smart is working to construct a condominium residential development. The City is requiring a road extension of Tenny Avenue, which would connect Sunset Avenue to Les Paul Parkway (USH 59/STH 164), for emergency safety requirements. Mr. Smart needs to cross Pebble Brook with the road extension; thus, the model had to be updated to determine whether or not there are any floodplain impacts associated

with the crossing. The Pebble Brook model had to be updated to current standards, as the original model was from 1979. Mr. Smart added additional cross sections and had to input extra river crossings that were never addressed as part of the highway improvements in previous years. After completing the modeling improvements, he added the new crossing for this project. The only property in the Town of Waukesha that is impacted by the project is Mr. Smart's land (triangular parcel) and a portion of USH 59/STH 164 right-of-way. He is currently working with the Highway Department to receive official approval. At most, there is a 0.5 ft. increase in floodplain on the property, covering a small area that is already designated as C-1 Conservancy District. The zoning district doesn't change, the floodplain boundary within the zoning district changes. The case is a text amendment because the floodplain boundaries are considered official maps in the Ordinance.

Mr. Mitchell inquired if Mr. Smart received the Letter of Map Revision? Ms. Barrows noted that Mr. Smart first needs to go through a Conditional Letter of Map Revision (CLOMR) with the Federal Emergency Management Agency (FEMA); however, he does have the Department of Natural Resource's (DNR) approval. Once the project is completed, the map can officially be changed.

As part of the updated modeling, once Mr. Smart goes through the CLOMR process, and the project is complete, the updated model will positively impact lands to the north by decreasing floodplain elevation. The owners will have less floodplain on their property as a result of the improved modeling. After the CLOMR is approved and the project is complete, the owner will need to go back through the process with the Town of Waukesha to establish modified underlying zoning districts in the County's jurisdictional boundary, because in said area, the County's jurisdictional boundary happens to be where the floodplain ends. The area will stay zoned as C-1 Conservancy District, but there will be an underlying Town District and an underlying County District.

Ms. Barrows went through highlights of the public's reaction at the Town Public Hearing:

- The public voiced concern regarding traffic safety relating to the road extension. Ms. Barrows noted that is a City of Waukesha issue, and they would need to determine whether the road is appropriate. The applicant needs to work with the City and State to determine if the intersection is acceptable and approvable.
- The public voiced concern relating to stormwater runoff and how that might impact the Town of Waukesha land. Ms. Barrows indicated the applicant has to comply with the State and Local stormwater ordinance requirements.
- The public voiced concern in regards to wetland and environmental impacts. Ms. Barrows stated the only reason there is an impact in the Town of Waukesha is the fact that the floodplain is slightly increasing on the petitioner's property. There should be no wetland impacts in the Town of Waukesha. Wetland impacts exist in the City of Waukesha, because they have to fill the lot line to cross the road.

- There was concern that the City and County are promoting the road extension in order to increase the tax base. Ms. Barrows emphasized the County's issue is related to the floodplain increase and has nothing to do with the development in the City.

Mr. Barrows indicated that the Town Plan Commission unanimously approved of the rezone. The Town Board ultimately recommended against the proposed amendment with a 3-2 vote; however, they did not provide a reason for voting against the Plan Commission's recommendation. Ms. Barrows noted the County's recommendation is subject to several conditions. Mr. Smart will need to receive the CLOMR before starting the work in the City and submit a written approval that the WDOT has approved the project and the impacts of the right-of-way. After the rezone is effective, he will need to get the official Letter of Map Revision (LOMR). Upon approval by FEMA, the County would amend Table 6(b)1.B.i. The County feels the project complies with the Land Use Plan. The area will remain unchanged as C-1 Conservancy District and be protected as wetlands.

After discussion, Mr. Maslowski moved, seconded by Mr. Morris 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.

- **CU32 (Paul and Reny Rodrigues) Town of Oconomowoc, Section 13**

Mr. Fruth pointed out the location of the property located at N79 W34471 Petersen Road, in the Town of Oconomowoc on the aerial photograph. He indicated the request is for a commercial horse boarding facility.

Mr. Fruth noted that the property is a 10 acre parcel located south of Peterson Road and west of Townline Road. The proposal is to continue boarding six (6) horses. In addition, the petitioner currently houses six (6) of her own horses on the property. There are eight (8) stalls in the interior of the building. Paddocks are to the east of the barn building and the riding arena. There are a few lean-to sheds located on the property that were excluded from the Staff Report. The lean-to sheds can be permitted through the site plan/plan of operation companion case. Parking is located to the west of the barn on the site, where a few trailers are stored. A manure management plan has been approved by the Land Resources Division. The hours of operation are from 9 a.m. to 8 p.m. daily. A caretaker will always be onsite in the event the owner is gone. The boarding facility generates roughly two (2) to three (3) visitors per day.

Mr. Fruth outlined the conditions being recommended. A maximum of 12 horses are allowed on the property for boarding, all structures housing animals need to be 50 ft. from property lines (this would be inclusive of the moveable lean-to sheds), no events more than 100 people are allowed to occur, a lighting plan needs to be submitted and approval from the Environmental Health District is required. Ms. Rodrigues presented a site plan to the Waukesha County Plan Commission where the lean-to sheds would be moved.

After discussion, Mr. Mitchell moved, seconded by Mr. Siepman 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.

- **SP79 (Paul and Reny Rodrigues) Town of Oconomowoc, Section 13**

Mr. Fruth indicated the request is related to CU32 listed above.

After a brief discussion, Mr. Mitchell 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.

- **CU33 (Steve Wittmann) Town of Delafield, Section 24**

Mr. Fruth pointed out the location of the property located at N13 W28828 Silvernail Road, in the Town of Delafield on the aerial photograph. He indicated the request is for a Conditional Use Permit to allow the parking and storage of a pickup truck with plow and two (2) trailers (Commercial Truck Parking).

Mr. Fruth indicated the property has frontage on Silvernail Road to the south and abuts I-94 to the north. Neighboring properties include *Buck Rub Archery* to the east and a church to the south. The improvements on the property are closer to Silvernail Road. The proposal is to park a couple of trailers and a commercial lawnmower behind the garage. There is also a pickup truck that comes and goes daily as part of the *Steve’s Lawncare, LLC.* operation. Mr. Wittmann installed a circular driveway, with the authorization of the Department of Public Works, so that he does not have to maneuver onto the CTH. Mr. Wittmann indicated he would not store fuel, chemicals, or fertilizer onsite. Privacy fencing extends on both sides of the parking area that is being proposed. The driveway would come off of the circle drive.

Mr. Fruth noted the recommended conditions include no stockpiling of materials, storage of fuel and fertilizers are not permitted, and equipment is limited to what is being proposed. Mr. Wittmann noted his services are limited to cutting the grass, trimming shrubbery, mulching, etc.

After discussion, Mr. Morris moved, seconded by Mr. Maslowski 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.

- **SP80 (Steve Wittmann) Town of Delafield, Section 24**

Mr. Fruth indicated the request is related to CU33 listed above.

After a brief discussion, Mr. Morris moved, seconded by Mr. Maslowski 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.

- **CU35 (West Pointe Estates Subdivision) Town of Mukwonago, Section 29**

Mr. Fruth pointed out the location of the subject properties and noted they are all lots within the West Pointe Estates Subdivision, in the Town of Mukwonago on the aerial photograph. He indicated the request is to amend the existing Conditional Use (SCU-1268) in order to allow the construction of outbuildings on all lots within the West Pointe Estates Subdivision.

Mr. Fruth indicated the proposal is to modify a single condition of the Planned Unit Development (PUD). The West Pointe Estates Subdivision project was approved 20 years ago. The lots are zoned as A-1 Agricultural District, a PUD was approved when the subdivision was proposed. There are four (4) lots subject to County shoreland zoning. To modify the provision, the petitioners are required to go through both the Town and County. The provision is to allow for outbuildings to be located on the property, whereas the original proposal made by the developer did not allow for outbuildings. The Town indicated they wanted to see a slightly more restrictive limit on the size of the outbuildings than the basic district would allow, which is 1,300 sq. ft. They are setting the building at 1,100 sq. ft., which is more restrictive than the County's Ordinance. The County's Ordinance was setup for an A-1 Agricultural District conventional lot, which would be three (3) acres. Decreasing the square footage of the outbuildings seems appropriate.

After discussion, Mr. Maslowski moved, seconded by Mr. Michalski 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.

- **PPC19 013 (Thomas Manthv) Town of Merton, Section 31**

Mr. Fruth pointed out the location of the property located at W339 N5189 Road O, in the Town of Merton on the aerial photograph. He indicated the request is for a retaining wall located within 5 ft. of the south property line.

Mr. Fruth indicated there is a dispute between lot owners about the location of the property line. In 2017, a zoning permit was obtained for the property to the south, which included a home, garage, retaining walls, deck, etc. The court settlement between the neighbors resulted in the relocation of a retaining wall that had been encroaching four (4) ft. on the property line. The retaining wall is located on the agreed upon lot line. The Waukesha County Planning and Zoning Division staff discovered in permitting additional improvements that the wall had been moved without permits. The reason for the request is that the 38 ft. by 3 ft. wall is sitting on the lot line. The petitioners will have to determine how to maintain the wall from their lot line, unless the relationship between the neighbors improves.

After discussion, Mr. Siepmann moved, seconded by Mr. Morris and carried unanimously for approval, 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.

- **PPC19 016 (Brent Zylka) Town of Mukwonago, Section 3**

Mr. Fruth pointed out the location of the property located at S63 W30961 Road X, in the Town of Mukwonago on the aerial photograph. He indicated the request is for a remnant parcel waiver.

Mr. Fruth indicated the petitioner is looking to eliminate the interior lot line on the three (3) acre parcel, so he does not have to meet offset and setback requirements. The petitioner would like to obtain acreage immediately to the south. Tax Listing no longer allows for parcels to cross Town-lines. The petitioner is requesting approval of the creation of an outlot. The outlot would be represented on the CSM, on the eastern portion of the neighbor's parcel, as "Outlot 1". Mr. Fruth went on to outline the conditions:

1. The Town of Mukwonago must also approve a remnant parcel waiver for the subject parcel.
2. It must be noted on the Certified Survey Map that the Waukesha County Park and Planning Commission granted a waiver from the requirement to include the remnant parcel on the Certified Survey Map on November 21, 2019.
3. Documentation must be provided that the remnant parcel (Tax Key No. MUKT188299) and GNT 1575995001 are one lot, or a deed restriction must be recorded stating that the parcels cannot be sold separately.

After discussion, Mr. Michalski 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.

ADJOURNMENT

With no further business to come before the Commission, Mr. Siepmann moved, seconded by Mr. Mitchell to adjourn the meeting at 1:35 p.m.

Respectfully submitted,

James Siepmann

James Siepmann
Secretary

JS:pd