

TOWN OF DELAFIELD
PLAN COMMISSION MEETING
Tuesday, June 17, 2014

Members present: T. Oberhaus, P. Kanter, C. Dundon, M. Tagtow, B. Cooley, G. Reich, E. Kranick
Also present: T. Barbeau, *Town Engineer*, C. Duchow, *Supervisor*, 11 citizens

Public Hearing: Prior to the start of the scheduled Plan Commission meeting there will be a public hearing in front of the Plan Commission and Town Board to consider the request of Dale Bergman, owner and Jeff Horwath, agent to rezone property located at W300 N3317 Maple Avenue and W300 N3371 Maple Avenue from A-1 Agricultural District to R-2 Residential District. The Plan Commission meeting will begin immediately following the conclusion of the public hearing.

Chairman Oberhaus called the public hearing to order at 7:03 p.m.

Engineer Barbeau explained the public hearing notice included a land use plan amendment request. Due to changes in the state law, a 30 day notification period is required along with proper public participation requirements. The Plan Commission could not meet the 30 day requirement due to the date the application was submitted. However, the published notice included a request for rezoning, so the Plan Commission proceeded with that portion of the hearing.

The current land use plan has the area designated as Suburban I Density Residential. The proposed subdivision is located on two lots with a total of 16.79 acres. Using a density of 1.5 acres per unit, the maximum number of lots that can be placed on the site is 11. The applicant, Jeff Horwath (Horwath Builders) and Dale Bergman (Broker-Owner, Remax Realty Group), desires to change the land use plan in order to get 14 lots on a cul-de-sac in the configuration shown on the conceptual site development plan. In November, 2013, the applicants discussed the development with the Plan Commission. At that time, the Plan Commission commented on limiting the number of lots and connecting the road through to Maple Avenue. After seeing the plan from Neumann Companies for the Kranick farm and the proposed location of their entrance off of Maple Ave., the applicants have requested that their subdivision, called Hawks Haven, be a cul-de-sac with no connection onto Maple Ave. They suggest extending a road to Hawks Nest subdivision, making the development look similar to a Hawks Nest cul-de-sac. The proposed cul-de-sac is shorter than those in the surrounding subdivisions.

Mr. Horwath stated the previously proposed entrance onto Maple Ave. would be hard to align with the entrance to the Kranick subdivision and also would create difficult traffic situations for area residents. He also believes it would be more desirable for residents of the new subdivision to be on a cul-de-sac as an extension of Hawks Nest.

Plan Commission member comments included wondering if the outlot 2 stormwater basin is adequate; expressing concerns as to the number of lots proposed which is greater than what the Plan Commission had previously suggested to the developer; questioning the lot density and open space, and wondering if a second access road would be needed for safety.

Engineer Barbeau stated the lot density of the proposed subdivision is 1.2 acres per unit.

Public Comments: Dennis Findler, 1108 River Reserve

Mr. Findler's property adjoins the proposed subdivision. He stated he is not opposed to the subdivision and questioned the number of lots which could be included. He also asked about the size of the homes to be built. He would prefer the approval of this subdivision as a cul-de-sac rather than adding another entrance onto Maple Ave.

Mr. Horwath stated he will be building the homes in this subdivision which will average 3-4,000 sq. ft. An asphalt walking path in the subdivision along the easement where the connection to the Hartland Sanitary District is planned would be at his expense. Mr. Horwath said there is the potential to connect a path to the Ice Age Trail. His goal is to make this property look as good as possible. He believes his plan is what was

originally calculated for that piece of land when Hawks Nest was made. This would be a natural extension of a road that was put in to be that cul-de-sac.

The public hearing closed at 7:24 p.m.

First order of business: Call to Order and Pledge of Allegiance

Chairman Oberhaus called the meeting to order at 7:25 p.m. and led all in the Pledge of Allegiance.

Second order of business: Unfinished Business

A. Thomas and Polly Kranick, owner, by Cory O'Donnell, Neumann Properties, Inc., agent, (tabled 5/20/14) Re: Consideration and possible action on a request for a Residential Planned Unit Development Conditional Use permit on parcels known as Tax Key Nos. DELT 0763-983 and DELT 0764-997.

Ms. Dundon moved to remove from the table. The motion was seconded by Mr. Cooley. The motion carried. Mr. Kranick recused himself and left the room.

Mr. Kanter moved to take agenda item 3B in conjunction with item 2A. Ms. Dundon seconded. The motion carried.

3B. Thomas and Polly Kranick, owner, by Cory O'Donnell, Neumann Properties, Inc., agent, Re: Consideration and possible action on a request for approval of a Preliminary Plat, Lot Allocation, Landscaping Plan, Phasing Plan, and review of declaration of covenants, conditions and restrictions.

Engineer Barbeau stated his staff report provided his comments intermixed with items that would be considered approval conditions. He received verbal comments from the Town Attorney Larson and some standard approval conditions that Attorney Larson recommends be included in any plat approval by the Plan Commission. Engineer Barbeau provided a supplemental report recommending that the Preliminary Plat be conditionally approved subject to the conditions listed in the supplemental report and listed in Exhibit A and Exhibit B attached to his supplemental report.

The Town requires a 10,000 gallon tank for fire protection; however the Chief would like a fire hydrant from Hartland which will be better for the subdivision. The Town would have requested at least two tanks and possibly three in a subdivision of 80 lots.

Mr. Neumann stated that he would like to make the hydrant condition contingent upon an agreement with Hartland for the water main and hydrant. He believes it a benefit for neighborhood to have the hydrant but will need to work out the placement for it since it will be near the main entrance to the subdivision. Franciscan Road extends into the Kranick property, so Engineer Barbeau is requesting that land be dedicated to accommodate it. He remarked that the additional road combined with the increase in the entryway to 100 ft. technically reduces the open space. A number of the lots are larger than they need to be and the developer states he can modify the lot size on the final plat to ensure the green space requirement is met.

Plan Commission members discussed the possibility of straightening Franciscan Rd. to fix the right-of-way situation. This would involve approximately 400 ft. of road which does not serve the Neumann property. Moving the road may involve taking out some large trees and impact the existing neighbors' properties. Engineer Barbeau will evaluate the situation.

Mr. Neumann stated he will dedicate property as necessary to make sure the Town road is on the Town property. He stated he hopes to construct the road referenced in condition 8 this year. If not, Mr. Siepman has indicated he'll allow Mr. Neumann to have access through the adjacent property to create a connection. He requests that he could not final plat more than 14 sites at this time since 14 are technically allowed per the code. This would enable the development to get started until they could address this issue. The sewer needs

to be connected through this area, as well, so there will be emergency access provided. He accents with all the clarifications Engineer Barbeau and Attorney Larson have made in the red line version of the CU permit. Mr. Neumann is in agreement with the time requirements stated in Exhibit B since the intention of it relates to the preliminary plat and conditional use. Since the work is being done in phases, all of the conditions will be met within 1 year of the preliminary plat. Some of the conditions will be outstanding as they progress through the final platting and construction of each phase.

Plan Commission members decided Engineer Barbeau should add a statement like "assuming agreement of the Village of Hartland" be added to condition number 6 regarding the water main issue.

Paragraph O should also state "A final plat of more than 14 lots cannot be approved unless and until a second access is provided."

Mr. Kanter made a motion to recommend approval of the CU permit to the Town Board. Ms. Dundon seconded the motion. The motion carried.

Mr. Kanter made a motion to approve the Preliminary Plat subject to the conditions set forth in Engineer Barbeau's June 17, 2014 memo with the following two amendments. Condition number 6 should read "subject to the approval of the Village of Hartland and the Town of Delafield, a water main extension and installation of a fire hydrant at the southeast corner of Imperial Drive and County Trunk Hwy. KE in lieu of underground fire tanks." And a change to condition number 8: "A final plat of more than 14 lots cannot be approved unless and until a second access is approved." Mr. Cooley seconded the motion. The motion carried.

Mr. Cooley made a motion to allocate 80 buildable lots. Mr. Tagtow seconded the motion. The motion carried.

Regarding the Landscaping Plan, Engineer Barbeau requested additional time to talk with the Highway Department regarding the Sycamore trees in the area. This is not critical for the development to begin. Mr. Neumann stated he would also request the additional time on this item, especially since he needs to modify the lot 1 infiltration basin which was originally designed with a rock wall waterfall effect but there can't be a waterfall in a dry basin and he wants to be able to show the Plan Commission the monuments he has planned for the subdivision, as well.

Ms. Dundon made a motion to table the Landscape Plan. Mr. Tagtow seconded the motion. The motion carried.

As part of the Conditional Use the developers needed to present a Phasing Plan to the Plan Commission and Town Board. There has been a change in the previous plan. The Plan dated May 2014 is the correct plan and the CSM will match this phasing plan. Mr. Neumann and Engineer Barbeau both initialed the new document and dated it 6/17/14. The new Phasing Plan has 60% of the green space included in the first phase. All of the green space is included in the first two phases. The western half of the development remains farmed during the process.

Ms. Dundon moved to recommend to the Town Board approval of the Phasing Plan dated June 17, 2014. Mr. Reich seconded the motion. The motion carried.

Regarding the Declaration of Covenants, Conditions and Restrictions, Mr. Kanter requested that on page 3, 1.27 Definition of Town, the Town of Menomonee Falls be changed to the Town of Delafield. On page 22, which is the signature page, consistent with the CUP any and all documents are to be signed by the developer and all landowners, so signature blocks for all of the Kranicks, mortgage holders and others involved should be added on all related documents no matter what point the development is at and regardless of who owns the property at the time.

Attorney Larson has not finished reviewing these documents.

Mr. Kanter stated this is an unnecessary reason to hold up the approval process and stated the Plan Commission can recommend approval to the Town Board and the Town Board can handle Attorney Larson's comments.

Mr. Reich made a motion to recommend approval of the Declaration of Covenants, Conditions and Restrictions to the Town Board with the understanding that the Town Board will handle any comments from Attorney Larson or return it to the Plan Commission if necessary. Mr. Cooley seconded the motion. The motion carried.

B. James Cadd, Watercrest Investments, (tabled 6/3/14) Re: Consideration and possible action on a request for a Conditional Use permit for the operation of a motorsports sales operation with outdoor display of motorsports vehicles to include ATV's, UTV's, jet skis, cars, trucks, trailers, dirt bikes, motorcycles, snowmobiles, mopeds and vans on lands located at N47 W28229 Lynndale Road.

A motion was made by Mr. Kranick seconded by Ms. Dundon to remove this item from the table. The motion carried.

At the June 3 Plan Commission meeting, the Plan Commission requested that they review the final Conditional Use Permit before they make a recommendation to the Town Board. The CUP was updated to reflect the comments from that meeting.

Engineer Barbeau requested clarification regarding the fence to the east and the north and the number of vehicles to be displayed. Mr. Kanter questioned the term vehicles vs cars. Mr. Cadd stated the intent was vehicles to include boats, cars, etc. He requested a total of 200 with 100 for the first year. Mr. Oberhaus stated 100 total vehicles with a one year review was agreed upon. Engineer Barbeau stated all items that are for sale would be counted as individual vehicles. They are specified in Letter A on page 2 of the CUP. It was suggested that in Letter H the word cars be replaced by the phrase "vehicles as defined by A" in order to clarify this question as to what can be displayed on the property.

Engineer Barbeau also asked what the truck and trailer are that are currently in the front of the property and questioned if that is the intent of "trailer" in Letter A. Mr. Cadd stated it is a race car trailer. It is not in the back now for security reasons while the truck is being serviced. Engineer Barbeau stated this is a problem for the Town.

Plan Commission discussion stated the owners may not display or have on site outside the building at any one time any more than 100 vehicles as defined by A. Technically the vehicle should be stored behind the fence. Item B clarifies this as placing vehicles waiting for service need to be behind the fence. Sales is what is on the south side of the building. The current trailer needs to be parked behind the future fence or on the north side of the building. Concerns were raised regarding the view of this property from Lynndale Rd. Plan Commission members stated since the entrance to the business is coming down the hill from Lynndale Rd., they expect that the owner(s) will want that area to look nice for prospective customers. Members are uncomfortable with the information provided to date on this development (types of vehicles; display area; number of vehicles; proposed fence location which won't block the view for drivers headed east on Hwy. 16 and from North Shore Dr.). This business is located at the gateway to the Town and should be attractive and professional.

Mr. Cadd stated the fence will be a pressure treated fence and he will add a fence to the north if it is needed. He objects to the 100 vehicle restriction. Plan Commission members said the historic use of the property is not necessarily the best use of the property.

Mr. Reich made a motion to recommend to the Town Board to approve the Conditional Use Permit as modified under H the maximum of vehicles displayed will be 100. Under B a pressure treated board on board fence would be allowed. The motion was seconded by Mr. Cooley.

Mr. Kanter discussed the motion stating that the Plan Commission members represent the Town's property owners and the resident's best interests, not the interests of the person coming before the Plan Commission or Town Board.

The motion was approved 5 to 2 with Mr. Reich, Mr. Tagtow, Ms. Dundon, Mr. Oberhaus and Mr. Cooley voting for the motion. Mr. Kranick and Mr. Kanter voted against the motion.

C. Brook Investments Global Limited, Santino Bando, agent, (tabled 6/3/14) Re: Consideration and recommendation to Waukesha County Department of Parks and Land Use to allow land altering activities at W303 N2595 Maple Avenue in association with the construction of a single-family home.

Engineer Barbeau stated Waukesha County has requested input from the Town Plan Commission on a County Conditional Use Permit (CUP) for grading on the 10.11 acre parcel. He has reviewed the storm water management plan which indicated that runoff from the hard surfaces will be directed into the underground detention facility. The detention basin will in effect reduce flow rates from the land to levels below what is currently running off the site. The open space on the property as proposed on the plans is 94.7% (85% is required). The driveway slope averages 7.5% (12% maximum is allowed). The storm discharge rate from the underground detention facility will be less than what is presently discharging off the site. The storm sewer in Maple Ave. is sized to accommodate the 10-year storm. The pipes are properly sized to accommodate the outflow from the detention facility. The County has a concern about a potential wetland on the site which was created after the site was restored a few years ago. He recommended approval of the grading plan dated March 28, 2014.

The contractor needs the CUP to grade 3 acres on this property. The County issues the necessary zoning permit and the Town will issue the building permits. The property is in the shoreland district jurisdiction so the County enforces the work done here. This is less disturbance of the land than the previously proposed condominium development. The existing swale that contains water from the back of the property will not change.

Ms. Dundon made a motion to approve the grading plan for the property at W303N2595 Maple Ave. Mr. Tagtow seconded the motion. The motion carried 5 to 2 with Mr. Tagtow, Mr. Kanter, Mr. Oberhaus, Ms. Dundon and Mr. Cooley in favor and Mr. Kranick and Mr. Reich opposed to the motion.

Engineer Barbeau will notify Amy Barrows at Waukesha County Parks and Land Use and send her a copy the minutes.

Third order of business: New Business

A. Lisa Witthun, Pathways of Light, Re: Consideration and possible action of a request for a wall sign at W314 N720 STH 83, also known as Tax Key No. DELT 0829-998.

A motion was made by Ms. Dundon and seconded by Mr. Reich to table this item since the applicant was unable to attend tonight's meeting. The motion carried.

B. This item was addressed with item 2.A. above.

C. Dale Bergman, owner and Jeff Horwath, agent Re: Consideration and possible action on a request to rezone property at located at W300 N3317 Maple Avenue and W300 N3371 Maple Avenue from A-1 Agricultural District to R-2 Residential District.

Plan Commission members stated the developer came back with none of what the Plan Commission requested last fall and can't approve this plan. There are too many lots. They didn't include access to Maple Ave. as requested. The question now is regarding rezoning of the property. Plan Commission members stated the Commission hasn't wavered on land use for neighboring properties and shouldn't do so on this one. Current land use limits this property to 11 lots at 1.5 acres per unit. There is no compelling reason to change the current land use plan and therefore the zoning. The property will need to be rezoned from A-1 to residential and it is not currently a legal A-1 since it is smaller than 40 acres. R-1 is a 1.5 minimum lot size. This could be rezoned to R-2 but there would be a cap in the number of lots.

Mr. Reich made a motion to table until the developer creates a new or better recommendation. Or until Engineer Barbeau has a zoning recommendation. He withdrew the motion so that discussion could continue.

The Plan Commission has indicated no intention of changing the land use plan for this parcel. There was discussion regarding access to Maple Avenue but it would result in potentially odd-shaped lots. Public safety is the reason the Plan Commission wanted an access road. Legally, they can request a land use change. This is a transitional piece of land between Hawks Nest and Hartland, but it is in the Town and needs to meet Town density rules.

Mr. Kanter stated that six months ago there was merit in bringing a road out to Maple Ave. but with the way the development across Maple has turned out, a road in this location is now difficult. A cul-de-sac may be what fits better into Hawks Nest and may be more practical now. Hawks Nest residents won't object to not having an additional road going on to Maple Ave. and the traffic concerns that could happen as a result. He will compromise on the cul-de-sac, but he won't compromise on density. He does not consider this a transitional neighborhood due to the size and quality of the homes involved. Mr. Cooley, Mr. Tagtow, and Ms. Dundon agreed with Mr. Kanter's comments. Additional entrances are considered traffic hazards and a speed limit change could be considered.

Mr. Kranick made a motion to deny the rezoning request for this property since this is not within the Town's Land Use Plan. Mr. Kanter seconded the motion. The motion carried.

D. Lake Pewaukee Sanitary District, Tom Koepp, Manager, Re: Consideration and possible action on a request for approval of the site plan and plan of operation for aquatic plant management at a site located at the southeast corner of CTH KE and USH 16, having an address of W248 N4648 North Shore Drive (Tax Key No. 721-993, 721-994, 721-996 and 721-997).

Engineer Barbeau explained that LPSD recently purchased this property and is proposing to use the land for depositing aquatic plant material gathered from the lake. The site currently contains a non-conforming house and a barn. The plan is to use the site to place, store and recycle the plant material as fertilizer and soil enhancers for farmers. LPSD is requesting approval for a temporary disposal area on the property so they can start now to place plants at that location, and approval of a permanent site.

Tom Koepp, manager/superintendent of LPSD, presented detailed information regarding the planned use and development of this property. The DNR has approved it as an aquatic plant management site. They have the grading plan for this site drafted and need to finalize plans for this permanent site. They'll be taking down the barn and home due to safety concerns. The upper area can be seen from Hwy. 16. An asphalt pad is proposed there. They have plans for using the property for environmental education in addition to the main use. They are working with both the Town Engineer and Town Building Inspector. There will be little noise from trucks – long term there may be up to four trucks dumping there per day in addition to some maintenance vehicles. If neighbors call with concerns about any smells LPSD has ways to enclose piles to reduce the smell. He believes it won't be very different from the smells associated with the current swamp land located on the property. They are addressing security and safety concerns and signage. The small garage will probably be used for storage and does have electricity so there may be a small outdoor light.

Temporary disposal of aquatic plants is requested at this time to relieve the pressure on the Village of Pewaukee. The temporary site exhibit has already been sent to the WDNR for approvals. They will need to get the Town of Delafield's approval of the permanent site. LPSD hopes to have bidding in late July with construction starting in September and completion by the end of October. Final restoration will occur in the spring of 2015. Maps showing project details were distributed to Plan Commission members.

Plan Commission members agreed this is a great use of the property.

Use of this property will begin tomorrow if the proposal is approved by the Plan Commission.

Mr. Kanter made a motion to approve this project. Mr. Reich seconded the motion. The motion carried.

Fourth Order of Business: Adjournment

Motion made by Mr. Tagtow, seconded by Mr. Kanter to adjourn at 9:49 p.m. The motion carried.

Respectfully submitted,

Lauren Beale
Deputy Clerk/Treasurer

Minutes approved on: July 1, 2014