

**WAUKESHA COUNTY
MINUTES OF THE PARK AND PLANNING COMMISSION
ADMINISTRATION CENTER, ROOM AC 255/259
THURSDAY, MARCH 16, 2017, 1:00 P.M.**

CALL TO ORDER

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

Commission

Members Present: Richard Morris James Siepmann Robert Peregrine
 William Mitchell Bonnie Morris

Members Absent: Keith Hammitt William Maslowski

Staff

Members Present: Jason Fruth, Planning and Zoning Manager
 Elfriede Sprague, Administrative Specialist
 Amy Barrows, Senior Planner
 Benjamin Greenberg, Senior Land Use Specialist

Guests Present: Lisa Winkler, SCU-1625
 Craig Caliendo, SCU-1625
 Gary Heath: 3A, Comprehensive Dev. Plan Amendment
 Atty. T. Michael Schober, SCU-1546A
 Chris Heitman, SCU-1223

CORRESPONDENCE: None.

MEETING APPROVAL

2017 WCCA SPRING CONFERENCE

- March 30 and 31, 2017, Stoney Creek Inn, 1100 Imperial Avenue, Mosinee, WI 54455.

Mr. Peregrine moved, seconded by Mr. Mitchell and carried unanimously for approval of any Commissioner to attend the Spring Conference.

MINUTES Approval of the February 23, 2017, Minutes.

Mr. Siepmann moved, seconded by Mr. Peregrine and carried unanimously for approval of the February 23, 2017, Minutes.

PUBLIC COMMENT None

• **COMPREHENSIVE DEVELOPMENT PLAN AMENDMENTS – 2017**

1A. - The Waukesha County Department of Parks and Land Use, 515 W. Moreland Blvd., Waukesha, WI 53188, requests property owned by Survivors Trust U/Alex & Sadie Roitblat Trust, Marna Stein Et Al, P.O. Box 1750, Santa Ynez, CA 93460, located in part of the SW ¼ of Section 35, T6N, R18E, Town of Genesee (Tax Key No. GNT 1579.998), be amended from the Transportation, Communication and Utilities category to the Low Density Residential category (20,000 sq. ft. to 1.4 acres of area per dwelling unit).

Ms. Barrows indicated the approximately 12 acre property is located at the corner of S.T.H. 83 and C.T.H. "X and is currently being utilized for agricultural purposes. She clarified that at this time, the current property owners have no intentions of selling the property, however they may wish to pursue future residential development. She explained the Transportation, Communication and Utilities category was intended to preserve the land for future transportation uses; however, the Town of Genesee and Waukesha County do not feel there is any reason to keep the property in that category since S.T.H. 83 has recently been reconfigured and there is no need for additional lands to accommodate the highway systems. Staff is recommending approval of the request. The change in category will allow future residential use consistent with the surrounding area.

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

2A. - Bradley Rozanski, Milestone Development Partners LLC, 3215 Golf Road Suite 132, Delafield, WI 53018-2157, requests property located at W327 S8040 Highway EE, in part of the NW ¼ of Section 17, T5N, R18E, Town of Mukwonago (Tax Key No. MUKT 1938.999), be amended from the Rural Density and Other Agricultural Land (5.0 to 34.9 acres of area per dwelling unit) to the Low Density Residential category (20,000 sq. ft. to 1.4 acres of area per dwelling unit), to allow for a single-family residential subdivision.

Ms. Barrows indicated the subject property consists of approximately 10 acres and contains a single-family residence, barn, old foundation and outhouse. She explained there is some emerging tree coverage and steep slopes on the property. The property is bordered by one (1) to two (2) acre residential lots along the north, west and southeast lot lines. There are a few larger residential lots along the east lot line that contain Isolated Natural Resource Area. She noted there is also a 150-acre property to the east that is currently being farmed and is identified as proposed Town ownership on the Waukesha County Park and Open Space Plan.

Ms. Barrows explained the petitioner is proposing the amendment to accommodate an eight (8) lot single-family residential subdivision. The Town has the property zoned R-1 Residential, which requires a minimum lot size of one (1) acre. Ms. Barrows explained that the proposed plan category would allow more density than is permitted via the existing zoning designation and development will require Town and County review. She addressed several of the comments heard at the public hearing relating to density, drainage, and preservation of the treeline adjacent to neighboring properties. She reviewed several factors that will need to be considered as part of the land division review process.

- The Department of Public Works will need to approve the proposed road location (the DPW has approved the proposed road location in concept).
- Stormwater management is currently being reviewed. The Land Resources Division feels there is enough room to accommodate stormwater management and the fact that a stormwater retention pond is going in the southwest corner of the subdivision may mitigate existing concerns regarding runoff to the Country Bliss Subdivision. They are also reviewing erosion control as the site is very steep.
- The Environmental Health Division reviewed well reports for 14 wells adjacent to the subject property and concluded that the development of eight additional lots would likely not adversely affect the water supply of the existing wells in the area.
- The Town of Mukwonago will need to consider preservation of topography and whether landscape buffering along the existing property boundary is warranted as part of their land division review. She noted that the Town's zoning ordinance requires a 20 ft. setback from the rear lot lines and the

properties to the northeast contain wooded conditions. Ms. Barrows explained that the owners of the abutting properties can add additional screening on their own lands if they so desire.

Ms. Barrows stated the Town is aware of concerns of neighboring property owners regarding the proposed development and will consider them during the land division review process. She stated the County is recommending approval. The request will allow residential densities on the subject property that are compatible with the surrounding residential uses.

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

3A. - Gary Heath, W350 S1951 Waterville Road, Oconomowoc, WI 53066, requests property located at W350 S1401 Waterville Road, in part of the NE ¼ of Section 2, T6N, R17E, Town of Ottawa (part of Tax Key No. OTWT 1589.999), be amended from the Governmental and Institutional category to the Rural Density and Other Agricultural Lands category (10.0 to 34.9 acres of area per dwelling unit [Ottawa Rural density]), to allow for a future single-family residence.

Ms. Barrows indicated the petitioner recently purchased approximately thirty acres from Lad Lake to add to his existing holdings. Approximately 11.7 acres of the thirty acres is proposed to be amended from the Governmental and Institutional category to the Rural Density and Other Agricultural Lands category. She explained the PEC, INRA, and Other Open Lands to be Preserved land use designations on the remainder of the property will not be amended.

Ms. Barrows stated that although the thirty acres of land has already been conveyed from Lad Lake to the petitioner, a condition of that conveyance at the Town level was to follow through with the County’s Comprehensive Development Plan amendment procedure, as well as a zoning change, and a Certified Survey Map. The petitioner may propose a future dwelling on the parcel, but for now, he intends to keep the land in open space use. Ms. Barrows noted that in addition to the PEC and INRA, the property contains wetland, 100-year floodplain, a pond, a small area of Scuppernong Creek frontage, steep slopes in excess of 12% and hydric soils. She added the petitioner has existing holdings immediately to the south consisting of three eight-acre lots.

Ms. Barrows stated the approval of the request would serve to provide a building site and additional open space along Waterville Road, a Wisconsin designated Rustic Road.

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

➤ *Ms. Barrows stated the St. Bruno request that was heard at the public hearing on February 23 has not gone through the entire Town process and will likely be on the next agenda.*

• CZ-1837A (Soli Deo Gloria LLC (Owner) Petra and Mike Dekan), Town of Ottawa

Mr. Fruth indicated the request is to amend condition of CZ-1837.

Mr. Fruth stated that per the request of the petitioners Attorney, the request has been deferred to the next meeting.

• **SCU-1546A (Marshall Revocable Trust – Atty. T. Michael Schober) Town of Oconomowoc**

Ms. Barrows pointed out the location of the property, at W347 N6129 and W347 N6119 Road I, in the Town of Oconomowoc on the aerial photograph. She indicated the request is to clarify intent of Condition No. 2 regarding after-the-fact land altering activities.

Ms. Barrows provided a brief history of the property. She explained that in 2011, the petitioner obtained a Conditional Use Permit for land altering activities associated with the construction of an addition to the existing residence located on Parcel 1. The permit was subject to several conditions, which limited the amount of grading and slope disturbance on the lakeside of the addition in order to protect trees and the lakeside slope. The petitioner did not comply with the conditions of the Conditional Use Permit during construction. Specifically, the petitioner disturbed the slope and created a greater exposure than originally permitted. The petitioner was able to save mature trees on the slope with the construction of retaining walls.

Ms. Barrows explained that on September 17, 2015, the Waukesha County Park and Planning Commission conditionally approved a request for after-the-fact land altering activities in order to accommodate the grading not permitted as part of the 2011 Conditional Use Permit. The modified Conditional Use approval was subject to several new conditions. Condition No. 2 required the combination of two adjacent lots by Certified Survey Map. A note was required to be placed on the Certified Survey Map that stated:

“Prior to the issuance of a Permit, a Certified Survey Map combining the subject properties must be submitted for review and approval by all required land division review entities and be recorded with the Waukesha County Register of Deeds. A note shall be added to the face of the Certified Survey Map that prohibits any future land division or development activities on the property unless Conditional Use Permit SCU-1546A is amended following the procedures of the Waukesha County Shoreland and Floodland Protection Ordinance.”

Ms. Barrows explained that as part of this request, the petitioner is specifically requesting that the Plan Commission clarify the term “*development*” or modify the condition so that not all improvements are prohibited. The petitioner does not object to prohibiting impervious surfaces on the lakeside of the combined lot, more specifically described by the petitioner as the area that drains toward the lake. She indicated they would like the ability to construct improvements as would otherwise be legal on the off lake portion of the lot, such as a detached garage. According to the petitioner, the owners and agent were unaware that prohibiting “**development**” meant all improvements to the property.

Ms. Barrows stated Condition No. 2 was included in the 2015 conditions of approval, because Planning and Zoning Division Staff understood that the property owners were proposing to combine the properties and maintain the remaining acreage in open space. Staff also understood that the property owners were willing to provide mitigation, in the form of native vegetation, along the shoreline of both properties. In seeking the amendment, the petitioner proposed these measures in order to mitigate the impacts of the after-the-fact land altering activities. Ms. Barrows explained that after reviewing the application materials, it appears that staff misunderstood the full context of the petitioner’s request. The petitioner committed to perpetually deed restrict the easterly lot so that no impervious surfaces will ever be constructed on the **lakeside** of the lot.

Atty. Schober explained that the Mitigation Plan has been implemented and is amazing. He added that the adjoining lot was purchased by the Marshalls and all building and impervious surfaces have been removed. He agreed that there was a misunderstanding as to the intent of “**development**” on the lot. Atty. Schober stated the Marshalls would like the ability to construct a garage in the future without the restriction impeding any development as long as they comply with the Ordinance restrictions and requested the condition be clarified/modified.

Ms. Barrows stated the Staff recommends that Condition No. 2 of the Waukesha County Park and Planning Commission's decision regarding SCU-1546A be modified as requested by the petitioner to read as follows:

“Prior to the issuance of a Permit, a Certified Survey Map combining the subject properties must be submitted for review and approval by all required land division review entities and be recorded with the Waukesha County Register of Deeds. The following notes shall be added to the face of the Certified Survey Map:

- 1. Any future land divisions are prohibited.*
- 2. No new impervious surfaces are permitted within 75 ft. of the ordinary high water mark of Okauchee Lake unless Conditional Use Permit SCU-1546A is amended following the procedures of the Waukesha County Shoreland and Floodland Protection Ordinance. Existing impervious surfaces may be maintained and replaced in compliance with the provisions of the Waukesha County Shoreland and Floodland Protection Ordinance. All other improvements to the property shall comply with the provisions of the Waukesha County Shoreland and Floodland Protection Ordinance at the time the proposal is made.”*

After a brief discussion, Mr. Siepmann moved, seconded by Ms. Morris and carried unanimously for approval, in accordance with the “Staff Memorandum”.

• **SCU-1223 (Christopher Heitman), Town of Ottawa**

Mr. Fruth pointed out the location of the property, at W362S3601 State Road 67, in the Town of Ottawa on the aerial photograph. He indicated the request is for a five (5) year Conditional Use renewal for a private airstrip.

Mr. Fruth stated that in September 9, 1999, the Waukesha County Park and Planning Commission approved Mr. Heitman's request for a Conditional Use and Site Plan and Plan of Operation to “allow a private airstrip and associated grading” subject to a number of conditions. Condition No. 17F required a five-year review and renewal of the Conditional Use. He noted that neither the Town nor the County have received any complaints regarding the airstrip since its original approval. Mr. Fruth commented that this is a low impact operation and since the last five-year review, the surrounding lands have basically not changed. He added that in fact, there was a proposed subdivision to the northwest of the property that never developed and Mr. Heitman has since purchased those lands. Mr. Fruth stated the Town has approved the extension of the Conditional Use and the County is recommending the same.

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

• **SCU-1625 (Jim and Lisa Winkler – Kings Way Homes, LLC), Town of Oconomowoc**

Mr. Fruth pointed out the location of the property, at W342 N4976 Oak Lane, in the Town of Oconomowoc on the aerial photograph. He indicated the request is for approval of land altering activities.

Mr. Fruth indicated the request is for approval of land altering activities associated with the construction of a new residence, attached garage, sports court, pool, pool shed and retaining walls. He explained the subject property consists of two adjacent parcels totaling 53,137 sq. ft. in size and has approximately 190 feet of lake frontage. Mr. Fruth stated the topography ranges from gentle slopes (< 10%) to steeper slopes (>20%) with the general drainage patterns appearing to convey most runoff to the lake. The property consists of a

single-family residence with attached garage, a detached garage, boathouse and multiple driveways and walkways. Mr. Fruth stated that the cottage, which was located near the detached garage, has been removed and the house has been razed.

Mr. Fruth stated the petitioners are proposing to combine the two lots through Certified Survey Map, remove the remaining residence and build a new 7,023 sq. ft. two-story home with attached garage, decks, patio, pool, pool shed, sports court and multiple retaining walls. They have proposed to keep the existing detached garage and boathouse, but have indicated that they will remove the old driveway that currently serves the existing detached garage.

Mr. Fruth noted that the petitioners applied for the Conditional Use Permit on July 5, 2016 and subsequently revised their plans December 02, 2016. Therefore, County Staff have honored this application as a valid application to be reviewed based on the Waukesha County Shoreland and Foodland Protection Ordinance (SFPO) that existed at the time of initial application and prior to the major SFPO revisions made effective September 28, 2016. As a result, the Zoning Permit applied for to authorize the proposed structures and improvements will not be subject to the impervious surface limitations set forth in NR 115 and currently regulated by the SFPO.

Mr. Fruth explained that the original proposal did not meet with the WCDP recommendations, which calls for preservation of topography and recommends that development be directed away from steep slopes. However, the revised plan recommended by the Town, attached as Exhibit "B" of the staff report, along with all staff recommended mitigative measures, does comply with the WCDP. Mr. Fruth stated the initial plan called for steep cuts relative to the pool and the tennis court into the slopes of the property, whereas the house sits on a relatively flat portion of the lot. He explained that when the Town reviewed the application, they suggested a modified plan (Exhibit "B") which changes the elevation, cut back and fill amount required for the proposed pool. Mr. Fruth stated both the Town and County Staff feel this is a much improved plan, however there is still an impact on the steep slopes. He noted that some of the grading could encroach on the 75 ft. shore setback and there are erosion concerns. Mr. Fruth commented that because of the impact on the steep slopes Staff is recommending approval with a mitigation plan being provided. He went on to explain the Staffs' reasoning for the mitigation.

Mr. Fruth identified and provided photos of the existing garage that is built into the slope and the exposed lower walls. He noted the old retaining walls and commented that the garage also acts as a retaining wall. Mr. Fruth explained that staff looked for an opportunity to mitigate slope impact and felt some extreme slope disturbance could be mitigated in the area of the garage. Mr. Fruth suggested that something be mitigated to justify deviation from the WCDP standards. Mr. Mitchell asked if the Town had made any suggestions regarding mitigation. Mr. Fruth replied that the Town felt the revised plan was an improvement over the first submittal and the Staff concurs. Mr. Fruth reiterated that the area of impact is still an area that is supposed to be a protected zone. He added that it would be another matter if the property lacked a suitable home location, but it does not, the impact is being created by a proposed accessory use.

Ms. Morris noted that the Staff Recommendation requires the removal of the existing garage. She questioned whether that would be an improvement to the property. Mr. Fruth replied that during conversations with the petitioner, several options were discussed to offset some of the slope disturbance. Mr. Fruth cited the impervious surface rules and stated that if the garage were removed, the overall site area of improvements would be around 40%. He stated that the impervious surface rules allow up to 30% and on a property of this nature up to 40% with mitigation. Mr. Siepmann suggested mitigation by creating a natural vegetative buffer to the lake and keeping the garage. Mr. Fruth replied the Staff would be open to the suggestion.

Mr. Caliendo gave a brief overview of the proposal. He explained the property originally contained two houses, a shed, a cottage and a garage. The two houses and cottage will or have been removed and the garage and shed will remain. Mr. Caliendo stated the owners have agreed to remove the driveway to the garage and have the area landscaped. They have looked into the removal of the garage, but they would like to keep the existing structure. He stated the garage is in excellent shape, would be very costly to remove and acts as retaining wall on the steep slopes. He stated access to the garage would be over grass. Mr. Caliendo stated the petitioner is open to planting landscaping between the garage and the lake. He stated the petitioner is agreeable to all the conditions with the exception of Condition No. 2 requiring the removal of the detached garage.

Mr. Siepmann questioned whether the seawall had been repaired. Mrs. Winkler replied yes, it has all been replaced with riprap. She stated that regarding the garage, they intend to improve on the structure and make it esthetically pleasing. She explained it is a very large structure with high walls and felt that its removal would compromise the slope. Mrs. Winkler stated they would very much like to preserve the structure.

There was discussion among the Commission regarding the possibility of giving the option of allowing the Winklers to keep the garage if they were agreeable to doing a vegetative buffer along the shoreline. Mr. Fruth outlined what the mitigation plan would require to the Commissioners and the petitioner. He stated the County would work with the petitioner and their landscaper to create a workable plan that would incorporate native plantings and preserve the topography.

After discussion, Mr. Mitchell moved, seconded by Mr. Siepmann and carried unanimously for approval as conditioned, in accordance with the “Staff Report and Recommendation with Condition No. 2 amended to read:

1. In order to offset the slope impacts of the proposed pool, pool shed and pool patio, the owner must implement one of the two following mitigation plan options listed as conditions 2a and 2b in this decision.
 - a. Prior to the issuance of Zoning Permits, the existing detached garage must be removed and the area must be stabilized. The Stabilization Plan must include a timetable for completion and must be reviewed and approved by Waukesha County Park and Land Use Staff. If regrading the area around the garage site is part of said Stabilization plan, a modified Grading Plan must be submitted for review and approval by Waukesha County PLU Staff.
 - b. A Mitigation Plan involving the installation of a vegetative buffer to be at minimum, the full length of the Concrete Sea Wall as noted on Exhibit “A” and to a minimum depth of 35’ from the Ordinary High Water Mark of Okauchee Lake. Prior to the issuance of a Zoning Permit, a detailed Landscape/Mitigation Plan for the area subject to mitigation shall be prepared by a registered Landscape Architect or natural resources professional and submitted to the Planning and Zoning Division Staff for review and approval. The vegetative buffer shall include, at a minimum, a mix of perennial plants and grasses native to Wisconsin. If there are any existing trees located within the required mitigation area, the location, size and species of all such trees shall be identified on the Landscape/Mitigation Plan and must remain as part of the Landscape/Mitigation Plan. The Landscape/Mitigation Plan must include a timetable for completion. The mitigation plan must be implemented and the site stabilized within 12 months of the date of Zoning Permit issuance.

A Declaration of Restrictions shall be prepared noting that the Landscape/Mitigation Plan be permanently maintained unless modified by the Waukesha County Planning and Zoning Division. The Declaration of Restrictions shall also state that, upon reasonable notice, staff members of the Waukesha County Department of Parks and Land Use, or its successor, shall be permitted to conduct periodic inspections of the property for the purpose of verifying that the required vegetative buffer is maintained. The Declaration of Restrictions shall also include long-term maintenance provisions. Prior to the issuance of a Zoning Permit, the Declaration of Restrictions must be signed by the owners, notarized, and recorded in the Waukesha County Register of Deed's office, and a copy furnished to the Planning and Zoning Division staff.

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.

• **PPC17 002 (Stephen and Elizabeth Andekian) Town of Oconomowoc**

Mr. Fruth pointed out the location of the property, at W354 N5046 Road T, in the Town of Oconomowoc on the aerial photograph. He indicated the request is for a road width right-of-way waiver for Road T from 66 ft. to 30 ft.

Mr. Fruth indicated that Road T was platted as part of Maplewood Subdivision in 1912 at 30 ft. in width with Road T dead-ending at the public access strip to Okauchee Lake. Reducing the right-of-way width will provide the lots along the road with additional square footage, thereby slightly increasing the size of the lots. Mr. Fruth stated the Town has approved the reduction and the County is recommending approval. He added the parcels are sewered and the Town does not intend to improve Road T beyond its platted width.

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

ADJOURNMENT

With no further business to come before the Commission, Mr. Peregrine moved, seconded by Ms. Morris to adjourn at 2:03 p.m.

Respectfully submitted,

William Mitchell

William Mitchell
Secretary

WM:es