

**WAUKESHA COUNTY
MINUTES OF THE PARK AND PLANNING COMMISSION
ADMINISTRATION CENTER, ROOM AC 255/259
THURSDAY, SEPTEMBER 19, 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

Members Absent: William Mitchell

Staff

Members Present: Jason Fruth, Planning and Zoning Manager
 Kathy Brady, Support Staff Supervisor

CORRESPONDENCE: None.

MEETING APPROVAL: None.

MINUTES: Approval of the August 15, 2019, Minutes.

After discussion, Mr. Morris moved, seconded by Mr. Siepmann and carried unanimously for approval, of the August 15, 2019, Minutes as presented.

PUBLIC COMMENT: None.

• **RZ46 (Legend of Brandybrook Estates, LLC) Town of Genesee, Section 3**

Mr. Fruth pointed out the location of the property at W304 S1806 Brandybrook Road in the Town of Genesee on the aerial photograph. He indicated the request is to rezone the property from the A-5 Mini Farm District to the R-1 Residential District.

Mr. Fruth indicated that earlier this year an amendment to the Comprehensive Development Plan for the property from the Rural Density and Other Agricultural Land category to the Low Density Residential category was approved to allow a proposed 12-lot conservation design, single-family residential subdivision. The current proposal is for a single-family, condominium Planned Unit Development (PUD) oriented to the golf course located immediately to the south, containing 11 lots. The property currently contains a single-family residence, which would be retained and an outbuilding to be removed. A landscape buffer is being proposed along the frontage of Brandybrook Road and a golf cart path connection for the residents to access the golf course to the south. A condition of the plan amendment was that a landscape buffer be provided along the north and west property lines of the northern most proposed lot to provide screening.

Mr. Fruth explained that some of the septic systems for the condominium development would be located in the open space areas of the property. At the public hearing, there were many speakers for and against the rezoning. The Town of Genesee approved the rezoning with conditions and also required the project to come forward as a PUD. Conditions of approval include that there be no more than 11 units for the project and there would be a requirement that the condominium documents be advanced to the Town.

Mr. Gaudion, petitioner, introduced himself and indicated he did not have any concerns with the Staff's Recommendation.

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.

• **CU24 (Peter and Karin Drescher) Town of Merton, Section 27**

Mr. Fruth pointed out the location of the property at N62 W30475 Beaumont Lane in the Town of Merton on the aerial photograph. He indicated the request is for land altering activities to improve site drainage and improve lake access on the subject property.

Mr. Fruth indicated the property is located on the north shore of Beaver Lake in the Town of Merton at the end of Beaumont Lane and noted that there are chronic drainage problems in this area. At the public hearing, comments were made indicating drainage issues on abutting properties and the Drescher property, which is located at the low point of the neighborhood. He pointed out on the aerial photograph the topography, which indicates very steep terrain through the area. Conditions near the shore of the Drescher property contain a minor raise in elevation (berm) due to ice shoves. He presented photographs of the property indicating ponding/standing water conditions at the shore. In addition, the property is very wet down to the lake from the patio area. When the Planning and Zoning Division staff visited the site it was first thought there may be wetlands in the southwest corner of the property near the lake. An investigation confirmed wetlands. The property owner would like to mitigate the drainage issues as it is difficult to walk from the patio area to the lake along with cutting the grass, etc. Mr. Fruth explained that initially, the petitioner's proposal was to fill the entire area with approximately 1.5' of fill. At the public hearing, concerns were expressed by neighboring property owners that the fill might cause adverse drainage onto their properties. An engineer representing a nearby property owner offered some suggestions for the problems on the Drescher property.

Mr. Fruth explained that the petitioner and their design engineer made changes to their initial proposal. The revised proposal is to elevate a narrow area to achieve a walkway to the lake. State law limits walkways to a maximum of 5' in width. One foot of fill would be added for the walkway from the patio to the shore. In addition, they are proposing to open up the berm, which seems to be impeding water flow back to the lake. Conditions of note include:

- The maximum width for the walkway would be 5'.
- Land altering shall comply with Exhibit B (Grading and Erosion Control Plan)
- A Storm Water Permit shall be obtained from the Waukesha County Land Resources Division.
- Native wetland vegetation be established in the designated wetland areas.

Mr. Maslowski asked if a wetland designation was being imposed and if there was floodplain on the property? Mr. Fruth replied that the owner had a wetland delineation done which identified that there are wetlands on the property. He explained that Beaver Lake does not have a mapped floodplain and indicated it was a modest fill proposal. Mr. Morris added that the Town of Merton, when approving the request, took into consideration and wanted to make sure that the

drainage problem would not go onto other neighboring properties. Mr. Maslowksi asked if the standing water on the property was the high water mark for Beaver Lake? Mr. Fruth replied, “No”, adding that the standing water is above and beyond the ordinary high water mark. The water cannot get to the lake because of the raise in elevation of the berm (ice shove). Mr. Michalski asked if property owners are permitted to remove ice shoves or if they must get some type of permit? Mr. Fruth replied that in the past others have asked to modify these types of conditions, and they are sometimes permitted through a minor grading permit or Conditional Use Permit.

Mr. Drescher, petitioner, introduced himself and said that the constant standing water is a significant problem and affects the use of the property. He stated the original plan has been revised to only include a slightly elevated walkway to the lake and to remove the ice push so the area can be easily drained. He is working with Pinnacle Engineering to work out the issues. Mr. Zanon, from Pinnacle Engineering introduced himself and said that over the years there may have been other residents living on the lake that have maintained their property by removing the berms without permits. He would like to see Mr. Drescher be able to grow and maintain the grass on his property.

Attorney Gutenknust, representing Chris Schmidt (adjacent neighbor to the east) said the original plan presented would have pushed water onto her clients’ property. As she understood, the storm water would be reviewed by Waukesha County and there may be additional changes. She asked if additional changes are made (direction of water) that Mr. Schmidt and the neighbor to the west be notified so water is not directed onto their properties? The Mitigation Plan mentions a deadline, she would like a specific date stated. The most important issue is the Deed Restriction held to the current owner and any successors. She said the Deed Restriction should include language that the pervious sidewalk is limited to 5 ft. in width, so a future property owner cannot expand the width. Since the cuts in the berm are designed to get the water from the lowest spot back into the lake they should be maintained. She asked what the long-term maintenance of the viewing corridor would be?

Mr. Zanon asked if a Deed Restriction has been prepared that they haven’t seen? Mr. Fruth indicated that usually it would be prepared after action by the Commission.

Mr. Anslet and Ms. Gastrow relatives of Rollin Schneider (property owner to the west) said the new plan seems to be an improvement to the original plan and that the water would be directed into the lake not on the properties. They also would like to be notified of any changes in the plans.

Mr. Fruth responded to the comments made above:

- Could conventional grass be established in the wetland areas? Since there is a designated wetland the Planning and Zoning Division staff does not typically allow for conventional maintenance of wetlands. The removal of the raised ground conditions may make it less wet, but the property may continue to have wet areas. If the wetlands start to dry up as a result of the project then something other than conventional wetland seeding would be appropriate. He recommended keeping the condition but allow for flexibility if the conditions are too wet or too dry for a conventional seed mix.

Mr. Maslowski expressed concerns that if an existing condition is changed on a lake, other problems are unintentionally created. He asked that the property owners be allowed to come back before the Commission or Town and be able to make adjustments. Mr. Siepmann said that his parents owned on the property to the east and he doesn't remember ever seeing this amount of water, however, he did remember it being somewhat wet in the southwest corner of the property. Mr. Fruth explained that over the years the scope and scale of development and addition of impervious surface on the petitioner's property has significantly changed. Mr. Siepmann asked if fill would be brought to the site or would the material from the berm be used for the pathway? Mr. Zanon said it would be a cut/fill and approximately 30 cubic yards of fill would be needed for the walkway. Mr. Peregrine suggested that anyone who would want to review the Deed Restriction before it is signed should contact Mr. Fruth.

- Mr. Fruth asked if the Commission would like to keep the condition relative to native vegetation in the southwest (wetter) portion of the property but eliminate the requirement of native vegetation in the lineal strip near the berm? He said that possibly when the berms are removed that the wetland may dry up and it may be an artificially created wetland. Mr. Maslowski clarified that even if the wetland dried up there would still be a restriction that no filling would be allowed in that area without Commission approval. Mr. Fruth replied that the Shoreland Ordinance would protect the wetland from being filled and there is a process available through the State if the petitioner wanted the wetland designation reconsidered at some point. The Commission agreed to limit the wetland restoration to the southwest wetland.

Mr. Augustine said that the wetland would need to be redesignated prior to any fill or other activities taking place. Once it is delineated, the delineation is good for a minimum of 10 years and would need to be redelineated before anything else is done.

Mr. Siepmann summarized the requested additions to the Deed Restriction from Attorney Gutenkunst:

1. Would the Commission consider putting a notice in the Deed Restriction that abutting property owners would be notified? Mr. Siepmann said he didn't think the Commission had ever done that before. Attorney Gutenkunst clarified that she meant any changes in the plans.
2. A specific date deadline be added for completion of the project. Mr. Fruth asked for input from the property owner and Mr. Zanon (engineer) as to when the project would be completed. Mr. Drescher said next year, not this year and suggested at the end of 2020. Mr. Siepmann suggested September 15, 2020 would be more appropriate for vegetation.
3. Maintenance of the cuts through the ice heave. Mr. Siepmann said it had been done in the past for others. Mr. Zanon asked if the Deed Restriction would allow them to just cut the berms on their own without having to come back to the Commission? Mr. Fruth explained that the reason for the Deed Restriction is that state law requires that all improvements in the shoreland area be consolidated in the access and view corridor. The access and view corridor is an abstract thing when you have an almost wide open property such as this. State law requires the path to be in a certain area, so there needs to be a designation as to where any improvements in the future would go and that is the reason for the Deed Restriction. The

intent of the staff in writing the Deed Restriction was not anything else about memorializing any and all of the rest of the rules, which is why there is a Conditional Use Permit (CUP). The CUP should and can do the job. Condition No. 6 was about establishing the access and view corridor. Mr. Siepmann asked if there should be a condition regarding maintaining drainage cuts through the berm. Mr. Fruth replied, there are rules within the Shoreland Ordinance which states that you cannot grade (minor or major project) without a permit from the County. If the idea is to prevent someone from putting fill back, the Shoreland Ordinance addresses this issue. If the idea is that the petitioner needs to continually maintain the area if the ice push continues to cause elevation, compelling the property owner to remove the berm, he did have some concerns about review of those ongoing activities. Mr. Zanon said he would like it to be in perpetuity so the petitioner is able to do it and doesn't have to go through the Conditional Use process with the Town and County and additional fees. He might only need to do it every few years depending on how the ice heave fills in the cuts. He felt it would be a more streamlined process for Mr. Drescher to maintain his yard and keep it dry. Mr. Fruth said that continual maintenance of the ice push conditions could be authorized provided erosion control measures and a plan are brought forward to County Staff each time the petitioner would want to address these activities. He said it is in the best interest of the property owner to cut any future ice push down because it affects the subject property owner the most.

4. Mr. Siepmann asked if the berm would be left naturalized going forward? Mr. Drescher replied to the east and to the west of his property there is no berm. Mr. Siepmann said it would aid in protecting the lake and become a type of filter and geese would not be able to walk up on the property, etc. Mr. Drescher said he would consider the suggestion.

Mr. Siepmann motioned for approval, subject to the conditions in the Staff Recommendation with the following inclusions:

- The construction project shall be completed by September 15, 2020.
- Add language to allow for maintenance/cutting of future ice push conditions by the property owner, subject to Erosion Control Permits being issued by the Waukesha County Land Resources Division.
- Limit the wetland plantings requirement to the southwest corner of the property. The southeast portion of the property will not be required to have wetland plantings, however, a naturalized buffer is required along the shoreline.

The motion was seconded by Mr. Morris.

Attorney Gutenkunst asked if the Conditional Use Permit would be recorded? Mr. Fruth replied that it would be a reasonable request and if the Commission would like to add this condition it would put everyone on notice.

Mr. Siepmann added the following inclusion to his motion:

- The Conditional Use Permit shall be required to be recorded in the Waukesha County Register of Deeds Office.

Mr. Zanon asked if it was standard for all lots on Beaver Lake to record Conditional Use Permits? Mr. Fruth responded that not every Conditional Use Permit is recorded, but some are. Attorney Gutenkunst verified that the adjacent property owners to the east and west shall be notified by Waukesha County of any changes to the petitioner's plans.

After discussion, Mr. Siepmann moved, seconded by Mr. Morris and carried unanimously for approval, as conditioned, in accordance with the "Staff Report and Recommendation" with the following modifications to the conditions of approval:

- *The construction project shall be completed by September 15, 2020.*
- *Add language to allow for maintenance/cutting of future ice push conditions by the property owner, subject to Erosion Control Permits being issued by the Waukesha County Land Resources Division.*
- *Limit the wetland plantings requirement to the southwest corner of the property. The southeast portion of the property will not be required to have wetland plantings, however, a naturalized buffer is required along the shoreline.*
- *The Conditional Use Permit shall be required to be recorded in the Waukesha County Register of Deeds Office.*
- *Adjacent property owners to the east and west shall be notified by Waukesha County of any changes to the petitioner's plans.*

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.

Mr. Michalski left the meeting at 1:51 p.m.

• **CU30 (Okauchee Lions Club) Town of Oconomowoc, Section 36**

Mr. Fruth pointed out the location of the property at N49 W34400 Wisconsin Avenue in the Town of Oconomowoc on the aerial photograph. He indicated the request is for an amendment to the existing Conditional Use Permit to increase the number of allowable special events and programs, expand the operating season from 6 months to year round, request an extension for the installation of the baseball field lights and other operational changes.

Mr. Fruth explained that historically, the site contained an open-air pavilion, which was improved in 2018. It is now a multi-purpose year round building. The petitioner is asking for an increase in the number of events which would be able to be held on the site, changes to the seasons of use, extension for the deadline for the lights that were proposed on the baseball field on the east side of the property and other operational changes including rules for music, etc. The property is zoned in the P-I Public and Institutional District, and there is a Conditional Use Permit for the property because it is used as a private club. The private club conditional use option allows for a commercial use to be accommodated by the Town and County as part of the process. Mr. Fruth referred to Page 4 of the Staff Report, which shows the existing and proposed changes and is summarized below:

- Special Events: Present, 30 events (100 people) are allowed per year. The petitioner is proposing 110 events with no per person limit.
- Season of Use: Present, April through October. The petitioner is proposing year round.

- Parking: Present, 304 spaces including overflow on the lawn, no street parking. No change is being proposed.
- Baseball field lighting: Present, free standing lights (to be installed by May 31, 2019) and exterior building lights. The petitioner indicated from a fundraising perspective, they are not able to complete the installation of the lights and are seeking an extension to the deadline. In addition, trees were to be planted prior to the lights being installed.
- The petitioner is proposing to utilize an ATV on the premises for various purposes.

Regarding the number of events, the Town proposed that small events be under 100 persons (no limit) and large events 100 people or more. The Town limited large events to 50 per year excluding Lions Days and the Firemen's Street Dance. The Town recommended additional events at an increase of 10 per year, provided there are no nuisance complaints, etc.

Mr. Fruth pointed out that there are residential properties located to the east and north within 300-400 feet. The petitioner is hoping to have more banquets, parties, weddings, etc. The Planning and Zoning Division staff is recommending (with the exception of 2 large events) that live/amplified music is allowed inside the building until 10:00 p.m. on Fridays and Saturdays with an extension to 11:00 p.m. if all doors and windows are closed and no amplified music at any time except Fridays and Saturdays unless approved by the Town Plan Commission. No music of any kind including recorded music and live acoustic music is permitted outside of the building after 7:00 p.m. The Town recommended 75 decibels for sound at the property lines and the County Planning Staff recommends 50 decibels. The Town and County are recommending that the deadline for the baseball field lights be extended to 2024 and the deadline for the tree plantings (which would buffer the surrounding residences) could be extended to September 15, 2020 from April 1, 2020.

Mr. Schick, introduced himself as the president of the Okauchee Lions Club along with Ms. Schick who is the Secretary. They presented several handouts showing the neighboring properties to the baseball field and the existing trees. Ms. Schick described the Lions Club property and indicated they maintain and improve the approximately 12-acre park without taxpayer monies. Fundraising goes back into the park itself, programs, events or the community. Youth baseball and softball programs are held on the grounds serving 300 to 350 youth per year. Boys and Girl scouts and 4H groups also use the park. They are a volunteer organization trying to make the community better. She explained that she wished to increase the number of events in the renovated building to provide revenue to operate the park and support the community.

Mr. Michalski returned to the meeting at 2:06 p.m.

Ms. Schick said this current Conditional Use now has 45 conditions. She said she did not understand the purpose of the current conditions. She mentioned at the public hearing, that 3 people spoke in support of the request and none of their comments were included in the Staff Report only negative comments, which she felt was biased. On Page 3 of the Staff Report it states the "building has a maximum of 280 persons" which is incorrect, and should say the "pavilion" not "building". She referred to Condition No. 12 referring to live and amplified music, and felt the County is telling the Town how to run things and noted that the County added wording to make it more restrictive. Condition No.15 regarding the decibel limit. She said the County reduced the decibels from 75 to 50. The property is adjacent to Hwy. 16, the railroad

with freight/Amtrak trains and noted that lawnmowers operate at 80 to 120 decibels. Condition No. 23, she asked the County Planner yesterday what a monument sign/lighting was and was told that he wasn't sure. Condition No. 27, no parking allowed in the road right-of-way of CTH R. This condition should have been bolded as it was added by the County. She indicated it was the main parking for the baseball and softball and felt the condition was unreasonable and now they might have to rethink the youth softball programs. Condition No. 28 regarding the tree planting. She indicated they have been trying to raise money for the baseball lights for a few years and have been unsuccessful. She said (referring to the photographs) that there are already existing trees located in the area. Mr. Fruth said referring to a Landscape Plan for the Lions Club prepared by Blackdog Design from years ago which shows existing trees and the proposed 7 trees to be planted and takes into account the existing deciduous trees. She indicated she did not have a copy of the Landscape Plan. Mr. Fruth suggested that the amount of new trees to be planted could be reduced from 12 to 7.

Mr. Fruth indicated that County Staff met with the petitioners prior to them filing the Conditional Use application and met again prior to the public hearing. He indicated it would be difficult to go through each condition in great detail during this meeting. He noted if the Lions Club needs more time to review the conditions he would suggest tabling the matter. Chairperson Peregrine noted that due to the substantial change in operation, the Town imposed many of the same conditions that the bars in Okauchee have. Several issues and comments from the public included the failure to plant the trees for screening (from years ago) and noise concerns. He felt that the matter should be tabled.

Mr. Siepmann said that since this is a substantial change with the increase in events and being year round, the parking situation needs to be addressed as to how it will function, specifically during the winter and spring months parking on the grass would be difficult. He suggested tabling the matter so the petitioner can meeting with County Staff to go over the conditions. Mr. Fruth and the Commission agreed.

After discussion, Mr. Siepmann moved, seconded by Mr. Maslowski and carried unanimously to table the matter in order for the Waukesha County Planning and Zoning Division staff and petitioner to meet and further discuss the recommended conditions.

- **SP72 (Okauchee Lions Club) Town of Oconomowoc, Section 36**

Mr. Fruth indicated that the request is related to CU30 listed above.

After discussion, Mr. Siepmann moved, seconded by Mr. Maslowski and carried unanimously to table the matter in order for the Waukesha County Planning and Zoning Division staff and petitioner to meet and further discuss the recommended conditions.

- **SP78 (Eagle Spring Lake Management District) Town of Eagle, Section 36**

Mr. Fruth pointed out the location of the property at W344 S10505 CTH E in the Town of Eagle on the aerial photograph. He indicated the request is to change the color of a weed harvesting conveyor.

Mr. Fruth indicated the property contains the dam spillway. There is a large weed harvesting conveyor that offloads the weeds from the lake. In 2003, approval was given for the conveyor to be stored on the property from October to March, subject to a Landscaping Plan being provided.

Subsequently, a camouflage tarp or painting it a brown color or similar color to the camouflage was approved. Instead of tarping the equipment, the Eagle Spring Lake Management District (ESLMD) is requesting to paint it green, gray or off-white (color samples were submitted). There is a shed near the north lot line, which provides storage for the property and houses the spillway and is painted gray. The Planning Staff recommends either the green or gray color for the conveyor.

Chairperson Peregrine asked why the Commission is involved in the choice of color for the equipment? Mr. Fruth replied that it is because of the Conditional Use and Site Plan/Plan of Operation and the Town has deferred the decision to the County. Mr. Morris suggested the green color. Mr. Siepmann clarified that the machine is used to cut weeds on the lake. Mr. Jensen, Chairman of the ESLMD introduced himself and said the conveyor equipment is used to take the cut aquatic growth and transport it to a truck and it is located on land and not in the water. The equipment is more visible in the winter when there is less vegetation. The building was recently painted gray and it is the general consensus of the district that they would prefer gray. He also suggested the gray color.

After discussion, Mr. Maslowski moved, seconded by Mr. Morris and carried unanimously for approval of the color change for the weed harvesting conveyor to be the gray color submitted by the Eagle Springs Lake Management District. 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 009 (Tim and Marcia Koenig) Town of Delafield, Sections 13 and 14**

Mr. Fruth pointed out the location of the property at N21 W28674 Louis Avenue in the Town of Delafield on the aerial photograph. He indicated the request is for a retaining wall within 5 ft. of the property line.

Mr. Fruth indicated the petitioners are proposing to construct a new residence with an attached garage. The property is narrow (less than 40' wide) and the proposal is to fill on the east side of the structure to accommodate a side entry door.

After a brief 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.

ADJOURNMENT

With no further business to come before the Commission, Mr. Siepmann moved, seconded by Mr. Michalski to adjourn the meeting at 2:37 p.m.

Respectfully submitted,

James Siepmann

James Siepmann
Secretary

JS:kb