

**WAUKESHA COUNTY  
MINUTES OF THE PARK AND PLANNING COMMISSION  
ADMINISTRATION CENTER, ROOM AC 255/259  
THURSDAY, OCTOBER 15, 2015, 1:00 P.M.**

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**CALL TO ORDER**

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

Commission

Members Present: James Siepmann Robert Peregrine Gary Goodchild  
William Mitchell William Maslowski Richard Morris

Members Absent: Keith Hammitt

Staff

Members Present: Jason Fruth, Planning and Zoning Manager  
Kathy Brady, Support Staff Supervisor  
Kim Haines, Waukesha County Corporation Counsel

Guests Present: Devin Anderson: CU-1611 and PO-15-OCOT-11  
Darrell Anderson: CU-1611 and PO-15-OCOT-11  
Terry Siewert: CU-1611 and PO-15-OCOT-11  
David Youngberg: PPC15\_009

**CORRESPONDENCE** None.

**MEETING APPROVAL** Schedule 2016 meeting dates.

*Mr. Peregrine moved, seconded by Mr. Mitchell and carried unanimously for approval of the 2016 meeting dates.*

**MINUTES** Approval of the September 17, 2015, Minutes.

*Mr. Peregrine moved, seconded by Mr. Morris and carried unanimously for approval of the September 17, 2015, Minutes.*

**PUBLIC COMMENT** None.

• **CU-1611 (Devin Anderson) Town of Oconomowoc, Section 3**

Mr. Fruth pointed out the location of the property at N88 W36880 Mapleton Road in the Town of Oconomowoc on the aerial photograph. He indicated the request is for Conditional Use approval of an agricultural equipment and automotive repair facility (Matter tabled at the September 17, 2015, meeting).

*Mr. Morris moved, seconded by Mr. Peregrine and carried unanimously to remove the matter from the table.*

Mr. Fruth summarized the discussion from the September 17, 2015, meeting regarding this matter. He stated the request is for an Unspecified Conditional Use for a hybrid type use. He noted the petitioner principally is involved in automotive and truck repair and also repairs agricultural equipment for the surrounding farm community. The parcel is approximately three acres in size. He pointed out the location of the outbuilding on the northeast corner of the property. At the September meeting, the Commission

questioned if this was a Limited Family Business or an Unspecified Conditional Use. Mr. Fruth explained that the petitioner was attempting to legalize the operation and asked the Planning and Zoning Division Staff for assistance as to how to go about doing this. The Planning and Zoning Division Staff suggested the Unspecified Conditional Use category worked best because the business is not solely an automotive repair type business. He further explained that the Limited Family Business is defined in the Zoning Code as service oriented in nature and the Shoreland Ordinance lists specific types of businesses that are considered service oriented (auto repair is not listed). In addition, because the property is zoned Agricultural Preservation (35 acre lot size), Limited Family Business is not available under the current zoning. After a lengthy discussion, the Commission informally polled each other resulting in a 3-2 split (3 in support and 2 opposed to the request). Prior to any additional action the Commission asked if the Planning and Zoning Division Staff would provide recommended conditions in case the request was to be approved.

Mr. Fruth indicated the Planning and Zoning Division Staff used the conditions the Town of Oconomowoc had recommended and revised and/or added several conditions. He summarized some of the more notable revised or added conditions:

- Hours of operation are revised to be from 8:00 a.m. to 6:30 p.m. Monday through Friday and 9:00 a.m. to 3:00 p.m. on Saturday.
- The maximum number of vehicles parked outside the building at any one time shall be twelve.
- A solid fence be provided a minimum of five feet in height and will extend along the south and west sides of the entire extent of the parking area. Mr. Fruth mentioned that although the building is set far back from C.T.H “CW” the vehicles parked around the business are clearly visible. The petitioner planted some evergreen trees that in time may provide screening, however, at present do not provide screening.
- A Landscape and Fencing Plan be provided at the same time.
- A Waste Material Management Plan be prepared and reviewed and approved by the Waukesha County Hazardous Material Coordinator.
- The operation shall be limited to a maximum of two shop employees and one employee that conducts bookkeeping.
- The permit is valid as long as the petitioner owns the immediately abutting property to the west or resides on the premises. Mr. Fruth noted that the petitioner indicated that he has the intention at some point in the future of building a residence on the property.
- Approval from the Waukesha County Department of Public Works for the driveway serving the operation.
- No outside storage of junk, equipment, etc.
- Approval is for a one year trial basis.
- The Town is requiring that restroom facilities be provided and a Sanitary Permit from the Waukesha County Environmental Health Department would be required. Additionally, structural changes would need to be made to the building and permits are necessary before any construction commences.

Chairperson Siepmann asked the petitioner if he read the “Staff Memorandum” along with the conditions, to which Mr. Anderson replied “Yes”. Mr. Anderson asked if Condition No. 14 could be changed read that he would be considered as one of the three (3) employees, not specifically a mechanic. He explained, if and when, due to his medical condition, he was not able to be a mechanic, he would then manage the shop and would be able to fill the mechanic position. Mr. Peregrine pointed out that the Conditional Use is only good for one year on a trial basis. He asked if the petitioner plans to expand the business within the year? Mr.

Anderson, replied “No,” but he didn’t want to have to come back in the future. Chairperson Siepmann said he would need come back in a year anyway. Mr. Anderson said as long as he would be able to modify the condition at that time he was in agreement.

Chairperson Siepmann stated at the last meeting there was a lengthy discussion regarding this request, he asked if Mr. Goodchild and Mr. Maslowski had read over the materials since they were not in attendance at the September 17, 2015, meeting? Mr. Goodchild responded that he read over the materials and he understood that the Town approved the Conditional Use, neighbors in the area submitted comments for and against the operation and the concern was allowing an auto repair business in a residential/agricultural area. Mr. Fruth added that the Farmland Preservation amendments are pending and the property is proposed to be zoned out of the Agricultural Preservation district within the next couple of months. The proposal is that this property will not be zoned Agricultural Preservation going forward.

Mr. Goodchild asked what the zoning would be, to which Mr. Fruth replied, A-2 District (3 acre district). Mr. Maslowski asked what the primary objection was at the prior meeting, discussion between Conditional Use vs. Limited Family Use or functional in what the petitioner was proposing? Chairperson Siepmann replied, “functional.” He further explained that the issue was, should a commercial business be located in a farm area. He said the petitioner indicated that 25% to 40% of his business is with farmers and is filling a need for this type of business in that area. Some of the Commissioners indicated they were in favor of the need for this business while other Commissioners were concerned that approving the request would set a precedent for other commercial businesses to be located in farm areas across the County. Chairperson Siepmann added that the business has been in operation for approximately two (2) years. He visited the operation and agreed there should be more screening, however, he did not think it there would be negative effects on neighbors other than traffic. Mr. Mitchell expressed concerns and felt a commercial business located in an agricultural/residential area was not well suited. Mr. Goodchild acknowledged that there was a neighbor who was opposed to the request? Chairperson Siepmann replied that the neighbor lives south and west of the property. Mr. Fruth clarified that written opposition was submitted from two (2) property owners located to the south and west. He added that Mr. Anderson has also submitted letters of support. Mr. Maslowski asked what percentage of the business is agricultural repair to which Mr. Anderson responded 25% to 40%. Mr. Maslowski asked if he thought the business would be growing at any point in time? Mr. Anderson replied that he hoped it would and noted since he began the business it has grown steadily. Mr. Maslowski asked if it would be a hardship to move the business elsewhere? Mr. Anderson responded that it would be impossible, and he could not afford to pay someone rent. The only reason he was able to start up and operate his business is because he owns the property and building.

Chairperson Siepmann indicated the neighbor in opposition was in attendance at today’s meeting and offered him the opportunity to speak to the Commission. Mr. Siewert asked if there was any way to verify with documentation/invoices, the agricultural vs. automotive repair portions of his business. Chairperson Siepmann said when he visited the business/operation he asked Mr. Anderson to provide this information. Mr. Anderson presented written referrals from two (2) farmers who stated he does work on their farm equipment. Mr. Siewert pointed out that is more of a letter of recommendation not an invoice.

Mr. Maslowski summarized that the Conditional Use Permit would be good for a one (1) year. He did not want to restrict a landowner from using his land in a way that is productive for these types of operations in farming communities. His only concern was if the agricultural business grows and becomes a nuisance for the neighbors then the petitioner might lose his Conditional Use Permit and have to find another place to run the business. Mr. Anderson asked about auditing the agricultural vs automotive businesses. Mr. Maslowski said for the year the Conditional Use is being allowed, the petitioner should keep a record of the number and

total cost of automotive vs. agriculture/farming equipment repairs to be presented at the end of the year. Mr. Anderson agreed.

Mr. Morris said he was in support of the business and it is a service which is necessary in the agricultural community. He noted the nearest agricultural repair facilities are located in Allenton or Whitewater which is quite far away. Chairperson Siepmann said he was impressed with the inside of the facility being organized and clean, however, the outside needs some screening. He cautioned the petitioner that with the investment he would be making in the business for a one (1) year trial it could be risky. The Conditional Use may or may not be renewed in a year. If the business continues to grow there would be pressure on the condition of a maximum of 12 vehicles parked on the site at one time. He added the petitioner would need to adhere to the terms of this Conditional Use and advised that the opposing neighbors would be watching. Mr. Goodchild added that the neighbors and other property owners bought in that area expecting a certain type of activity. He was unsure if the activities would affect the neighbors to the south and west, however, another house may be built to the east or directly across the street. He suggested that if the business grows the petitioner should keep his eye open for a site that can accommodate growth. Mr. Anderson said he could accommodate the business growth through scheduling. Mr. Goodchild pointed out that neighbors are concerned mostly with the visual and audible aspects of businesses.

*After discussion, Mr. Peregrine moved, seconded by Mr. Maslowski and carried by a vote of (5 to 1, Mr. Mitchell voted against) for approval, as conditioned, in accordance with the “Staff Memorandum” with a revision to Condition No. 2 to read as follows:*

2. *This CU approval shall be for one (1) year on a trial basis. The Town of Oconomowoc and Waukesha County shall review the CU in August 2016 and make a determination if said use shall continue or cease operation. At that time, any or all conditions of approval may be modified, changed, added or deleted at the discretion of the Town Plan Commission and Waukesha County without the necessity of a new public hearing. The petitioner must track and document the number of auto vs. farm equipment jobs during the next year along with the amount of charges for the respective job types. In addition, the petitioner must present this documentation to the Town and County in advance of the August 2016 trial review.*

*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-15-OCOT-11 (Devin Anderson) Town of Oconomowoc, Section 3**

Mr. Fruth indicated the Site Plan/Plan of Operation request is related to the previous Conditional Use (CU-1611) listed above.

*Mr. Morris moved, seconded by Mr. Mitchell and carried unanimously to remove the matter from the table.*

*After a brief discussion, Mr. Morris moved, seconded by Mr. Mitchell and carried unanimously for approval, as conditioned, in accordance with the “Staff Memorandum” with a revision to Condition No. 2 to read as follows:*

2. *This CU approval shall be for one (1) year on a trial basis. The Town of Oconomowoc and Waukesha County shall review the CU in August 2016 and make a determination if said use shall continue or cease operation. At that time, any or all conditions of approval may be modified, changed, added or deleted at the discretion of the Town Plan Commission and Waukesha County without the necessity of a new public hearing. The petitioner must track and document the number of auto vs. farm equipment jobs during the next year along with the amount of charges for the respective job types. In addition, the petitioner must present this documentation to the Town and County in advance of the August 2016 trial review.*

*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.*

- **PPC15 009 (David Youngberg) Town of Oconomowoc, Section 35**

Mr. Fruth pointed out the location of the property at W352 N5282 Lake Drive in the Town of Oconomowoc on the aerial photograph. He indicated the request is for after-the-fact approval of retaining walls within 5 feet of the southwest and northeast property lines.

Mr. Fruth pointed out that grading out the slope may have negatively impacted several large oak trees on the property. The replacement retaining walls were placed in the same location and the existing stairs have not changed. The Planning and Zoning Division Staff recommends that the replacement walls be accepted as constructed, however, they should be better landscaped and screened from view with additional ivy type plantings. In addition, the retaining walls were overlapping the adjacent lot line. The property owner has removed the portion of the wall to contain the retaining walls on his property, however, they are still located within 5 ft. of the adjacent property lines. The Planning and Zoning Staff recommends the restoration and plantings be completed by November 1, 2015, due to the fact that the petitioner is currently trying to sell his property. The petitioner said he was agreeable to the deadline. Another condition of approval is certification must be obtained by a structural engineer that the retaining well which exceeds 4 ft. in height is structurally sound.

*After discussion, Mr. Maslowski moved, seconded by Mr. Mitchell and carried unanimously for approval, as conditioned, in accordance with the “Staff Memorandum”. 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.*

- **PPC15 010 (Town of Oconomowoc) Section 25**

Mr. Fruth pointed out the location of Road I in part of the NW ¼ of Section 25, T8N, R17E in the Town of Oconomowoc on the aerial photograph. He indicated the request is to reduce the established road right-of-way width of Road I from 66 ft. to 50 ft.

Mr. Fruth indicated the Town of Oconomowoc approved the road right-of-way width reduction and considers the reduced width adequate for any future improvements. He mentioned there is a property owner on the east side of Road I who will benefit from additional floor area ratio considerations.

*After discussion, Mr. Peregrine moved, seconded by Mr. Maslowski and carried unanimously for approval, in accordance with the “Staff Memorandum”. 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.*

- **PPC15 011 (Daniel Porter) Town of Vernon, Section 29**

Mr. Fruth pointed out the location of the property at S102 W26220 Maple Avenue in the Town of Vernon on the aerial photograph. He indicated the request is for a remnant parcel waiver.

Mr. Fruth indicated that the petitioner currently owns a ½ acre lot and for estate purposes would like to combine a portion of the 76 acre adjacent farmland to his existing lot to create a 3.4 acre lot. The petitioner also requested to be able to continue to farm the portion of the farm field he would be acquiring. There are no immediate plans to develop the adjacent farmland. The Waukesha Zoning Code states that a farm parcel less than 5 acres in size cannot be farmed. When the Farmland Preservation Amendments go into effect, the code will provide for farming on small parcels. Mr. Goodchild asked if the amendment would take effect across Waukesha County? Mr. Fruth replied, that it would be available anywhere that is subject to the Waukesha County Code or Waukesha County Shoreland and Floodland Protection Ordinance, however, only if the circumstances are appropriate. Mr. Goodchild noted that in the Town of Ottawa there are parcels that are three (3) acres in size, however, less than 5 acres, which utilize a farmland assessment so they do not pay taxes on it. He wondered if property owners would still be able to accomplish this? Mr. Fruth responded that it would be a judgment call on the part of the assessor. The assessor would likely consider still assessing the developed part of the parcel as residential and the remainder as farmland. Chairperson Siepmann said there are some lots that are on lake frontage in his community and the assessor calculates the lake frontage at one assessment level and the farmed land is considered agricultural use. Mr. Fruth noted that he spoke with the petitioners and told them that the Certified Survey Map (CSM) could be approved now, however, they would not technically be able to farm the acreage being added, until or unless the Farmland Preservation Code amendments are approved.

*After discussion, Mr. Goodchild moved, seconded by Mr. Morris and carried unanimously for approval, as conditioned, in accordance with the “Staff Memorandum”. 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.*

- **PPC15 012 (RRRF Transition Trust/Ruth Roth) Town of Oconomowoc, Section 9**

Mr. Fruth pointed out the location of the property at W379 N8304 Mill Street in the Town of Oconomowoc on the aerial photograph. He indicated the request is for a remnant parcel waiver.

Mr. Fruth indicated there is an existing legal non-conforming duplex located on the property. The petitioner is proposing to create a 1.5 acre parcel (CSM) by dividing it off of the 77 acre parcel. He presented the CSM to the Commission showing the 1.5 acre parcel and the other land which would stay as remnant lands and would be farmed. The Planning and Zoning Division Staff placed a condition on the request that a Deed Restriction be prepared noting that no additional dwelling units or buildable lots shall be permitted to be created on the subject property unless one or more of the existing dwelling units are removed from the proposed Lot 1. Mr. Goodchild asked if the County was interested in the remaining farmland, to which Mr. Fruth replied, “Yes,” noting it is part of the planned Ashippun Park holdings. Duane Grimm, Parks System Manager plans to communicate with the owner soon.

*After discussion, Mr. Goodchild moved, seconded by Mr. Peregrine and carried unanimously for approval, as conditioned, in accordance with the “Staff Memorandum”. 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. Maslowski moved, seconded by Mr. Mitchell to adjourn at 2:00 p.m.*

Respectfully submitted,

*Gary Goodchild*

Gary Goodchild  
Secretary

GG:kb

