

**PLAN COMMISSION MEETING**  
**Tuesday, May 3, 2016**

Members present: T. Oberhaus, L. Krause, E. Kranick, C. Dundon, P. Kanter, G. Reich  
Also present: T. Barbeau, *Town Engineer*, 10 citizens

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

Chairman Oberhaus called the meeting to order at 7:02 p.m. and led all in the Pledge of Allegiance.

**Second order of business:** Approval of the minutes of March 1, 2016

**MOTION BY MR. KRAUSE, SECONDED BY MR. KRANICK, TO APPROVE THE MINUTES OF THE MARCH 1, 2016 PLAN COMMISSION MEETING. MOTION CARRIED.**

**Third order of business:** Communications (for discussion and possible action):

- A. Arnold Koch, N12 W29242 Cross Creek Court
- B. Boatgas Marine Refueling Service, LLC
- C. Engineer Barbeau stated that a letter from the Town Attorney regarding a court case about signs has been received. The letter will be discussed at the next Plan Commission meeting.

**Fourth order of business:** Unfinished Business: None

**Fifth Order of business:** New Business:

- A. Orthopaedics Associates of Wisconsin (OAW), by Ryan Schultz, HSI,  
Re: Consideration and possible action on a request for approval of the Physical Therapy sign and sign variance associated with the OAW project site, Golf Road, west of CTH SS.

Engineer Barbeau explained that the previously proposed Physical Therapy sign has been reduced in size and relocated on the building. He recommended approving the proposed sign with the understanding that the Plan Commission is granting a sign variance request associated with all the signs on the development as previously approved.

**MOTION BY MR. KRAUSE, SECONDED BY MS. DUNDON, TO APPROVE THE PHYSICAL THERAPY SIGN WITH THE UNDERSTANDING THAT THE PLAN COMMISSION IS GRANTING A SIGN VARIANCE REQUEST ASSOCIATED WITH ALL THE SIGNS ON THE OAW DEVELOPMENT AS PREVIOUSLY APPROVED. MOTION CARRIED 5/1 WITH MR. KANTER VOTING NO.**

- B. Sanctuary of Heart and Hope, LLC (owner), by Emily Wolkomir,  
Re: Consideration and possible action on a request for a free standing sign at Trimotion, W307 N1499 Golf Road

Dr. Wolkomir stated that there is no signage other than a small sign on the building and one on the front door. She believes that adding the proposed sign would help people to see that her business is in that building.

Engineer Barbeau explained that at the time of the approval of the plan of operation for Trimotion there was no request for a free-standing sign. The proposed sign will be located to the south of the entrance driveway and parking lot. As presented, the sign would need a variance for the height. It includes "Town of Delafield" on the sign.

Mr. Kanter stated there is no justification presented for exceeding the height limitations in the Town ordinance.

Dr. Wolkomir said, if the sign is approved, she will have the designer make sure the sign fits the Town's specifications and will resubmit the corrected design and sizes to Engineer Barbeau before a permit is issued. The height will be adjusted to meet the 6 ft. height maximum.

**MOTION BY MR. REICH, SECONDED BY MR. KRANICK, TO ACCEPT THE PROPOSED SIGN AS CHANGED TO MEET THE TOWN ORDINANCE GUIDELINES. MOTION CARRIED.**

- C. Ernesto Villarreal, N27 W30328 Grandhaven Drive, by Carl Tomich, Westridge Builders, Re: Consideration and possible action on a request for an entrance monument/fence greater than 3 feet located in the front yard.

Engineer Barbeau explained that Section 17.06 4. B. of the Town Zoning Code states that fences and other architectural screening devices are considered permanent structures and are subject to following the regulations found in Section B. of the above noted code. Nos. 3 and 4 of that section states:

- 3. Any such structure greater than three feet in height and up to six feet in height may be permitted anywhere behind the nearest portion or projection of the principal structure as measured from the right-of-way, extended to the side lot line, except as regulated below, subject to acquiring a zoning permit as specified in 1 above.
- 4. Any such structure greater than three feet in height located between the road right-of-way line and the nearest portion or projection of the principal structure measured from the right-of-way line, extended to the side lot lines may be permitted with the approval of the Plan Commission.

The requested entrance monuments on each side of the driveway are proposed to be between 3.5 feet and 7 feet in height and will extend 12 feet outside of the driveway on both sides. The owner is requesting that the Plan Commission allow the increase in the height of the driveway entrance monuments to the elevations shown on the plans. Engineer Barbeau stated he does not believe that the entrance gates will be a detriment to the neighborhood. The frontage on the property is 319 feet so it will not create a substantial "prison wall" in front of the property. He recommended approval of the driveway monuments as proposed.

Carl Tomich, Westridge Builders, explained the proposal and stated there are other similar monuments in the same subdivision. The owner is concerned about his property since the main subdivision gates are left open daily. He considers this a safety issue for his family and residence.

Engineer Barbeau explained that this structure fits the Town Code definition of a fence due to the size and length. This is not a request for a variance, but it is a request which needs the approval of the Plan Commission. The Town Engineer and Building Inspector classified this project as a fence. If it were to be classified as a structure, the Town could not allow anything like it due to the requirement for a 50 ft. set back. Greenspace calculations were not done for this project.

Plan Commission members do not remember the other driveway monuments coming before the Plan Commission for approval and questioned how they were allowed to be built. Members disagreed as to the appropriateness of approving a structure of this magnitude since it is larger than what would be allowed in the rest of the Town and the Code needs to apply to all areas of the Town. Several questioned if it is a fence based on the over-all size of the structure.

**MOTION BY MR. KRANICK, SECONDED BY MR. OBERHAUS, TO APPROVE THE PROPOSAL.**

**MOTION BY MR. REICH, SECONDED BY MS. DUNDON, TO TABLE THIS ITEM UNTIL THE PLAN COMMISSION HAS ALL OF THE FACTS AND GREENSPACE CALCULATIONS ARE COMPLETED ON THIS PROJECT. MOTION CARRIED WITH MR. KANTER VOTING "NO".**

Engineer Barbeau will gather additional information on this project.

- D. Meadows of Delafield subdivision, Michael Neimon, President of the Meadows of Delafield Homeowners Association, Re: Consideration and possible action on a request for a new monument sign at the entrance to the subdivision located at STH 83 and Meadows Drive.

Engineer Barbeau stated that Section 17.08 8. C. allows residential subdivision signs if approved by the Plan Commission. The height and size of the sign can be determined by the Plan Commission, taking into consideration the location, height, size, appearance, number and location of adjacent signs. After reviewing the application, he

determined that the existing sign, which is located in the median of Meadows Blvd., is in the street right-of-way. Section 17.07 F. 2. a. states:

*“No sign shall be erected, placed, located, or maintained within the limits of any street, road or highway. Street, road or highway limits include all the dedicated right-of-way, encompassing the travelled portion of the street, road or highway, the shoulders, ditches and adjacent dedicated areas. This prohibition applies to free-standing signs and those placed on trees, utility poles, fence post stakes, and all other structures within the right-of-way limits.”*

Furthermore, Town code is backed up by Section 86.19 of the Wisconsin State Statutes that basically states the same language regarding signs in the right-of-way.

Based on the Town code being clear that subdivision signs should not be located within Town right-of-way, and the fact that the median is part of the right-of-way, Engineer Barbeau stated he could not support approving the requested sign location as presented. He does not know how the existing sign was approved or whether the sign code in place at the time the sign was erected allowed such a sign.

Michael Neimon explained that the current sign has been in place since the beginning of the subdivision. It now needs to be replaced. The membership explored options and agreed on the lannon stone sign presented for approval. The homeowners are excited about enhancing the subdivision entrance with a new sign placed in the same spot and using the same footprint as the current sign. He requests that they not be required to include “Town of Delafield” on the sign since the word “Delafield” is on the sign.

Engineer Barbeau discovered that very few subdivisions own the property on which their signs are placed (only Woodridge and Lakeside own the property). The officially recorded plat has no designation of an outlot so that right-of-way is the Town’s right-of-way. The legal plat does not show this property as being owned by the HOA or set aside as part of the subdivision.

**MOTION BY MR. KANTER, SECONDED BY MS. DUNDON, TO APPROVE THE PROPOSED SIGN WITH THE REQUIREMENT THAT IT BE MADE CONSISTENT WITH TOWN REQUIREMENTS FOR ALL SUBDIVISION MONUMENT SIGNS WHICH MUST INCLUDE EITHER THE WORDS “TOWN OF DELAFIELD” OR THE TOWN LOGO, OR BOTH ITEMS ON THE SIGN EVEN THOUGH “DELAFIELD” IS PART OF THE NAME OF THE SUBDIVISION.**

Mr. Neimon said the street signs have the Town Logo on them and they hoped they would not need to add Town of Delafield or the Logo on this sign.

Mr. Kanter stated that the older signs do not meet the requirement for “Town of Delafield” to be on the signs but, as they are replaced, this requirement will be included on each sign.

Mr. Oberhaus questioned the motion to approve the placement of the sign since the Code makes this sign’s location illegal. He is in support of the sign but stated that the Town needs to be sure things are done correctly, either by Town ordinance or whatever means are necessary to clarify rather than ignore the existing Codes. This issue has implications for multiple other subdivisions and their signs. The Town would rather have the HOA’s take care of the property. He suggested that the Plan Commission address the Code at this time.

**MOTION BY MR. KANTER, SECONDED BY MR. KRANICK, TO TABLE HIS SECONDED MOTION EITHER FOR LEGAL OPINION OR AMENDMENT OF THE TOWN ORDINANCE TO SPECIFICALLY ALLOW FOR THE PLACEMENT OF SUBDIVISION IDENTIFICATION MONUMENT SIGNS WITHIN THE TOWN RIGHT-OF-WAY. MOTION CARRIED.**

Mr. Neimon stated his recorded subdivision declarations and covenant define an Outlot 1 and an Entrance Mall, both as being owned by the HOA. This property area where the sign is located is referred to as the “entrance mall”. The subdivision has maintained this area since the beginning. He stated that the Town can call it a right-of-way, but it is a right-of-way on the HOA’s property and they have had a sign on it since 1978 that they want to replace. It is their property.

Mr. Neimon was given a copy of the Meadows of Delafield recorded subdivision plat showing Meadows Blvd. as

90 ft. wide with no designation of any outlot or anything else in that strip. So from the legal plat, Engineer Barbeau explained that he views the right-of-way as being the Town's right-of-way. The declarations may have been written to say the HOA could put a sign in that area, but that is between the home owners at the time. The subdivision's attorney may review the plat, if the HOA desires to do so at their expense. It is not required that they do so.

Plan Commission members agreed that this is an issue of which the Town was unaware. The Town should revisit the issue and fix the ordinance so that these situations can be easily addressed in the future.

Engineer Barbeau will research this situation for the Town. The HOA can provide a legal opinion if it desires, but the Town will do its own work and try to resolve the issue. Mr. Neimon should stay in contact with Engineer Barbeau. This item will go on the next Plan Commission agenda with a recommendation from the Town Engineer.

- E. John Dobbe, Focus Boardshop,  
Re: Recommendation to the Town Board regarding allowing a vending machine for skateboard related equipment at the Sports Commons (referral from Town Board).

Mr. Kranick and Mr. Krause explained that the Town Board referred this Park & Recreation Commission proposal to the Plan Commission for a recommendation. The Board would like to set a policy regarding vending machines in the Town's parks. The Town Board members had a mixed response to the proposal. They saw it as a unique possibility but were concerned about if it could lead to requests for other vending machines in the parks.

Ms. Dundon stated that at the time the skateboard park was created the Town Board said "No" to vending machines. She agreed that vandalism and significant litter have been on-going problems at the skateboard park and she doesn't see the addition of a vending machine helping that situation. She added that barricades the Town has repeatedly put up for safety concerns are consistently removed, apparatus has been damaged, graffiti is on-going, and neither the parents of skateboarders nor the skateboarders seem to care about the litter which she and her husband pick up there while those using the skateboard park watch. There are other stores nearby where skateboard supplies can be purchased.

Mr. Kanter reminded the Town Board members that at the time the skateboard park was developed the community was told that if there was vandalism the skate park would be removed. The park provides a benefit, but those using it need to take responsibility and respect it, as well. He stated that he sees nothing but problems with this vending machine proposal. It is an innovative idea but is not appropriate for an unsupervised, unpatrolled area. He expects there to be vandalism if it is installed. He also questioned who would pay for the concrete slab, the on-going electricity, and any losses from vandalism. It should not be a Town expense. The minimal proposed income from this machine would not cover the costs involved.

Mr. Krause agreed with the previous comments and stated that while it is a unique vending machine proposal there is no place for vending machines at any of our parks.

Mr. Kranick stated he doesn't disagree with any of the comments made. The Town Board wanted the Plan Commission's perspective on this topic.

Plan Commission members are all in agreement that they are thrilled to see the skateboard park being used. They are open to considering an ordinance to permit licensing vendors to set up in the parking lot on specific days to provide mechanic services to the skateboarders and sell supplies. They are also willing to consider the possibility of including the licensing of food trucks to serve at baseball games or to visit the parks in such an ordinance.

**MOTION BY MR. KANTER, SECONDED BY MR. REICH, TO STRONGLY RECOMMEND TO THE TOWN BOARD THAT NO VENDING MACHINES OF ANY KIND FIND THEIR WAY INTO ANY OF OUR TOWN PARKS. MOTION CARRIED.**

**Sixth order of business:**

Discussion:

- A. Reimer Survivor's Trust and Larry and Betty Sheets Family Trust, Sussex, WI, Re: Discussion on proposed 20 lot subdivision on 139.84 acres of land located between Abitz Road and USH 18 on the west side of Cushing Park Road.

Engineer Barbeau offered some general comments for consideration regarding this potential development:

Land Use Plan Designation (LUP): Rural Density and Other Ag lands; Isolated Natural Resource Area and Secondary Environmental Corridor and Mixed Use. The text portion of the LUP results in the Town being allowed to develop the land at a 3 acre per unit density conventional and 2.75 acre per unit PUD.

Zoning Designation: A-1 in northern 70 acres; A-2 Rural Home district between the A-1 and the creek to the south and M-1 along USH 18. The land 300 feet each side of the creek is under Waukesha County zoning jurisdiction. If all land is zoned A-2, then it requires 3 acre minimum lot size, 200 foot width; it would allow 1 large animal on 3 acres (more for larger lots) 85% open space; 1% of lot area can be used for an accessory building.

Conventional vs. Cluster Type Subdivision: LUP encourages Cluster type development; if developing in the A-1 lands without a zoning change, then a PUD development is required.

This land contains an Isolated Natural Resource Area – Waukesha County would like to see the INRA restricted so there is no development or clear cutting.

The roadway shown through the subject property does not match up with the roadway in the current Cousland development.

Bill Zach stated he is trying to divide the property for sale utilizing more estate type lots while preserving the open wooded areas. He is hoping to devise a layout which includes the possible future road extension of Government Hill Rd. Mr. Zach is asking for preliminary feedback from the Plan Commission. He explained his plan which includes some commercial/industrial development along Hwy. 18 and residential development along Cushing Park Rd. and Abitz Rd.

Plan Commission members asked questions and discussed the draft layout of the property, the wetland and natural resource areas, potential road extensions and connections to other area roads, sizes of lots and appropriate zoning, deed restrictions to protect areas for the future, cluster development potential, redirecting the bike path, some estate size lots, topography of the property, and the possibility of using the services of a land designer to assist with ideas for the property.

The property owners were in attendance and joined in the discussion.

Mr. Oberhaus commented that it is a beautiful piece of land and obtaining design help will assist the owners in increasing the value of the future lots.

**Seventh order of business:** Announcements and Planning Items:

Next meeting: Tuesday, June 7, 2016

**Eighth order of business:** Adjournment

**MOTION BY MR. KRAUSE, SECONDED BY MR. KANTER, TO ADJOURN AT 8:34 P.M.  
MOTION CARRIED.**

Respectfully submitted,

Lauren Beale  
Deputy Clerk/Treasurer

Minutes approved on: June 7, 2016