



APPROVED

12-16-14

TOWN OF WINDSOR
PLAN COMMISSION MEETING

Minutes

November 18, 2014

1. Call Meeting To Order.

Meeting convened by Chairperson LeGore at 6:00 p.m.

2. Roll Call.

Commissioners present: Al Davis, Barry Eichinger, Bill LeGore, Jeff Heisig, Kay Hoffman, and Beth Trotter. Others present: Planning and Development Coordinator Amy Anderson Schweppe, Town Engineer Kevin Richardson, Town Attorney Connie Anderson, Town Planner Jamie Rybarczyk, Town Board Liaison Bruce Stravinski, and Town Chairperson Bob Wipperfurth.

Chairperson LeGore stated that Commissioner Dan Wendtland has resigned from the Plan Commission. He appreciated the thoughtfulness that Commissioner Wendtland put into the position.

3. Recitation Of The Pledge Of Allegiance.

The Pledge of Allegiance was led by Commissioner Trotter.

4. Minutes From October 21, 2014.

A motion was made by Commissioner Davis, seconded by Commissioner Hoffman, to approve the Minutes from the October 21, 2014, Plan Commission meeting.

Planning and Development Coordinator Schweppe noted that there were two endings to the Minutes: one with a 5-1 vote, and one with a 6-0 vote. Commissioner Eichinger stated that the 6-0 vote should be used.

Motion carried with a 6-0 vote.

5. Report From Bruce Stravinski, Liaison To The Town Board.

At the last meeting, applicant Bill Kippley requested a site plan review for a lighted pylon sign for his mini-warehouses. His request was that it be 42 feet from the ground and 22 feet from the centerline. It was approved by the Plan Commission at 32 feet from the ground. The Town Board approved the sign at 37 feet. The town split the difference.

A certified survey map was also provided by Doug and Dawn Porter. Action will be taken at the Town Board's November 20 meeting.

Tuesday, November 25, will be the budget hearing. Supervisor Stravinski hoped that the Plan Commission members would be present. The hearing begins at 5:30 p.m.

6. Appearances.

None.

Old Business

7. Motion/Action To Remove From The Table The Plan Commission Referral To The Town Board Made On July 15, 2014 (Regarding Impact Of Terms Of The 1999 Development Agreement On Lot 137 Site Plan Proposal), And Motion/Action On Site Plan Review Of The August 29, 2014 Site Plan For Lot 137, Holland Fields Located At The Intersection Of Gray Road And Rembrandt Road, Town Of Windsor. The Proposal Requests Approval Of A 53 Unit Multi-Family Building.

a. Status Update On Lot 137 – Holland Fields, Review Of Town Board Action.

Town Attorney Anderson stated that the Town Board did meet in closed and open session to respond to the referral. When the Town Board reconvened in open session, the town was not interested in taking legal action against the developer at this time and reserved its rights to do so in the future.

Two actions are needed: remove it from the table and ask the Plan Commission to review the August 29 site plan in accordance with the ordinance. The Town Board is the authority when it comes to actions on the Development Agreement.

b. Discussion/Action (Plan Resolution 2014-20).

Chairperson LeGore asked Mr. DeWitt whether he had anything to add. He responded, no, the application is the same as the last time. He had nothing more to add.

Town Planner Rybarczyk stated the only thing he had to report was he, Town Attorney Anderson, and town staff had received correspondence from the DNR and Dane County. Applicant's consulting staff is working on the storm water plan and sediment and erosion plan. From the town's view, the developer meets the requirements of the site plan review ordinance and the requirements of the Development Agreement. The parking was addressed. Landscaping is being addressed by a new landscape plan. Storm water management is ongoing.

Commissioner Eichinger noted that all Plan Commission members received links to the municipal code. What he still found lacking was the compatibility with the existing neighborhood. He would find this development is not compatible with the existing structures. As far as everything else, it does seem to meet all the requirements of the planning documents. Elevation drawings are supposed to include some of the adjacent properties to see how they compare. Commissioner Eichinger did not see a good representation as to how this compares to the existing structures.

Town Planner Rybarczyk responded that the developer does show the existing elevations on the site plan.

Commissioner Eichinger had a question regarding No. 4. What kind of criteria would be used?

Chairperson Wipperfurth responded that they would look at adjacent properties within 200 feet to see how they are constructed. They would look at height, although this is a bit higher. They would have to look at it in the narrow perspective.

Commissioner Heisig said the first part of this is the design of the building with the neighborhood. The size of this is not working with how the neighborhood blends. He has a problem with the first part of this. Was this designed to work with the neighborhood? He does not see that because of the height and the size.

Commissioner Davis asked who with the town was present when this was decided in 1999.

Chairperson Wipperfurth and Supervisor Stravinski were both Supervisors at the time. Chairperson Wipperfurth explained the process. The whole plat was controversial in the neighborhood because of the size and scope. There was much more multi-family that was to be in this development. When Mr. DeWitt sold the plat, Don Simon on behalf of Veridian, took out most of the multi-family. The Board was happy about that. The problem is that this is not the only multi-family property in this subdivision. The plat is almost completely built out. If the multi-family lot had been built first, this discussion would probably not have taken place.

Supervisor Stravinski said another aspect of this was Windsor was having quite a bit of difficulty with the village of DeForest and there was an implied threat that, if approvals were not given with the densities requested, it would be taken to the village of DeForest. Some of the decisions that were made on the density were made to keep the property in the town of Windsor. Supervisor Stravinski thought this was one of the properties that at one time was annexed into

the village of DeForest, and a lawsuit later showed that it could not go into the village along with a couple of other properties.

Commissioner Hoffman stated the fact is that this has been approved for what is requested. If she looks at it in the neighborhood, she thought it is probably not the best fit but it has been approved for that. It will be a good fit. She thought the developer has done a good job presenting it and hopes he does a good job developing, managing, and maintaining it.

Chairperson LeGore pointed out that there is a comparison along Vinburn Road. It is not quite the same, but it is a similar idea. It is well-maintained.

Commissioner Eichinger had another comment that he stated was not in the Plan Commission's purview to decide. He was concerned whether this project would make it – whether or not the clientele the developer is looking for will be interested in this.

Mr. DeWitt responded that they had done their due diligence. They came to the community because they liked the property. The property could have many more lots than it does. He negotiated the number of units and ended up with an Agreement. The world has changed. There was a time when they could put in a small unit and make it work. To put in a two-story building vs. a three-story building will run at least \$10,000 more per unit. They are trying to build exactly what they have agreed to build. They were permitted up to four stories. This project will be three stories. They will continue to work with the town staff on outside materials and colors.

Commissioner Davis asked if he was correct in saying the first three buildings on Rembrandt are multi-family. The response was yes.

Town Planner Rybarczyk added that, within the immediate area, this project is surrounded by duplexes or multi-family. On Rembrandt, everything surrounding the project is multi-family.

A motion was made by Commissioner Hoffman, seconded by Commissioner Davis, to approve Resolution 2014-20 Confirming The August 29, 2014, Site Plan For Lot 137 Of The Plat Of Holland Fields In The Town Of Windsor, Dane County, Wisconsin. Voting in favor of the motion were Commissioner Davis, Commissioner Hoffman, and Chairperson LeGore. Voting against the motion were Commissioner Trotter, Commissioner Heisig, and Commissioner Eichinger. Motion failed with a tie vote.

Town Attorney Anderson stated that Section A indicates that the Resolution says this meets the requirements of the Site Plan Ordinance. This group could say that Section A meets the requirements of the Site Plan Ordinance and could state that they are referring it to the Town Board with recommendations. The Town Board needs to have information from the Plan Commission in order to act. The Town Board will be looking at the issues on zoning, the implications of the 1999 Development Agreement, and any additional Development Agreement on this site. The Plan Commission has to make sure there is something that is moved forward. In either event, there are certain rights of appeal.

A motion was made by Commissioner Davis indicating that the site plan development meets the Site Plan Review Ordinance requirements and that the Plan Commission move this forward to the Town Board based on that. The motion failed for lack of a second.

Commissioner Eichinger admitted that he is a little bit confused by the message the Plan Commission is supposed to send. He would like Mr. DeWitt to build something very nice there. The only thing he really disagrees with is the number of units and his inherent belief that it is not going to work.

Commissioner Trotter agreed with Commissioner Eichinger. Her concern is compatibility. She is worried if it does not work. She would like to see something here that would really work.

Town Attorney Anderson said that the Plan Commission can acknowledge that it meets the Site Plan Review requirements. What they are not recommending is a development of this size at this location. The Plan Commission can add comments for the Board to be aware of them.

Commissioner Davis added that the Plan complies with the Ordinance, but the Plan Commission has a concern regarding visual compatibility.

Commissioner Hoffman stated that this has been approved for 53 units, but the type of building materials, etc., is for the decision of the Town Board.

Commissioner Eichinger wanted to add a caveat that they would say that they agree that it meets all of the criteria, but they have misgivings about its marketability success, size, and impact on the neighborhood.

Commissioner Heisig asked whether the Plan Commission thinks that the design of a building of this size works with the neighborhood. Everyone thinks differently. He is not agreeing to this. The design of the building does not work.

Town Attorney Anderson suggested since the Plan Commission was split 3-3 that its recommendation to the Town Board is that the Town Board consider that there is a split as to the Plan Commission. She believes this is an appropriate use of this vote that they cannot decide and can make a recommendation of the same and indicate the Plan Commission has completed its review.

Commissioner Eichinger was concerned with its size and mass and did not feel that it has a visual impact with the other buildings. He was concerned about marketability. He recommended addressing these concerns with the potential of reducing the number of units.

Commissioner Heisig stated he hears the site plan works and then is saying that it does not work.

Commissioner Davis asked whether the Plan Commission should include marketability. He was not sure what that meant.

Chairperson Wipperfurth stated that what the Town Board is looking for is a recommendation of approval, denial, or no position. The first vote tied. He is hearing thoughts about things the Plan Commission members do not like and other commissioners saying things that they did like.

Commissioner Eichinger commented on the size and mass of the structure relative to the neighborhood. It is not visually compatible with surrounding properties. He has concerns about marketability to empty nesters and young professionals.

Commissioner Eichinger made a motion to convey to the Town Board that the Plan Commission is split when it comes to approval of this project as presented and refers it to the Town Board for action with a roll call of what the members feel.

After a short discussion, Commissioner Eichinger retracted his motion.

Commissioner Eichinger made a motion, seconded by Commissioner Trotter, that there be a roll call vote to convey Plan Commission members' opinions to the Town Board and that the Plan Commission would like the developer to have a successful project here.

Roll call:

Commissioner Trotter	Yes
Commissioner Davis	Yes
Commissioner Heisig	Yes
Commissioner Eichinger	Yes
Commissioner Hoffman	Yes
Commissioner LeGore	Yes

Motion carried with a 6-0 vote.

Commissioner Hoffman: Had no additional comments.

Commissioner Eichinger: He had two comments. One is the size and mass, and it is not compatible with the neighborhood. He was concerned with the marketing of these units to young professionals and empty nesters.

Chairperson LeGore: He noted the strong neighborhood opposition to this. A project like this can work if successfully executed given other developments in the community. It is surrounded by multi-family units. This can work if done properly.

Commissioner Heisig: He did not think this meets the requirements of the site plan review. The building is not designed to work with the neighborhood.

Commissioner Davis: If one takes the total area and what is across the road in Holland Fields and include that, it would be compatible in the area. This project can be compatible.

Commissioner Trotter: She hoped the Board would take all of these comments under serious consideration and that it would be successful for the developer as well as the town of Windsor.

8. Review Of Planning And Development Procedure Regarding Application, Noticing, And Public Hearing Requirements.

Planning and Development Coordinator Schweppe indicated that over several meetings there has been disagreement on the staff's handling of applications, specifically the process of noticing. As a means of updating everyone regarding the ordinance applicable here to give an idea of what goes on behind the scenes, she explained the Plan Commission was created in 1980 to review land use and land division matters in the town of Windsor. The Plan Commission is responsible for making recommendations to the Town Board on the Windsor Comprehensive Plan, planning and development-related items including land division review, site plan review, zoning review, variance appeals, and conditional use matters. The Plan Commission also determines if all applications meet local, county, and state ordinances, policies and applicable laws.

Planning and Development Coordinator Schweppe prepared a one-month review calendar on which she indicated the various deadlines.

How far out should noticing go? Planning and Development Coordinator Schweppe indicated that the town's ordinances require greater notice than state law requires. The town informs those on which the project would have the greatest impact.

Chairperson LeGore appreciated Planning and Development Coordinator Schweppe's putting this together in a summary form. It is a methodical process to getting this done. The town's noticing exceeds state statute requirements.

Chairperson LeGore indicated he would be hesitant to tweak that in any way since the town is already exceeding the state statute.

Commissioner Heisig stated the 500 feet works great for a lot of places, but there are some that it doesn't. The distance changes in the rural areas. There should be six or eight people that know what is going on. Those people do not know what is going on 600 feet down the road.

Town Attorney Anderson responded that the distance is the same for all municipalities.

Planning and Development Coordinator Schweppe stated that the town uses Dane County's software to create a buffer and show all properties within 500 feet.

Town Planner Rybarczyk added that public access to Dane County's software does not allow queries. All municipalities in which he works have the same issue. The trend is going with social media.

Commissioner Hoffman asked why the town needed to go farther out. Projects in rural areas do not impact as many people as they would in a residential area. Why should she have to have notices go out farther just for her or someone in a rural area? How many hands do we hold? People have to be responsible. The citizen interested in the issue should keep track of it.

Commissioner Eichinger indicated this is an incredibly complicated system that the town goes through. He was very impressed and was happy with it.

Chairperson Wipperfurth said there must be shared responsibility between the government and its citizens. The citizens have some responsibility to follow what their government is doing. The ability is there for people to get the information if they want it. It is a fine balancing act.

Commissioner Trotter agreed with Chairperson Wipperfurth .

Planning and Development Coordinator Schweppe also brought up *Robert's Rules of Order* and whether the town followed it. Does one have to be at the meeting to vote on the minutes of that meeting? One does not have to be present at the meeting to approve the minutes.

Town Attorney Anderson said there must be civility of communications and decorum in meetings.

Chairperson LeGore said the intent is to have a process that is clear and to have public participation.

9. Special Joint Meeting With The Village Of DeForest Plan Commission.

Planning and Development Coordinator Schweppe advised the Special Joint Meeting with the village of DeForest Plan Commission will be at the DeForest Area Community and Senior Center on December 8 at 6:00 p.m. The purpose of the meeting is to look at Windsor's Comprehensive Plan and DeForest's Comprehensive Plan as a cooperative group.

10. Update On Lot 97, Wolf Hollow. Schedule Date Of Review.

Planning and Development Coordinator Schweppe stated this item was tabled and did not get an end date or date to bring it back to the committee. Town staff has been working with Craig Frank on the site plan, and it is vastly different from what was presented to the Plan Commission earlier this year. He has made significant improvements. If this were placed on the next agenda, it would be staff's recommendation to reject it. It will require new noticing. Since the applicant has been working with the town these past several months, this would send a mixed signal to him where we are at regarding his project. Mr. Frank has provided some changes in his site plan. In contacting his attorney, Mr. Frank is not interested in pursuing this site plan unless the town entertains his TIF request. On November 20, policies will be addressed regarding TIF. It may be requested that this be tabled until the Plan Commission meeting in January if a new submission has been made. An appropriate trigger would be a good submission of a current site plan. It was suggested that a Wolf Hollow Update be on each agenda until such time as the town receives something. Town Attorney Anderson responded that this starts to become meaningless if it is on every agenda. Planning and Development Coordinator Schweppe agreed with this.

Town Planner Rybarczyk said there could be staff updates on current projects.

Attorney Mitchell Olson, who represented one of the neighbors, indicated he was not taking any strong position. It sounded like Mr. Frank's proposal is changing dramatically.

Lot 97 will stay on the table until the time a new application is received. The site plan will need to be untabled if presented in April. The recommendation of town staff would be to deny it. The applicant would need to submit a new application or withdraw the old one. Something needs to be done with this tabled item. It needs to be removed from the table in order to deny it. The town will not be considering this site plan until a new one is received or we have a new deadline.

A motion was made by Commissioner Hoffman, seconded by Commissioner Trotter, to keep Lot 97 tabled until a new site plan is received by the town staff or six months. Motion carried with a 6-0 vote.

11. Adjournment.

At 7:55 p.m., a motion was made by Commissioner Trotter, seconded by Commissioner Hoffman, to adjourn the meeting. Motion carried with a 6-0 vote.

Respectfully submitted,



Ellen G. Teed, Recording Secretary