

**WAUKESHA COUNTY
MINUTES OF THE PARK AND PLANNING COMMISSION
ADMINISTRATION CENTER, ROOM AC 255/259
THURSDAY, AUGUST 16, 2018 1:00 P.M.**

CALL TO ORDER

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

Commission

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

Members Absent: William Maslowski

Staff

Members Present: Jason Fruth, Planning and Zoning Manager
 Kathy Brady, Support Staff Supervisor
 Paige Drew, Administrative Specialist

Guests Present: Atty. Joe Abruzzo: CU7
 John Winkler CU7
 Ryan Cardinal: CU7
 Lisa Love: CU10 and SP24

CORRESPONDENCE: None.

MEETING APPROVAL: None.

MINUTES:

- Approval of the July 19, 2018, Minutes.

Mr. Morris moved, seconded by Mr. Siepmann and carried unanimously for approval of the July 19, 2018, Minutes, as presented.

PUBLIC COMMENT: None.

SCHEDULED MATTERS: None.

- **RZ14 (Text Amendment) Town of Eagle**

Mr. Fruth pointed out that the request is for text amendments to the Town of Eagle Zoning Code to allow group daycare centers in the Rural Residential (RR) Zoning District as a Conditional Use.

Mr. Fruth stated that daycare facilities were not listed as an available Conditional Use option nor permitted use, in either of the Residential Districts in the Town of Eagle Zoning Code. When the daycare facility operator approached the Town of Eagle regarding renewing their Conditional Use, it was discovered that it had lapsed, and a renewal was required. The Town Planner led the daycare facility operator to this process. The Town was receptive to amending their code to provide for the use through the Conditional Use process. Mr. Fruth clarified group daycare facilities are defined by the Town Code as nine children or more. He went on to address how the Conditional Use reference's the responsibility

for the operator to obtain the adequate licensing required by the state. The amendments to the Town of Eagle Zoning Code allow for one individual to receive the Conditional Use approval, and paves the way for future daycare operators to follow the guidelines permitted above.

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

- **CU7 (John and Sharon Winkler) Town of Mukwonago, Section 4**

Mr. Fruth pointed out the location of the property on Schnitzler Road near Valley Way Drive in the Town of Mukwonago on the aerial photograph. He indicated the request is to authorize land altering activities associated with the construction of a new single-family residence and associated driveway, pool and landscaping.

Mr. Fruth stated there has been active communication between the petitioner, the Planning and Zoning Division and the Land Resource Division staff to determine the requirements of both the Waukesha County Shoreland and Floodland Protection Ordinance and the Waukesha County Stormwater Management and Erosion Control Ordinance relative to the proposal. He went on to give a brief overview of the property, which is located in a rural, remote part of the Town of Mukwonago, containing six acres of land. The parcel in question is the last of four lots created by a Certified Survey Map to be built upon. The property contains unique topography with the low part of the site in the northeast corner of the lot. There is a significant ridgeline that runs from the southeast to northwest corner of the site. Furthermore, there is a kettle onsite that is non-vegetated, unlike the ridge. The area the petitioner has proposed to build a home, pool, and outdoor living space is in the far southwest corner of the property (higher elevation). The original plan presented at the Town of Mukwonago public hearing demonstrated the petitioner's desire for an exposed basement which could not be achieved without substantial cutting of vegetation. Part of the proposal was to alter the kettle and create the ability for drainage to leave the area. The submitted plan showed at the deepest point, a 10 ft. cut going through the slope (wooded area), resulting in major impact. Concerns raised at the public hearing included the amount of materials being moved around and truck impacts on the rural roads. Waukesha County expressed concerns regarding drainage as well, when the Certified Survey Map was created, due to a number of stormwater management easements enacted by the Town of Mukwonago. The Town indicated a willingness to renegotiate said easements. Mr. Fruth noted, the Waukesha County Planning and Zoning staff expressed their concern to the petitioner about preserving the topography in the area, more specifically, but not limited to, tree preservation. The Town considered these above points jointly with a member of the Planning and Zoning Division staff at the public hearing, and despite a favorable Plan Commission recommendation, the Town Board denied the request, pointing to nuances of the new Conditional Use laws. After the denial, Mr. and Mrs. Winkler and their team scheduled a meeting to convene with the Planning and Zoning Division and Land Resources Division staff to discuss options. Ultimately, the Land Resources Division indicated the acceptability for modification of the kettle, as long as there is no loss of storage. Ryan Cardinal, the engineer for the project, has been working with the Land Resources Division to satisfy said requirements.

The new plan presented to Waukesha County shows the same cuts being proposed, along with a series of retaining walls from the original plan as well. Since kettles are treated like stormwater ponds, the frozen ground condition has to be respected to ensure the water doesn't pond in the bottom and flow onto an adjacent residential property. Mr. Fruth pointed out in the revised plans, there is reshaping of the kettle allowing storage capacity and the consideration of internal drainage, with a trench area located in the bottom of the basin. A recommendation was made for a relocation of a contour upward

from the bottom of the kettle to further aid in drainage. An outlet pipe will also be put in place in the event that water would rise to a certain elevation, the excess would drain outwards like a stormwater management facility. Decreasing the impact to the slope is a significant improvement in the plan. Additional requests made by the Planning and Zoning Division include a condition for a tree inventory to be conducted in the area, and the request of the final outlet pipe location to be respectful of mature trees. Grading will be required to achieve a driveway to advance up the slope to the building site. The slope will need to be 10%, at maximum.

Mr. Mitchell questioned why the Town of Mukwonago denied the proposal and asked if the proposed plan will require approval from the Town. Mr. Fruth stated staff did not feel the revised plan would need to go back to the Town. The public hearing was conducted on the initial plan and the new plan contains significantly less grading; however, the Town will have a say through reviewing the easement documents. Atty. Joe Abruzzo introduced himself and described the events from the public hearing held June 6, 2018. He stated that the Town seemed confused, in his opinion, on what the Conditional Use standards were. He noted that the Town Atty. instructed the Town Board that they needed substantial evidence from Waukesha County on what conditions were being imposed. Mr. Greenberg, Senior Land Use Specialist, provided the conditions. The petitioner agreed to meet all conditions the County would impose; however, the Town Board felt they had to recommend denial based upon the fact they had no substantial evidence from Waukesha County, not because they were against what was being proposed.

Mr. Morris questioned that in the original proposal the cut was 10 ft., but now with the installation of the pipe what is the depth? Mr. Cardinal, from Cardinal Engineering, introduced himself and said they are lowering the bottom of the kettle, keeping the drainage pattern the same, widening the bottom and deepening it a total of 3 ft. The outlet pipe is going into the hillside at 964 ft., and the top of the ridge is 973 ft., so the depth of the pipe would be approximately 9 ft. He noted everything southwest of the treeline is all open space, and there is no grading into the treeline. The intention is to not disturb the treeline, as the owner loves the natural topography of the property. Mr. Winkler, petitioner, noted that the foundation was raised to avoid additional excavation. Mr. Mitchell said that the Conditional Use has to show an impact as to why they are there. He asked if the Planning and Zoning Division staff felt they were on solid ground as far as the recommendation. Mr. Fruth replied, yes and added that it was an odd set of statements coming from the Town. The County's standards for earth altering couldn't be more robust in the Conditional Use section. They are extremely specific and cross reference back to the preservation of the topography and the stormwater ordinance. He felt the set of standards does the job very nicely and gives a lot of direction as far as what should be looked for in a Conditional Use application of this nature. He questioned whether Town Commissioners involved fully read and understood the County ordinance provisions relative to this matter.

Mr. Morris asked if it was approved by the Planning Commission but denied by the Town Board. Mr. Cardinal said there was a misunderstanding between the petitioner, Town, and County. Unintentionally, they went to the Town first and asked for an alteration of the kettles in the original plan. They approved it with all of the grading that was already there including both kettles. Mr. Siepmann said he thought it was a much improved plan. Mr. Michalski asked if the exit point of the pipe would cause scarring when it was in use? Mr. Fruth replied there would be stone riprap and it is a fine detail that the Land Resources Division will look at closely in finalizing their review comments. Mr. Cardinal added that it is designed to be an emergency overflow for frozen ground in a rare situation.

After discussion, Mr. Siepmann 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.

- **CU10 (Lisa Love/Randall and Jeannie Herold) Town of Eagle, Section 1**

Mr. Fruth pointed out the location of the property at S70 W34138 Road X in the Town of Eagle on the aerial photograph. He indicated the request is to authorize the operation of an indoor/outdoor commercial horse boarding facility.

Mr. Fruth stated the parcel is located in a rural section of the Town of Eagle, near the Town of Mukwonago border, east of Highway 59. There is a barn and residence occupied by the petitioner on the property. The proposal brought forth is to construct a new larger pole building, which will hold a maximum of 15 horses. Presently, the petitioner is allowed to house 15 horses inside, in 10 (60’ X 136’) stalls, with 5 additional horses boarded outdoors. The plan specifies room for growth indoors in order to relocate the outdoor horses inside of the facility; however, the Conditional Use emphasizes the capacity of 15 horses at this time. The Town recommended no more than five trailers be present on the property at all times. The hours of operation will be between 8:00 a.m. to 8:00 p.m. daily with the requirement that the house be occupied by the owner or petitioner. In addition, Mr. Fruth touched base on parking and sanitary facilities. The placement of parking is proposed to be located east of the new barn, and a portable restroom facility will be located onsite; however, the Town noted as a Conditional Use that a further detailed Site Plan must be constructed pin-pointing the exact location of said amenities. Furthermore, a Nutrient Management Plan has been approved for the handling of manure. Mr. Mitchell noted on Page 3 of the Staff Report that the hours of operation are listed as 8:00 a.m. to 8 p.m.; however, in Condition No. 4d, the hours are listed as 7:00 a.m. to 8 p.m. Mr. Fruth said the hours should be 7:00 a.m. to 8:00 p.m. and noted the correction would be made.

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

- **SP24 (Lisa Love/Randall and Jeannie Herold) Town of Eagle, Section 1**

Mr. Fruth indicated the Site Plan/Plan of Operation request is related to the previous Conditional Use (CU10) listed above.

After discussion, Mr. Mitchell 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.

ADJOURNMENT

With no further business to come before the Commission, Mr. Morris moved, seconded by Mr Mitchell to adjourn at 1:30 p.m.

Respectfully submitted,

James Siepmann

James Siepmann
Secretary

JS:pd

