



APPROVED

8-19-2014

TOWN OF WINDSOR
PLAN COMMISSION MEETING

Minutes

July 15, 2014

1. Call Meeting To Order.

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

2. Roll Call.

Commissioners present: Alvin Davis, Jeff Heisig, Bill LeGore, Beth Trotter, and Dan Wendtland. Barry Eichinger and Kay Hoffman had excused absences. Others present: Planning and Development Coordinator Amy Anderson Schweppe, Town Engineer Kevin Richardson, Town Attorney Connie Anderson, and Town Planner Jamie Rybarczyk.

3. Recitation Of The Pledge Of Allegiance.

The Pledge of Allegiance was recited.

4. Minutes From June 17, 2014.

A motion was made by Commissioner Wendtland, seconded by Commissioner Davis, to approve the Minutes of June 17, 2014, as presented. Motion carried with a 5-0 vote.

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

Supervisor Stravinski thanked Planning and Development Coordinator Anderson Schweppe for filling in for him at the last meeting.

Supervisor Stravinski reported on the following:

- The Town Board will be looking at Conifer Court at its next meeting.
- The Wolf Hollow Phase 3 environmental corridor amendment was passed without change.

Supervisor Stravinski reminded the citizens of the July 16 meeting at 5:30 p.m. at which the Town Board will be looking at three options and the effect these options will have on town committees and commissions.

6. Appearances.

None.

7. Michael Peterson And Dana Diedrich (3901 Aric Avenue, DeForest) Request Consideration Of A Rezone From Agriculture District (Ag-35 AC) To Estate Residential (ER-1) In Order To Bring The Non-Conforming Property Into Compliance And Allow For Reduced Setbacks In Order To Construct A Pool.

Chairperson LeGore stated that this matter would have a public hearing followed by action on a resolution. He would open the public hearing with a staff presentation and comments by the petitioner. Comments would then be invited from the audience.

a. Public Hearing.

Chairperson LeGore opened the public hearing at 6:06 p.m.

Town Planner Rybarczyk provided his staff report. Petitioners are requesting a rezone of their property which is 1.7 acres. It is currently zoned AG-35. Petitioners are requesting that it be rezoned to ER-1, the reason being they would like to construct an in-ground swimming pool. They have signed an agreement regarding risks in that they are proceeding prior to municipal approval to avoid financial and scheduling penalties from their contractor. If the rezone does not go forward, they would have to rip out the pool. With the AG-35 zoning, the petitioners could not meet the 35-foot setback. It will be rezoned (to the proper designation) to allow for a 10-foot setback.

Petitioner Michael Peterson appeared before the Town Board and indicated the rezone would put the lot in conformance with ER-1. He did not have anything more to add.

The public hearing was closed at 6:09 p.m.

b. Plan Resolution 2014-18.

A motion was made by Commissioner Wendtland, seconded by Commissioner Davis, to approve Plan Resolution 2014-18, Recommending Rezone From ETZ AG-35ac To ETZ ER-1 To Bring The Non-Conforming Property Into Compliance And Allow For Reduced Setbacks For Swimming Pool. Motion carried with a 5-0 vote.

8. Alan Buchner (4003 Vinburn Road, DeForest) Requests Consideration Of A Rezone From Agriculture District Exclusive (A-1EX) To Agriculture District (A-2) And A Conditional Use Permit In Order To Construct A Convenience Sanitary Facility In An Agriculture Accessory Structure On The Property.

a. Public Hearing.

Chairperson LeGore opened the public hearing at 6:11 p.m.

Comments were provided by Town Planner Rybarczyk. The petitioner is looking for rezone for a conditional use for the property. It is 20 acres in size. He has approval for the building which is 87x36x22. He would like to install a sanitary fixture within an accessory building. In working with Dane County staff, rezone from A-1 EX to A-2 would make the property conform to Farmland Preservation. As a conditional use, if the land is greater than five acres in size, a sanitary fixture is allowed. The rezone request is following the recommendation of Dane County. Town Planner Rybarczyk concurs with Dane County.

Conditions to be imposed were petitioner shall obtain approval of the rezone request from Dane County. The petitioner shall file a deed restriction acknowledging that the property shall be restricted from any future land divisions. The petitioner shall also record a deed restriction acknowledging that the accessory building connected to the sanitary plumbing fixture shall not be used as a temporary or secondary residence for overnight use.

Petitioner Buchner noted that this would put him in compliance.

Town Planner Rybarczyk advised that the town received a letter from an adjacent property owner who suggested a conditional rezone. This property has been slated by Dane County for Farmland Preservation rezone.

The public hearing was closed at 6:15 p.m.

b. Plan Resolution 2014-19.

A motion was made by Commissioner Davis, seconded by Commissioner Heisig, to approve Plan Resolution 2014-19 Recommending Rezone From A-1 EX To A-2 And Conditional Use Permit (CUP) To Allow For Construction Of A Convenience Sanitary Facility In An Agricultural Accessory Structure.

Discussion followed. In response to a question from Commissioner Wendtland, Petitioner Buchner advised that the building was constructed in the 1900s. He built over the top of it. A permit was taken out for construction of the building.

Roll call vote: Commissioner Trotter, yes; Commissioner Davis, yes; Commissioner Heisig, yes; Commissioner Wendtland, no; Commissioner LeGore, yes. The motion carried with a 4-1 vote with Commissioner Wendtland voting no.

9. Lot 137, Holland Fields Site Plan Review (Plan Resolution 2014-20).

Discussion began with a presentation by the petitioner, John DeWitt. He indicated he was the original developer of Holland Fields and sold it to Veridian but kept Lot 137. When Holland Fields was originally approved, there was space for 460 units. That was backed down to 410 units. In that agreement Lot 137 was approved for multi-family.

Mr. DeWitt indicated he wanted to tie this lot to Holland Fields, giving it an Old World, townhouse look. There would be a fitness center and dog grooming. Staff has pointed out some things that would need to be changed. They would like the colors broken up.

Justin DeWitt, John DeWitt's son, spoke. The first-floor units have walk-up patios, not a row house concept. The back units have the same concept.

Scott Anderson addressed the storm water issue and had reviewed the site.

The question was asked what has the developer done to make this a more green project.

John DeWitt responded that nothing has been done to make this a LEEDS project.

Jason DeWitt showed pictures of the elevation. The building is broken up.

Town Engineer Richardson asked about storm water and pitch.

Town Planner Rybarczyk walked through the town's staff report.

Regarding the Development Agreement dated June 18, 1999, the surface parking needs to have a 75 percent buffer. Ninety-seven parking spaces are required. Currently, there are 91 spaces in a combination of below ground and surface parking.

Discussion followed regarding reducing the number of painted shingles. The town is looking for a change in plane or architectural materials.

Town Engineer Richardson asked how is the mezzanine going to be accessed.

John DeWitt responded that the mezzanine may be eliminated.

Town Planner Rybarczyk indicated that the lot is appropriately zoned as R-4. In the town's Comprehensive Plan, this area is identified as mixed-family and single-family residential. It meets the town's Comprehensive Plan.

Paul Zaporas, 4379 Low Countries Road, indicated that there are 14 houses on his street. Across the street are duplexes. The number of units being proposed will change the nature of the

neighborhood. There is only one unit in that area that is similar. What matters to him is the neighborhood. He does not like it.

Steve Scott, lives in Merrimac, but owns a duplex at 6875/79 Rembrandt. In 1999 it was multi-family. Things have changed. Where will there be storage? It is short parking spaces, and he was concerned about the landscaped area. He indicated he understood that John DeWitt had rights to build something, but the town has to make sure it is the right fit.

Mike Esser, 6902 Rembrandt Road, lives one block down. He did not know where the developer was in the stages of building. He looked at the plans at the Town Hall earlier in the week. He was somewhat troubled about the scale of the structure – three stories with a high roof line. His concern is scale. He was also concerned about parking spaces. The scale is rather large for the area.

Another audience member agreed with both of the last two speakers. He was concerned with storm water runoff. The largest structure in the area is two stories. This will dwarf the entire subdivision. He has the corner lot edging up to Gray Road. He had issues with street parking. It does not fit in the subdivision and does not fit in the lot. He was also against it.

Carrienne Baumgart, 4376 Low Countries Road, discussed congestion. The on-street parking is filled. She was concerned for bike-riding children.

Robert Falb, 4375 Low Countries Road, presented a list containing 87 signatures of people who were against this project. It is too big and not family-friendly.

Paula Horn, 6865 Rembrandt Road, asked why this item was not on the Plan Commission agenda.

The response was that it was on the agenda and had been for a week.

Town Attorney Anderson clarified that Ms. Horn may have looked at the agenda for the items with public hearings; this item was not on that agenda. It was, however, on the agenda for the Plan Commission meeting.

Ms. Horn indicated there are not only kids on bikes but people pushing strollers. Congestion is an issue.

Jonathan Horsfall, 6942 Rembrandt Road, mentioned the beautiful park and the busy street. It is a beautiful building but not right for this area. He indicated that the lot was zoned Commercial. In 2001 it was Residential and was changed to Commercial.

John DeWitt replied that it has always been zoned R-4.

Town Planner Rybarczyk put on the screen the Dane County zoning map which shows that this lot is zoned R-4.

John DeWitt indicated the Development Agreement provided he could construct up to 53 units.

Jason DeWitt stated that there were storage cabinets for general storage in front of the car parking.

Chairperson LeGore focused on the staff comments.

Commissioner Trotter asked about lighting. Town Engineer Richardson responded the lights will be on the buildings. Scott Anderson added there will also be dark-sky lights – one pole in each island.

Town Planner Rybarczyk stated that petitioner had provided a full illumination plan, and at the lot lines the illumination is zero.

Scott Anderson added that the building shields everything.

Building facades were discussed, along with colors and materials.

The petitioner will provide deciduous and coniferous plantings.

Town Planner Rybarczyk indicated that the Plan Commission had three options: It could approve the plan based on the recommendations outlined in the staff report and assume that the petitioner will address the concerns before it goes to the Board. It could table the matter and request petitioner to address the comments of staff and residents and bring it back to the Plan Commission, such as revised elevations, landscaping, and parking layout. Or, the Plan Commission could deny it.

Commissioner Wendtland asked for an explanation as to how the town makes these agreements back in 2002 and the developer comes back and meets everything. A lot of this has been changed, and there is no going back. The town does not have a right to renege on an agreement. There is a contract that there are up to a certain number of units. It must be taken in context of the ordinance and community's thoughts. The town has to step back and hear what the residents have said. The town has to take another look at the agreement and see how it can meet the needs. One cannot untie a knot by the town and the developer. Concerns should be voiced and examined. It has been there since 2002. They are doing due diligence and working to meet restrictions. The town would have a hard time turning back.

Town Attorney Anderson explained the issues regarding how many units have been approved for that site. The number was negotiated.

Town Engineer Richardson stated if the petitioner cannot make the parking lot work, he can remove a parking space. They are entitled to 53 units if they meet the standards.

Commissioner Wendtland asked, if 53 is too much, what number is right and what is the town going to set it at? People do not want a lot of housing over there.

Town Attorney Anderson stated that it is zoned R-4, and the zoning will not change.

It was stated that both the petitioner and the residents of Holland Fields need to be good neighbors.

Commissioner Heisig indicated he was hearing about parking and that it does not meet the requirements. The school signed off on this on June 30, 2014. The Windsor Sanitary District has signed off on it. Traffic is an issue. Is there an acceptable level of storage being met?

John DeWitt stated that he owns seven different apartment projects in and around Madison. His statistics indicate that there are 1-1/2 children per building. Apartments are not big child magnets.

Town Attorney Anderson said if one looks at the 1999 agreement and at the portion of page 10, it addresses development plan review and she quoted some of the language. The Plan Commission, given the issues raised at the meeting, could table approval of this Resolution until its next meeting and the town has an opportunity to look at these issues as specified. It is contemplated in this agreement and it is appropriate to reach a resolution to balance the issues raised.

Commissioner Trotter concurs that the Plan Commission should table the matter until the issues can be discussed. Things need to be more spelled out.

A motion was made by Commissioner Trotter, seconded by Commissioner Davis, to table this matter until the next meeting and the town staff can report back at the next meeting.

Commissioner Heisig questioned the 45-day limit. What was the date of filing of this request?

Planning and Development Coordinator Anderson Schweppe indicated escrow was received on June 13. The town is at 30 days right now.

The developer would need time to address these comments. The town and the developer can extend the date.

The matter could be denied because of the 45 days, inviting the developer back.

John DeWitt stated that he has not heard anything except for the number of units.

A Holland Fields resident added that there is a huge traffic issue.

Mr. DeWitt responded that it meets the road standards.

Commissioner Heisig was not in favor of tabling the matter. There are issues about parking that need to be decided, water, and color changes.

The motion maker rescinded her motion. The second concurred.

Town Planner Rybarczyk indicated the petitioner could come back with a revised elevation site plan. The overriding comment from the residents is regarding the scale of the project.

Steve Scott was the first person to purchase land in 2000 and was concerned about this property.

Commissioner Wendtland asked what number would the people in the area be happy with? The big elephant is what is the number.

Town Planner Rybarczyk suggested that maybe it is not the number. Maybe it should not be three stories.

Town Attorney Anderson said sometimes at this stage members on the Plan Commission would express their views and what the issues are that can be taken into account by the developer.

A motion was made by Commissioner Wendtland to approve Resolution 2014-20 Recommending Approval Of The Site Plan For Lot 137 Of The Plat Of Holland Fields In The Town Of Windsor, Dane County, Wisconsin. The motion failed due to lack of a second.

A motion was made by Commissioner Trotter, seconded by Commissioner Heisig, to deny the Resolution based on the fact that there is a parking issue and size is an issue to the neighborhood. The Plan Commission needs further discussion and guidance.

Commissioner Wendtland indicated he would vote against the motion. There was a paper presented with 83 names and a discussion with those people to find out what they want and they can come back to the Board. The residents purchased property with an R-4 lot already there.

Commissioner Heisig stated that concerns have been brought up that have not been met. This will give them time to do this and address other concerns.

Chairperson LeGore added that there are open items that need to be met.

Commissioner Davis stated that this was approved back in 2000. Eventually there will be an apartment complex there. The details have to be taken care of. He did not think by denying this it would do anything but kick it down the road.

Commissioner Trotter agreed with Commissioner Wendtland. When the residents purchased their lots, they knew there was an R-4 lot. It is a given that there will be an apartment building.

Roll call vote: Commissioner Trotter, yes; Commissioner Davis, no; Commissioner Heisig, yes; Commissioner Wendtland, no; Chairperson LeGore, yes. The motion carried 3-2, with Commissioners Davis and Wendtland voting no.

10. Bear Tree Farms, Inc., Requests Consideration Of A Preliminary Plat For Bear Tree Farms And Rezone For Property Generally Located At The Southeastern Corner Of The Intersection Of Highway 51 And Windsor Road, In The Town Of Windsor. The Proposal Includes 594 Residential Dwelling Units Of Single Family, Multi-Family And Senior Housing And A Park And Trail System.

Chairperson LéGore indicated the petitioners would give their presentation on the project and then staff comments would follow.

- a. Public Hearing.

The public hearing was opened.

Attorney Mike Lawton representing the developers, Steve Pederson, and Chris Casson were present.

Attorney Lawton indicated that the developers have received preliminary plat and zoning approval. They are aware there are conditions. This has been a long time coming. They will be going to the county later this week and will be filing with DeForest. The project includes largely single-family detached residential lots. There are 344 single-family lots, an area of eight units for senior housing, and 170 multi-family units on R-4 lots.

Attorney Lawton showed the area on the screen. This has been approved by the original Plan Commission. Urban service was approved. DeForest also approved. MMSD approved. The Town Board and Village Board approved the agreement that generally approved these classifications several years ago. This is consistent with the agreement that the two Boards signed along with the owner. What they are doing is basically consistent with the prior planning.

Steve Pederson commented on the aerial photo. There is a 10-acre church site. He explained the outlots. There will be elderly housing. Transition lots will be next to Terrace Park. The 10-acre woods will be a park.

Town Planner Rybarczyk went through the staff report. Petitioners are proposing a 227-acre mixed-use development. There will be nine phases for the total build out. They are proposing to rezone property to match with Dane County classifications. The developers have submitted a storm water management plan, preliminary engineering plans, a utility design report, a water system evaluation memo, a draft development agreement, an environment assessment report, a tree preservation plan, and an Affidavit of Ownership Status.

The Comprehensive Plan has this as transition residential. The proposed development is 594 dwelling units. The general concept is still the same, but some of the boundaries have changed. From a planning standpoint, it is still acceptable within the Comprehensive Plan

There are 27 lots that are less than 12,000 square feet. Windsor's Code of Ordinances requires curb and gutter on all roads within an urban service area. The petitioners are proposing a rural cross-section with open drainage swales. The town Code also requires paths or sidewalks along both sides of each road. However, the petitioner is including a 10-foot multi-use path for bicycles and pedestrians along one side of several roads.

There was discussion on splitting some long blocks, extending Golden Wheat to Royal View. There needs to be a north-south road.

There will need to be utility agreements. All sewer service plans have to be approved. The Storm Water Management Plan needs to be finalized and approval obtained for the Erosion Control Plan. A pavement design report shall be submitted which is based on soil conditions.

There was concern about the storm water management plan. No easements were shown for storm water conveyance which should be within the public rights-of-way. The culverts that are shown are 12 inches in diameter. Windsor requires a minimum of 18 inches.

Town Attorney Anderson asked about monumenting the common lot lines. There needs to be a separate easement document regarding drainage swales.

Town Planner Rybarczyk noted that the farmstead accessory buildings will be removed at some point. Some of the lots are part of one phase, but they are landlocked until a future phase.

The multi-family and senior housing will have to be looked at to determine at this time what the density or development potential of those lots would be.

Town Planner Rybarczyk indicated, if the Plan Commission chooses to move forward at this meeting, there will need to be two motions: (1) action on the preliminary plat and rezone; and (2) showing support or not showing support for the waivers the petitioner is requesting.

Attorney Lawton agreed with having a covenant. The covenant may be noticed as to what it says.

Attorney Lawton discussed the waivers the developer is requesting.

The developer is requesting a waiver as to lot size. There are only 27 lots that are smaller than 12,000 square feet by only a few hundred square feet.

The developer is requesting a waiver as to the use of a rural cross-section in this plat with open swales, but with a ribbon curb.

The developer is requesting a waiver regarding sidewalks. They propose to have 10-foot wide paths on one side of the street. Not every road has a path.

The town needs connectivity.

Attorney Lawton added that the path network would be subject to approval by the Town Board in the final plat approval.

The suggestion was made to remove the cul du sac. The town would like Royal View Drive to go all the way through. The cul du sac makes it more difficult for school buses and snow plowing.

The response from the developer is that this would create a drag race if the cul du sac is removed.

Town Engineer Richardson did not buy the drag race idea. It would be easier for the town for maintenance and buses, EMS, and fire.

Steve Pederson stated that his family gave that land to the town. It was a big mistake to have it revert to utility easements only. The town should condemn the land and take it back. The town has done a disservice to Terrace Park. It is a safety issue and a connection issue.

The drainage easement was discussed. Suggested was that there be a 20-foot-wide drainage easement centered on common lot lines of lots with storm water conveyance along common lot lines, with utility easements (where needed) having a width of 12 feet each centered on the boundaries of the storm water conveyance easements.

Town Engineer Richardson suggested monumentation indicating that this is a storm water easement. He wants to make sure no clippings are placed there and there are no sheds or gardens.

Attorney Lawton felt that the developer has been following the cooperative planning approach and that the Town Policy Concerns/Issues should be removed as conditions.

Attorney Lawton noted that there were some pretty extensive parks. They would have to work out when the fees will be collected.

The above are the developer's comments on the conditions. The rest of them are fine.

Mike Thoms, 6696 Royal View, was hoping for more transition from Royal View.

Steve Pederson responded that he felt the transition is still there.

Lisa Thoms, 6696 Royal View, said they have lived there since 2006 and have been following the Bear Tree Development. Having one-acre lots by high density is not good. She asked that

the Plan Commission consider transition from Terrace Park with bigger lots. She also can see a race way through there.

Red flags she would like to see the Plan Commission consider are the smaller lots that are 11,000 square feet with the 20-foot drainage and a 10-foot path and ditch which would make the lots small.

Steve Pederson responded regarding the multi-family by the bigger lots. The easements and swales will be within the setbacks.

Dr. Susan Borden from the School District spoke. When there are no sidewalks, the students are walking on the streets. It does present concerns for the students. Connectivity of the paths is important. The School District is not asking for any school property. Connectivity to other subdivisions is a challenge.

Susan Owen, 4014 Terrace Park Court, asked about lighting. She also asked whether Terrace Park would be able to get on the sewer system.

Town Engineer Richardson said the development was planned so if the septic systems failed there could be a connection. It is not planned at this time. Replacement fields can last a lot longer than in the past.

Town Engineer Richardson added that Windsor receives its lighting from Alliant Energy, and lighting will be only at the intersections. It will be downward-casting, dark-sky lights.

A question was asked about the builders.

Steve Pederson stated that they have a great number of builders interested in the lots. Lots will accommodate ranch-style houses, with a three-car garage, and curb appeal.

The public hearing was closed at 9:15 p.m.

b. Plan Resolution 2014-21.

Town Planner Rybarczyk explained that one motion would be regarding Plan Resolution 2014-21 and a second motion for support or nonsupport for the waivers that are being requested.

Town Attorney Anderson noted whether the waivers are granted is up to the Town Board. The Town Board is just asking for input.

Commissioner Trotter asked why the developer did not factor in the senior housing.

Attorney Lawton responded it was because the level of services is so different. It is weighed as single-family.

Susan Owen brought up bus stops and connectivity for kids.

Attorney Lawton indicated they will work with the School District.

Town Chairperson Bob Wipperfurth indicated he and Town Engineer Richardson attended a School District meeting the prior night and talked about the Bear Tree plat. The School District was concerned about the path network. He was glad that the developer is willing to work with the School District.

Town Chairperson Wipperfurth had a question about the commercial lots.

Attorney Lawton responded.

A motion was made by Commissioner Wendtland, seconded by Commissioner Heisig, to approve Plan Resolution 2014-21 Recommending Conditional Approval Of The Preliminary Plat Of Bear Tree Farms In The Town Of Windsor And Rezoning By Dane County To R-2, R-4, B-1, RE-1, CO-1 As Set Forth On Bear Tree Farms Proposed Land Use Map Dated July 3, 2014. Motion carried with a 5-0 vote.

A motion was made by Commissioner Wendtland, seconded by Commissioner Davis, that the Plan Commission not support the waivers as written because they need some more work and more meat and they are up to the Town Board.

Commissioner Heisig asked whether the Plan Commission had a problem with Staff Recommendation No. 1.

Commissioner Davis responded that the staff has the recommendation and can share this with the developer. He suggested modifying the motion to consider giving directions to the staff versus outright denial.

Commissioner Wendtland noted that there is no agreement at all with the School Board.

Commissioner Wendtland also noted that the waiver requests were just received earlier in the day. This needs more work. It is not ready for the Plan Commission at this time. How can the Plan Commission act on something it received that night? It is not appropriate. They should have had time to review it and ask questions. This can be kicked up to the Town Board. He would not recommend the waivers to the Town Board.

Commissioner Heisig stated that connectivity needs good planning.

Motion carried with a 5-0 vote.

11. Bill Kippley Requests A Review Of A Sign In Conjunction With His Site Plan Review For The Conifer Court Mini-Warehouse Storage Proposal. Plan Resolution 2014-22.

This matter has been withdrawn.

12. Adjournment.

At 9:30 p.m., a motion was made by Commissioner Davis, seconded by Commissioner Trotter, to adjourn the meeting. Motion carried with a 5-0 vote.

Respectfully submitted,

A handwritten signature in cursive script that reads "Ellen G. Teed".

Ellen G. Teed, Recording Secretary