

**WAUKESHA COUNTY  
MINUTES OF THE PARK AND PLANNING COMMISSION  
ADMINISTRATION CENTER, ROOM AC 255/259  
THURSDAY, APRIL 21, 2016, 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            William Mitchell            Robert Peregrine  
                                 Richard Morris            Robert Hamilton            William Maslowski

Members Absent:    Gary Goodchild            Keith Hammitt

Staff

Members Present:    Jason Fruth, Planning and Zoning Manager  
                                 Elfriede Sprague, Administrative Specialist

Guests Present:        Matthew Thew – PPC16\_005 (Jack’s Bay Road Width Reduction)  
                                 Wade Balson – SCU-1615 & SZT-1822

**CORRESPONDENCE**        None.

**MEETING APPROVAL**    None.

**MINUTES**                    Approval of the March 21, 2016, Minutes.

*Mr. Morris moved, seconded by Mr. Peregrine and carried unanimously for approval of the March 21, 2016, Minutes.*

**PUBLIC COMMENT**        None.

• **CZ-1828 (Timothy and Azucena Murray) Town of Oconomowoc, Section 18**

Mr. Fruth pointed out the location of the property in part of the NW ¼ of Section 18, T8N, R17E, Town of Oconomowoc on the aerial photograph. He indicated the request is to rezone lands from the FLP Farmland Preservation District to the R-1 Residential District.

Mr. Fruth stated this is the first rezone request that the Staff has had in the FLP District since the district was created. He explained the proposal is to create a three-acre parcel for a homesite and the Ordinance proscribes the only way a new residence can be constructed in the FLP District is a rezone to the R-1 Residential District and new residential lots cannot exceed three acres. He added the reason the Ordinance was written that way was to ensure the 35 acre density provisions are complied with and to minimize the amount of homes that were interrupting farm fields. He explained the history of the property. Mr. Fruth explained the subject property does not currently contain a residence. The parcel was approved and created as a “flag” lot in 2008 when approximately 35 acres of farmland was transferred from the “parent” parcel to the neighboring farm to the south, leaving the subject parcel with a narrow strip of land extending to Pennsylvania St. The prior owner of the farm had previously divided the house and outbuildings and approximately 12 acres along the Pennsylvania St. frontage from the farm and sold the 12 acres to another party. At the time, the property was zoned AP Agricultural Preservation District

which generally required 35 acre minimum parcel sizes. However, the farm consolidation provisions of the ordinance at the time allowed for smaller lots to be created. Accordingly, the 12 acre lot was permissible at the time. Mr. Fruth stated that when applying the 35 acre density requirement, the subject parcel is entitled to one additional dwelling unit.

Mr. Fruth explained the petitioners would like to build a single family residence and operate an organic farming business. Because of the prior transfer of lands, the remaining parcel became odd shaped creating some difficulties meeting all siting criteria. He stated the siting criteria call for new residences to be located off of cultivated lands to the extent practical and calls for preservation of prime agricultural soils to the extent possible. While a portion of the proposed parcel contains prime agricultural soils, the proposed home site is located on the west fringe of the area of prime soils. Lands on the farm that are not prime are generally located in the areas further west, some of which have been previously quarried, and most of which have high groundwater limitations making them unsuitable for home construction. Much of the west part of the parcel is mapped as containing wetlands. The siting criteria also call for new parcels to be considered near roadways where practicable. Because the subject parcel was previously approved as a flag lot, there are no home sites available near Pennsylvania St. nor the existing residence that was previously split from the farm. Mr. Fruth added that the area where the petitioner would like to build is sloping in nature and approximately one half of the subject three acres has not been farmed in recent years. He noted that no further development rights remain for the remnant parcel. He stated that both the Town and County Staff feel that the proposed home site is in a suitable location.

Mr. Fruth noted that a one lot CSM has been prepared to facilitate the land division and requests for a remnant parcel waiver and a lot not abutting a public road are on today's agenda. He added, if approved, a condition of the CSM will be that the 50' wide easement recorded in 2008 which provides access to the adjacent Runyard farm, in addition to serving the subject lands, be modified and expanded to extend to the proposed three acre lot. The easement will need to be 66' wide in order to meet ordinance requirements.

Mr. Fruth added that Mr. Hamilton contacted him regarding Condition No. 3 of the Staff Report and the use of the word "perpetuity". He questioned whether perpetuity meant "forever" and whether it was correctly represented in the condition. After a brief discussion, the Commission agreed the condition did not need to be reviewed by Corporation Counsel or amended. Mr. Morris asked if the newly created parcel could be sold separately from the parent parcel. Mr. Fruth replied it could. He stated that both the Staff and the Town are recommending approval of the request.

*After discussion, Mr. Peregrine moved, seconded by Mr. Mitchell 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.*

• **ZT-1701B (Text Amendment) Town of Lisbon**

Mr. Fruth stated the request is for Text Amendment to the Drainage Regulations section of the Town of Lisbon Zoning Ordinance.

Mr. Fruth explained that when the Town of Lisbon updated their Zoning Ordinance in 2010, they wanted to maintain the three foot separation to groundwater which the Town had for years, which is more restrictive than the County one foot minimum separation standard. The Town is now proposing to amend their Drainage Regulations to more closely align with those of the County's. Mr. Fruth explained the new

separation standard will be 18 inches. There is also a one foot absolute minimum separation requirement if a waiver is approved. In both cases a Hold Harmless Agreement is required.

Mr. Fruth stated the Town also described other ordinance provisions regarding detailed discharge and sump pump requirements. He. Fruth noted that the Town also added language prohibiting the obstruction of drainage and the natural flow of surface water, in addition to restricting building distance adjacent to drainage channels or watercourses and also that the lowest floor must be three feet above the ordinary high water mark of nearby drainage ways. Mr. Fruth commented the Staff is agreeable to the amendments and feel the changes are positive and will provide some relief to property owners while protecting groundwater resources.

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

**SZT-1822 (Johanssen Farms, LLC) Town of Lisbon, Section 35**

Mr. Fruth pointed out the location of the property at N54W23746 Northview Drive in the Town of Lisbon on the aerial photograph. He indicated the request is to rezone the property from the A-10 Agricultural District to the R-3 Two Family Residential and R-1 Suburban Single-Family Residential Districts (Town) and the R-2 Residential District to the R-3 Residential and R-1 Residential Districts (County).

Mr. Fruth stated the subject property is currently ten acres in size and located west of the existing Halquist Quarry and Sussex Creek. He explained a 31-acre subdivision development is proposed on the vacant land adjacent to the west of the property (the Settlement at Sussex Creek). The proposed development has received CDP amendment and rezone approvals from the Village of Sussex. The subject parcel is proposed to be divided via Certified Survey Map into a 7.5-acre parcel and a 2.5-acre parcel. The duplex residential use and commercial use on the 7.5-acre parcel will continue and the 2.5-acre parcel (outlot) for stormwater purposes will be created for the adjacent proposed subdivision. The outlot will remain in the Town of Lisbon, but will be owned by the Village of Sussex. Mr. Fruth stated the duplex and commercial use will require both Conditional Use and Site Plan and Plan of Operation approval which are also on today's agenda. He noted the staff is recommending approval of the request as it will allow for the creation of an outlot for the proposed subdivision and allow the petitioners to retain their current uses.

***After discussion, Mr. Peregrine 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.***

**• SCU-1615 (Johanssen Farms, LLC) Town of Lisbon, Section 35**

Mr. Fruth pointed out the location of the property at N54W23746 Northview Drive in the Town of Lisbon on the aerial photograph. He indicated the request is for an Unspecified Conditional Use for two (2) accessory buildings to be used for commercial storage purposes and a Multi-Family Unit Conditional Use for a duplex.

Mr. Fruth identified the property as being approved by the Commission as a Land Use Plan Amendment this year. He stated a Certified Survey Map is proposed that will divide 2.5 acres from the parent parcel to be used as an outlot for storm water for the proposed subdivision to the west. The remaining 7.5 acres contains a duplex, two residential use accessory buildings and two commercial use storage buildings. Mr.

Fruth explained the storage use was previously allowed but restricted to a specific use. The approval of an unspecified conditional use will allow for a less intensive use to occupy the existing commercial buildings on the property than previously existed. Mr. Fruth noted the duplex was created without conditional use approval and requires multi-family conditional use approval for after-the-fact retention. He stated the staff is recommending approval with several noted conditions: no outside storage is allowed relative to Halquist's use of the site, a locking device needs to be installed on the septic tank per the Environmental Health Division and both the Fire and Building Inspectors need to inspect the buildings. Mr. Fruth stated the approval basically allows uses that have previously existed on the site.

*After discussion, Mr. Maslowski 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.*

- **PO-16-LSBT-01 (Johanssen Farms, LLC) Town of Lisbon, Section 35**

Mr. Fruth indicated the Site Plan/Plan of Operation request is related to the previous Conditional Use (SCU-1615) listed above.

Mr. Fruth noted the Site Plan and Plan of Operation approval applies to the storage use only. It has been determined a Site Plan and Plan of Operation is not needed for the duplex as is required in the ordinance.

*After discussion, Mr. Mitchell 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.*

- **PPC16 002 (Timothy Murray) Town of Oconomowoc, Section 18**

Mr. Fruth pointed out the location of the property in the NW ¼ of Section 18, Town of Oconomowoc on the aerial photograph. He indicated the request is for approval of a lot not abutting a public road and a remnant parcel waiver.

Mr. Fruth stated Mr. Murray is requesting a remnant parcel waiver and approval of a lot not abutting a public road in conjunction with his rezone request CZ-1828. The approval of these requests will allow the petitioner create a three acre parcel for his principal homesite and waive the requirement for the remnant parcel be included on the Certified Survey Map, they will remain as unplatted lands. He stated that because the creation of the Certified Survey Map will create a land locked parcel, the Staff is recommending approval with several specific conditions: that a 66 ft. wide easement document that facilitates access to the two subject parcels and the Runyard lands to the south, shall be submitted to and approved by the Waukesha County Planning and Zoning Division and a Driveway Maintenance Agreement must be prepared, reviewed and approved by the Town Planner and the Waukesha County Planning and Zoning Division prior to recordation of the Certified Survey Map.

*After discussion, Mr. Mitchell 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.*

- **PPC16 005 (Town of Eagle Board) Town of Eagle, Section 36**

Mr. Fruth pointed out the location of the property in the SW ¼ of Section 36, Town of Eagle. He indicated the request is for a road width right-of-way reduction of Jack's Bay Road from 66 ft. to 50 ft.

Mr. Fruth stated that multiple property owners that abut Jack's Bay Road are requesting a waiver to reduce the established road right-of-way width from 66 ft. to 50 ft. He noted the road is a relatively short dead end road with no further potential for extension as the vacant lands to the east of the road are mapped wetland and PEC and owned by the DNR. Mr. Fruth commented the Town has approved the request and the Staff is recommending approval.

*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.*

- **PPC 004 (Igl Family Farm LLC) Town of Ottawa, Section 8**

Mr. Fruth pointed out the location of the property in the E ½ of the SE ¼ of Section 8, T6N, R17E, Town of Ottawa. He indicated the request is for approval of a lot not abutting a public road.

Mr. Fruth explained the petitioners own a 98-acre parcel and an adjacent 32-acre parcel. The petitioners are proposing a two (2) lot Certified Survey Map to reconfigure the acreage. Proposed Lot 1 consists of ten (10) acres and proposed Lot 2 consists of approximately 119 acres. A large portion (53.7 acres) of Lot 2 has been preserved through a USDA Wetlands Reserve Program Conservation Easement. Both parcels are currently vacant and it is expected that Lot 1 will be used for a single family residence.

Mr. Fruth stated in 2012, the petitioners received Board of Adjustment approval for a variance for the creation of a lot (Lot 1) on a private street or way that was less than 33' wide. The parcel currently has access through a strip of land that is less than the required 33 ft. The Board of Adjustment approved this request with the condition that the petitioners seek approval from the Town Plan Commission and the Waukesha County Park and Planning Commission for the creation of a lot not abutting a public road. Approval from the Town Plan Commission was granted in May 2013, and the petitioners are now requesting County approval for the creation of a lot not abutting a public road.

Mr. Fruth explained that Lot 1 continues to be accessed via the existing ownership strip. Access to the conservation easement on Lot 2 has been granted through a conservation easement document. Per the Certified Survey Map, Lot 1 shall not be further divided, resulting in no additional access to this property via the narrow existing easement. Mr. Fruth stated the Staff is recommending approval of the creation of the 10-acre lot that does not abut a public road. The access strip currently serves as the only access point for the original 98-acre parcel. He noted that the 10-acre parcel will allow only one (1) home to utilize the access strip with the balance of the property remaining for farm use.

*After discussion, Mr. Mitchell moved, seconded by Mr. Morris and carried with 5 yes votes for approval Mr. Siepmann recused himself, 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.*

• **PPC16 003 (Randy Forseth) Town of Genesee, Section 16**

Mr. Fruth pointed out the location of the property in part of the NE ¼ of Section 16, Town of Genesee. He indicated the request is for approval of lot not abutting a public road.

Mr. Fruth stated the petitioner owns a 41 acre parcel with 66 ft. of frontage on Canyon View Drive which they are proposing to divide into two lots via Certified Survey Map. He explained the proposed division would include a seven (7)-acre lot around the Forseth's existing home and accessory structure and a second lot would be created to the east and would encompass the remaining 34-acres. Lot 2 is proposed to be developed for single family use with a majority of the lot being preserved as open space.

Mr. Fruth explained the proposed land division would divide the existing 66' of frontage on Canyon View Drive between Lots 1 and 2, giving the proposed lots 33' of frontage each. While both Lots 1 and 2 would have 33' of frontage, both will benefit of a 33' easement to achieve the required 66' easement width required by the Ordinance. A driveway currently exists that services the Forseth's home and the petitioner proposes to use the existing driveway for both Lots 1 and 2. The petitioners are requesting a waiver for the two proposed flag lots that are subject to the "lot not abutting a public road" requirements of the Waukesha County Shoreland and Floodland Protection Ordinance. Mr. Fruth commented the petitioners are proposing to construct their home at the top of a hill. He noted the Town has 12% slope preservation and they are allowing some relief from the requirements in their review of the Certified Survey Map. The Town will also require notes that mandate the preservation of the balance of the slopes. Mr. Fruth stated the staff is recommending approval of the request with the condition that a note be placed on the Certified Survey Map prohibiting further land division. Staff feels that because the site contains unique physical conditions with steep slopes and large areas of wetland and floodplain, a road extension would be impractical.

*After discussion, Mr. Morris 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.*

**ADJOURNMENT**

*With no further business to come before the Commission, Mr. Peregrine moved, seconded by Mr. Maslowski to adjourn at 1:38 p.m.*

Respectfully submitted,

*William Mitchell*

Vice Chairperson (Acting Secretary)

WM:es