

**TOWN OF DELAFIELD
PLAN COMMISSION MEETING
Tuesday, July 1, 2014**

Members present: T. Oberhaus, P. Kanter, C. Dundon, M. Tagtow, B. Cooley, E. Kranick, G. Reich
Also present: T. Barbeau, *Town Engineer*, L. Krause, *Supervisor*, E. Larson, *Town Attorney*, 27 citizens

Public Hearing: Prior to the start of the scheduled Plan Commission meeting there will be two hearings as follows:

1. A hearing in front of the Town Board and Plan Commission to consider text changes to the Town of Delafield Zoning Code, specifically, Chapter 17.05 5. AM. related to lot area requirements for Planned Unit Developments (PUD).
2. An evidentiary hearing in front of the Plan Commission to solicit input on a request for a Special Exception due to erroneously permitted work, as regulated in Section 17.10 5.5 of the Town of Delafield Zoning Code, for Paolo and Renee Ongaro, owners of the land located at N41 W29131 Prairie Wind Circle South.

Public Hearing (Item #1)

Chairman Oberhaus called the public hearing to order at 7:04p.m. The Town Deputy Clerk read the Public Hearing Notice. There was a quorum of the Town Board.

Engineer Barbeau stated Mr. Siepmann wants to develop Summerhill West subdivision on a parcel of land that is adjacent to and west of the Summerhill subdivision. At the June 3, 2014 meeting it was determined that the parcel of land does not meet the 20 acre minimum lot size requirement for the lands to be developed as a PUD. The Plan Commission (PC) concluded that it would be beneficial to the Town to allow the land to be developed similar to Summerhill and instructed staff to recommend a code change to address this issue.

Attorney Larson and Engineer Barbeau proposed several requirements that would need to be met to allow the PC to consider granting a waiver to the 20 acre minimum requirement.

PC members had no comments.

Public Comments: None

Mr. Oberhaus closed the Public Hearing at 7:10 p.m.

Evidentiary Hearing (Item #2)

Chairman Oberhaus called the evidentiary hearing to order at 7:10 p.m. and turned the process over to Attorney Larson. Attorney Larson stated he believes the application is complete as submitted by the applicant and her counsel.

Town Clerk Mary Elsner swore in the petitioner Renee Ongaro.

Attorney James McAlister, attorney for the petitioner, stated the address of the property in question and asked questions of witnesses during the hearing.

Ms. Ongaro and her family currently reside in Dallas TX. She flew here for hearing and had come earlier to obtain a permit. She is employed as a vice president of merchandising and moved to Texas for her job. She is married to Paolo Ongaro who was not present at this hearing. They have two children at home and Paolo Ongaro had work commitments, as well. It would have been financially difficult for him to come.

She stated the Ongaros received an accepted offer to purchase their property at N41W29131 Prairie Wind Circle South (DELT0728236) in October 2007. When they viewed the property there was no patio. They closed on the property in January 2008 and there was a driveway but they didn't notice the patio during that winter since there was 1 ft. of snow and the area was covered with snow.

Exhibit C, the Occupancy Permit issued to Todd Lamere of Kingston Builders, and Exhibit A, the Building Permit for the property also issued to Todd Lamere, were introduced. The house is approximately 5600 sq. ft. with 5 bedrooms, 4.5 baths, built on .6 acres. Since purchasing the property she and her husband have not requested any new permits. All work on the property was done by the prior owner (who is also the builder of the home and occupied it prior to the sale to the Ongaros).

Ms. Ongaro stated she was coming before the PC to get a special exception due to erroneously permitted work which created a nonconforming property without enough open space. The Ongaros recently discovered that no permit had been issued for the patio and they will request an after-the-fact permit for this work. A survey of the property done on 6/12/2014 by Richard Simon of Cornerstone Land Surveying, LLC, was included in the materials submitted for this hearing. Mr. Simon was present at this hearing.

Attorney McAlister directed attention to the color photograph copies in the evidence packet. He described each photo as did Ms. Ongaro. Photo one shows the back of the house looking NE showing the patio. Photo 2 shows the rear of the home looking north showing the patio. Photo 3 is also a rear view. The final photo looks S/SE from the back of the house with a slight piece of the patio showing. All are true depictions of the rear of the house. The survey at the time of construction was done by KDK Surveying, Inc. on 5/27/05. The patio was not on the survey when the Ongaros closed on the property. The Ongaros have not added to the size of the patio. They learned the property was in violation of Town code in March 2013 when the Ongaros had a signed offer to buy the house and the buyer had a survey done. The potential buyers discovered the patio/greenspace violation. Engineer Barbeau wrote to the Ongaros explaining the provisions for property owners to get a special exception to the open space requirement and describing the open space violation (Exhibit D, a letter from Engineer Barbeau to Ms. Ongaro dated April 7, 2014, was referenced).

Due to relocating for her job, the family must sell the house. For 18 months their realtor, Mike Martin of Remax Realty, has attempted to sell the home. The accepted offer in 2013 was withdrawn when the buyers learned of the violation of the Town's code regarding green space. In May 2014, the Ongaros received an offer to purchase "as is" for \$475,000 (Exhibit G). The asking price was \$775,000 for the house. The Realtor told the Ongaros they can't sell near the asking price due to the green space issue. The Ongaros are requesting the special exception in order to give potential buyers peace of mind. They have no intention to add hard space to the property. They do not believe this exception would create a hardship for their neighbors. Their house only has neighbors on one side. Ms. Ongaro stated the biggest hardship is a financial one for her family. They bought house in good faith in what they still consider a beautiful community. They are only moving for her job. The hard space problem is no fault of their own. They have an issue and would like to work together with the Town to resolve the green space issue. The Ongaros have \$175,000 already invested into this issue including costs for travel, work, flights, attorney fees, monthly fees, and their mortgage. This unresolved issue is creating a market value loss for themselves and their neighbors. They bought the home for \$875,000. Last year's offer to purchase for \$815,000 fell through. The Ongaros dropped the asking price to \$775,000. They have an offer now. Prospective buyers have asked what's wrong with the house since it's been on the market for so long. There's nothing the Ongaros say is wrong other than that they bought a house that is in violation of Town code.

Mr. Reich asked if the Ongaros were able to locate their offer to purchase the house from Kingston Builders. Ms. Ongaro said she does have the offer document. Completion of the driveway and a patio was not a contingency. The driveway was roughed out but not poured when they saw the house before purchasing it. There was no patio.

The room on the back of the house is the kitchen. Mr. Reich observed that it appears from the photos that the kitchen was constructed with the idea of a patio as opposed to a deck. Ms. Ongaro said it didn't matter to them at the time since the discussion with the builder was about the driveway. They intended to put something in outside the kitchen but it was not a big discussion when they were buying the home. The real estate agent took the photos with the landscaping in different seasons. The Ongaros put in the landscaping.

Mr. Reich asked if they received a document from the Town Engineer at the time of purchase stating they exceeded the green space requirement. Ms. Ongaro said Exhibit B shows the Town Building Inspector calculated the property had almost 1300 sq. ft. for future use, prior to the patio.

Mr. Kanter asked that the survey the Ongaros received at closing be marked as Exhibit K and be copied for everyone. Copies were made and distributed. He commented that this document does not show the patio but does show the driveway. Ms. Ongaro stated the driveway was in at the time of closing and hasn't been changed. When the snow thawed the family discovered the patio. Since the Ongaros moved into the home in January 2008, the builder was living in the house without occupancy and also didn't have a permit for the driveway. Exhibit C indicates the Occupancy Permit was issued on 1/21/08.

Ms. Dundon clarified that the Ongaros are the first owner after the builder. Ms. Ongaro stated that three offers to purchase the home have fallen through. Yesterday the Ongaros signed a letter of agreement for someone to purchase the house for \$713,000 with the contingency that all permits must be obtained and a waiver/exception for the green space issued also must be obtained from the Town by August 7, 2014 or the purchase will again fall through.

There were no more questions for Ms. Ongaro.

Town Clerk Mary Elsner swore in Richard Simon, Cornerstone Land Surveying, LLC, W160N9842 Colonial Drive, Germantown, WI 53022.

Mr. Simon stated his credentials as a surveyor. He was hired by the Ongaros to perform a survey which is stamped and signed with a date of 6/1/14. The Plat of Survey before him shows the property boundaries, the location of the street, buildings, driveways, parking, relation to the centerline of the street, etc. When asked if removal of the patio and walkway would get the property into compliance with the Town's 75% green space requirement, Mr. Simon replied, "No". He stated removal of the patio, walkway and driveway would bring the property into compliance.

PC members agreed it is not feasible to remove the driveway. There were no additional questions for the surveyor and he was allowed to leave the hearing.

Town Clerk Mary Elsner swore in Mike Martin, realtor for the property being discussed.

Mr. Martin stated he lives on Foxwood Court in the Town of Delafield and has been a licensed realtor in the area for 25 years, so he is very familiar with the area. He stated the Ongaro property was listed approximately 18 months ago. It was required that he disclose the illegality of the property. Buyers have had major concerns about the illegal status of the property. The first potential buyer withdrew the offer and Exhibit G shows the May 2014 offer received for \$475,000 when the property is listed at \$775,000. He took the photos in the packet and explained the photos which were taken as the seasons changed. All were taken within the last 18 months (summer scene, fall leaves, and fall with no leaves indicate the time of year they were taken). Attorney McAlister asked if the illegality depresses the home value. Mr. Martin stated, "Yes".

PC members had no questions for Mr. Martin.

Town Clerk Mary Elsner swore in Megan Misener, W292N4231 Prairie Wind Circle N. Ms. Wisener is President of the Prairie Wind Farms Homeowners Association. She wrote the letter labeled Exhibit I. The

Association's position and her own position on this matter is to fully support the Ongaros in their request. She stated the exception from the Town wouldn't impose a hardship on the subdivision properties. The only hardship is that the property isn't selling; the green space issue in question isn't considered a hardship for any of the homeowners. She moved into her home in 2011 after the Ongaros were already living in their home.

Town Clerk Mary Elsner swore in Robbin Lyons, N41W29213 Prairie Wind Circle S, who lives two houses away from the Ongaro property. She stated this issue presents no hardship for her or her neighbors and fully supports the Ongaro's request. She has lived in her home longer than the Ongaros. She had the same builder. When asked if she recalled when the patio was put in, Ms. Lyons stated Mrs. Lamere wanted a patio put in prior to a daughter's graduation or birthday party so Mr. Lamere put the patio in. She also stated that the Ongaros had not made any modifications to the house or property other than adding plants and landscaping.

The PC members had no additional questions.

A letter from Shannon Foley supporting the Ongaros was distributed to the Plan Commission.

Town Clerk Mary Elsner swore in Sara Ladish, N43W29128 Prairie Wind Circle N. She is Treasurer of the Homeowners Association and has lived in the subdivision since 2006. She said she knows about the Town's regulations but is confused why the builders would do this work knowing it was wrong. She also wonders why the problem was not caught at the time of the building. She fully supports the Ongaros in their petition for the exception. She has had residents question her regarding the Ongaro home and those she has spoken with indicated they think this is petty and ridiculous.

The PC members had no questions.

Town Clerk Mary Elsner swore in Tim Barbeau, Town Engineer.

Engineer Barbeau was not the Zoning Administrator at the time the Ongaro home was constructed.

Mr. Reich asked Engineer Barbeau to explain the significance of the 50 ft. conservation easement on the survey. Engineer Barbeau stated it is an additional restriction placed on the property by the Developer. The 50 ft. conservation easement is included on the plat.

Responding to a question regarding a deed restriction, Engineer Barbeau stated his understanding is there is not a deed restriction in the PUD CU for this development but it was shown on the plat. There is a reference on the plat to deed restrictions related to what you can do in that space. The previous Zoning Administrator noted 1281 sq. ft. available square footage for future use. He referred to Exhibits B and K stating the driveway seems shorter, there appears to be less space available, and there are other concerns. Engineer Barbeau said he would have raised the addition of a patio as a red flag since the original survey shows that there is a conservation easement. He is a registered surveyor. The restriction is on the plat which means the Town has a responsibility to enforce the plat restrictions and the Town also has some jurisdiction in homeowners association documents as it relates to Town Codes.

When asked by Mr. Kanter if Engineer Barbeau agreed that the removal of the patio wouldn't cure the green space issue, Engineer Barbeau said, "Yes". The current survey shows hard surfaces of 3463 sq. ft. which is over by 1400 sq. ft. right now. It is impractical to remove the patio and the driveway. Mr. Kanter questioned how the current driveway size was calculated. Engineer Barbeau stated that the house plans are pre 2010. The house is shown on the survey with setbacks and a general sketch where the driveway will be. Some plans don't have driveways shown. The building inspector at the time did the best he could to do the calculations with a scale as to what was proposed to be put in. He can't determine how Mr. Tising came up with the number of square feet. Mr. Kanter asked if it was possible Mr. Tising thought it would be a straight driveway for the Ongaro property. Engineer Barbeau said the issue on this property is the grade, so the positioning of the driveway was dictated by the steep terrain. Mr. Kanter asked if the structure was built "in accordance with

the plans filed with the permit application and all conditions of the permit approval, and only after completing construction was the structure found to be in violation of the "...open space requirements..."? Engineer Barbeau reviewed the plans and the survey and stated Exhibit K shows the structure is in substantial conformance with what was presented at the time the permit was issued.

Mr. Oberhaus asked if there was anyone else to testify at this hearing. The Petitioner’s Attorney stated, “No”.

Mr. Oberhaus announced the official deliberation was closed at 8:17 p.m.

First order of business: Call to Order and Pledge of Allegiance
Chairman Oberhaus called the meeting to order at 8:17 p.m. and led all in the Pledge of Allegiance.

Second order of business: Approval of the minutes of June 3 and June 17, 2014

A motion was made by Mr. Kanter and seconded by Ms. Dundon to approve the June 3, 2014 and the June 17, 2014 minutes as presented. The motion carried.

Third order of business: Communications (for discussion and possible action):
A. None

Fourth order of business: Unfinished Business:

- A. Lisa Witthun, Pathways of Light, (tabled 6/17/14) 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.

Ms. Dundon made a motion to remove this item from the Table. Mr. Cooley seconded. The motion carried.

Engineer Barbeau stated the request for this sign meets the sign requirements in Town code. The business is using the same lighting system used previously so no concerns are anticipated. He recommends approval of the sign as proposed.

Mr. Hornick stated he will make sure the sign is in the same spot as the previous sign and that the lighting will be basically the same so that the light is on the sign and not across the street. Ms. Witthun said all light will stay on the sign. The sign is dull plastic with a wood frame and is not reflective.

Mr. Cooley made a motion to approve the sign as presented. Mr. Kranick seconded the motion. The motion carried.

Ms. Witthun asked about changing the hours of the business from 6 p.m. to 8 p.m. Mr. Oberhaus stated this is not on the agenda so it cannot be discussed. Mr. Hornick will need to apply to have a public hearing for that change since it is a change to the CU. There is nothing preventing opening the business and closing at 6 p.m. Ms. Witthun was told to call the Clerk’s Office tomorrow to determine when she’d be able to get this on the PC Agenda.

Fifth order of business: New Business:
A. Paolo and Renee Ongaro, N41 W29131 Prairie Wind Circle South, Re: Consideration and possible recommendation to the Town Board regarding the issuance of a special exception permit for erroneously permitted work on the Ongaro property.

Attorney Larson reminded the PC members that the Commission must create written findings and make a recommendation to the Town Board regarding whether a special exception should be granted. The direction should give particular attention to the 3 issues in the ordinance:

1. Permit Error
2. Preservation of Property Rights
3. No Substantial Detriment

The Ordinance does allow the Town to conditionally grant a special exception to allow the Ongaro's petition.

PC members discussed the conservation easement for clarification. Mr. Kanter stated he believes the Homeowners Association is responsible for enforcing the deed restriction regarding the conservation easement. If the Homeowners Association has waived their interest in enforcing this issue as stated in Exhibit H, that is not a problem for the Town. Attorney Larson stated the plat note, the covenants of the subdivision and the deed restrictions needed to be considered. The County may have required some of the items in question. The Town can waive requirements if they are Town requirements. If the Town isn't responsible for an item, it isn't the Town's problem. The Homeowners Association doesn't care about enforcing the restriction on the Ongaro property. If the County has this requirement it's up to them to enforce.

Mr. Kanter stated the house was constructed according to the "Permit Error" requirement. The error is regarding Mr. Tising's calculations. The patio was put in privately after approval without a permit. Even if the patio were removed there would still be a problem in the calculations by the Building Inspector. Regarding #2 Preservation of Property Rights, the Ongaros are innocent. The errors were by Kingston Builders and the Building Inspector. The Homeowners Association says they are fine with this exception. It seems there are only abutting property owners on one side of this house. The back is an outlot and preserved as open space. The Town has an interest in this but it's hard to articulate how the Town's enforcement would trump, in this situation, the interests of the Ongaros and the errors by the Builder and Building Inspector. The Ongaros aren't the guilty party here.

Mr. Kanter moved to recommend to the Town Board that a special exception be granted to the Ongaros. Mr. Kranick seconded the motion. The motion carried.

Attorney Larson was directed to draft the findings of the Plan Commission by Thursday in time for the item to be on next week's Town Board Agenda. His comments regarding the easement should be included. Engineer Barbeau should work with Attorney Larson.

Mr. Kanter addressed comments to Ms. Ongaro and Attorney McAlister saying there was substantial angst at the meeting in May and he understood that. He hoped they appreciated that the Plan Commission was doing this in the right way for the Town. The Town needed an example for future applicants in similar situations. He commended Ms. Ongaro and her attorney for doing a great job and preparing a great packet of information supporting their petition. He hoped other applicants will follow their example.

Attorney McAlister raised a point of order stating that Mrs. Ongaro may be a witness in the future. He asked if this were to be the case he would like the Town to give her lead time for her travel. Mr. Kanter said the problem is any communication with the Board would be inappropriate under the open meetings rules, so he can't help with that issue. He doesn't anticipate others will ask for testimony but the matter could be tabled if others do ask for her appear. Attorney Larson agreed with these statements. Mr. Kanter stated the Ongaro petition will be on the Town Board Agenda for Tuesday, July 08, 2014, so if she or her husband is unable to attend and other Board members want to hear from her the item could be tabled until the Board meeting two weeks later. Mr. Kanter encouraged Ms. Ongaro to at least have her Attorney appear on her behalf at next week's meeting.

- B. Lloyd Williams, W289 N520 Elmhurst Road, Re: Consideration and possible action to clarify the Conditional Use Permit and plat restrictions related to splitting Lot 11 of Shepherds Pass South

subdivision and clarification and possible modification of the extension of Williams Bay Drive to the Schoenstatt property.

Engineer Barbeau explained that Shepherds Pass South was developed as a Residential PUD Conditional Use in 2005. The CU Permit (CUP) and plat included several conditions related to the number of lots and expansion of the property for additional lots.

Lot 11 is a large lot on the southeast portion of the subdivision which is allowed to be split into two lots. Engineer Barbeau understands there is a buyer for that whole parcel of land so that parcel will be restricted from being divided. Since Mr. Williams would not be splitting lot 11 into two lots, he is requesting consideration to split a portion of Outlot 4, which he currently retains, into another lot. Part of lot 11 would be considered open space. He would also like clarification relating to Condition C of the CUP and the extension of the public road to lot 11 since there will not be more than the one existing lot at that location.

Engineer Barbeau said that lot 11 is 3 acres and does not abut a public road. As soon as the split of the lot occurs the public road needs to be extended so there is access to the 1.5 acre lot Mr. Williams wants to create. Mr. Williams' proposal is to split lot 11 to one lot and one outlot and to create lot 14 on the original outlot 4. When the land split is done for lot 11 it must meet current code requirements.

Attorney Larson stated this proposal creates a new lot and there's no way for them to get past the 40% requirement in the current code since they have 32.5% on the current property. Mr. Williams would have to submit a new plat. Waukesha County input would be needed as a plat requirement. He would have to meet the 40% requirement.

Mr. Kanter clarified that the open space requirement is a requirement of 80% open space on each individual lot in this development with a 40% open space requirement for the subdivision as a whole. Only the commonly held outlots are counted for the permanent, common open space calculations for PUDs.

Attorney Larson stated the letter of credit is for the benefit of the Town since if the road is needed later the money may not otherwise be available. The private road currently to be constructed this summer will provide the necessary Fire Department access to the Schoenstatt property for now.

Attorney Larson said the CU could be modified to release some of the restrictions. Mr. Williams would need to apply to do this. He can build the emergency road to the Schoenstatt property as long as lot 11 isn't sold.

Andrew Bukacek, W298N408 Kings Way, is the prospective buyer of lot 11. He questioned where the development would be that would require a future public road with the farm on one side of the property, the lake on another, and the Schoenstatt property on the other.

Mr. Reich stated that Mr. Williams may build the private road in at any time. He can then follow through a process of meeting with Engineer Barbeau and petition for a modification of the CU to be reviewed at the PC's next meeting so that there can be a recommendation to the Town Board.

Attorney Larson said if the CU is modified and removes the letter of credit requirement, a statement of some other assurance should be added so that if the public road is extended and the cost of a new road isn't paid by Mr. Williams, the Town can do a special assessment tied to a particular piece of property.

Ms. Dundon made a motion to table this item. Mr. Cooley seconded. The motion was approved.

- C. Town of Delafield Re: Consideration and possible action to amend Section 17.05 5. AM. of the Town of Delafield Zoning Code related to lot area requirements for Planned Unit Developments.

Mr. Kranick made a motion to strike number 2 in the proposed ordinance and moved approval of the rest of the ordinance. Mr. Cooley seconded the motion.

Mr. Kranick stated the “same owner and same developer as the old parcel” is too restricting and wondered what would happen if the same developer wasn’t around if a similar situation occurs in the future.

When asked if an individual owner could tack onto subdivisions as a result of this, the answer was that they may not meet the objectives stated in number 3 of the proposed resolution (changed to #2 if the motion is adopted).

Mr. Oberhaus called the previous question. The motion carried.

D. Presentation by Attorney Larson regarding changes to the Town’s zoning jurisdiction resulting from a recent court case.

The Wisconsin Court of Appeals addressed the relationship of Town general zoning to County shoreland zoning through the Hegwood vs. Town of Eagle Zoning Board of Appeals case. The Court decision has implications as to how Waukesha County and the Town of Delafield have established and regulated zoning within shoreland areas. Shorelands are those lands located within 1000 ft. of a lake or public pond and lands within 300 ft. of a navigable river or stream or to the full extent of an associated floodplain, whichever distance is greater.

Since 1959 the Town of Delafield zoned the entire Town including shoreland. For the last 44 years, both the Town and the County have zoned the shoreland areas. What that has meant is that where the requirements are different, the owner must comply with the most restrictive requirements. The Town’s authority is now largely gone as a result of the Court’s decision. The Court concluded that Towns in Wisconsin have no zoning authority in shoreland areas unless two conditions are met. One is that the Town’s ordinance predates the County’s ordinance and two, our ordinance is more restrictive than the County’s.

The Supreme Court has not accepted review of the case so this is now the law.

Attorney Larson stated the impact on the Town is that the Town no longer regulates the shoreline area. It is an intensive, on-going research project to determine the Town’s authority. He presented a chart which needs to be completed by every town with shoreland and floodland areas. What needs to be determined is do Town zoning ordinances predate County zoning and are the Town’s ordinances more restrictive. If so, the County intends to adopt the Town requirements which are more restrictive. Town authority on this issue will be gone by the end of the year. The County will adopt our requirements in their code unless they disagree with our requirements. No disagreements have been found to date.

Based on the current Town zoning restrictions the Town could consider addressing things outside of zoning regulations including requiring a 20 ft. separation between buildings (the County has a 10 ft. requirement and the Town doesn’t predate the County on this item). The Town can adopt this as a health and safety issue and adopt items into our building code where the Town has authority on health, safety and welfare issues.

Regarding short-term rentals, Engineer Barbeau said many of those homes are around the lake and this stalls the rental process. He requested the County act on this issue but they haven’t yet done so. The County is addressing this issue through health codes as a tourist house.

Attorney Larson added that shoreland doesn’t follow lot lines so both the County and Town may have jurisdiction on some lots involved in this issue.

Sixth order of business: Discussion:

- A. FRED-Tumblebrook Limited Partnership, Milwaukee, WI, owner, by Ryan Schultz, HSI Partners, LLC, agent, Re: Further discussion regarding medical office/specialty clinic and future ambulatory surgery center on lands located at the northwest corner of CTH SS and Golf Road.

Ryan Schultz, president of HIS Properties, requested to be on this PC Agenda to further address two items relative to the Medical Office proposal at Hwy. SS and Golf Road. The owner/tenant wanted to identify themselves and summarize their plan of operation and proposed hours of operation. Fiduciary also wanted to address how this property would be subdivided and green space preserved by means of a Certified Survey Map.

Craig Raddatz, partner and vice president of acquisitions for Fiduciary, stated the intent is that conceptually, the zoning can translate through this multiphase development meeting the 72% open space requirement. They will maintain this long-term as the property is fully developed.

Mark Smith, chief administrative officer of Orthopaedic Associates of Wisconsin (OAW) presented information about the company, the reasons for relocating, and what they plan for the new facility and addressed their proposed plan of operation. OAW has an 8 a.m. to 5 p.m. clinic operation with one doctor having extended hours until 8 p.m. and some walk-in patients. He anticipates the surgery center being open 7 a.m. to 3 p.m. Some patients would stay at the facility for 23 hours with only 2-3 personnel involved in this overnight care.

PC members are cautious about the impact on the neighbors, especially to the north. The Town is a residential community which has not sought businesses. The long-term concept for this property from the Town's perspective has been a 9 a.m. to 5 p.m., Monday through Friday operation. Extended hours and weekend services are a concern. Mr. Smith again stated this would be primarily an 8 a.m. to 5 p.m. operation but a few patients and staff members would be there beyond that. They'd have one physician and possibly 6 patients in the evening hours and Saturday morning. They currently have these limited evening and Saturday hours which their patients want them to continue. Typically there are 3 people working with the 23 hour patients. They keep the number of people working those hours to a minimum and stated the neighbors are their patients, too, so OAW is sensitive to them, especially regarding the lighting and landscaping impact of their company.

Dr. Rick Papandrea, a member of OAW and Town Resident stated that this municipality is his home. He expressed a number of positive attributes that the facility will bring to the Town.

Mr. Raddatz stated that the master developer stays as Fiduciary who will do all engineering for the business park, the entrance, and the road through the site. Tenants would buy their site and be part of an association, similar to a neighborhood association concept. There would be a new site plan presented to the PC for each parcel. The B.3 zoning with the 3 conditions previously discussed at PC meetings and the 72% open space requirement will be kept. He presented a possible site plan for the Town of Delafield Office Park and described what is illustrated on it.

Engineer Barbeau stated this is workable from an engineering aspect. The Town would take into account what's on each lot. The key is Fiduciary is involved all the way through this development. He stated the next move for this development will be for approval.

Seventh order of business: Announcements and Planning Items:

Next meeting- Tuesday, August 5, 2014 at 7 p.m.

Eighth order of business: Adjournment

A motion was made by Mr. Tagtow and seconded by Mr. Cooley to adjourn at 10:44 p.m. The motion carried.

Respectfully submitted,
Lauren Beale

Minutes approved on: August 5, 2014