

 APPROVED
10-21-14

TOWN OF WINDSOR
PLAN COMMISSION MEETING

Minutes

September 16, 2014

1. Call Meeting To Order.

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

2. Roll Call.

Commissioners present: Barry Eichinger, Jeff Heisig (arrived at 6:05 p.m.), Bill LeGore, Kay Hoffman, Beth Trotter, and Dan Wendtland. Al Davis was absent. 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 August 19, 2014.

A motion was made by Commissioner Wendtland, seconded by Chairperson LeGore, to approve the Minutes of August 19, 2014, as presented. In that not everyone present was at the August 19 meeting, it was decided to hold this item until the next meeting. The motion maker withdrew his motion.

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

Supervisor Stravinski reported on the following:

- At the last Plan Commission meeting, the Conifer Court site plan was approved. The Town Board also approved it.
- The Town Board will be addressing the requests of Don Tierney, Tim Gotzion, and Yahara Materials at its meeting on September 18.

- The Bear Tree plat was also approved at a prior meeting, and that will be coming before the Town Board on September 18. Changes were made to the plat, but staff and the Town Board felt that they were not significant enough to come back to the Plan Commission. The multi-family next to Royal View Drive has been removed.

6. Appearances.

None.

7. Windsor Development Corp., Represented By John DeWitt, Requests Consideration Of A Site Plan Review 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. (Plan Resolution 2014-20.)

Town Planner Rybarczyk provided a staff report. Mr. DeWitt has resubmitted the site plan elevation and landscape grading plans for the Windsor Apartments, Lot 137 in the Holland Fields plat. The proposal is for a three-story, 53-unit apartment building consisting of a mix of studio, one-bedroom, and two-bedroom apartments targeted to young professionals and empty nesters. This has come back to the Plan Commission for it to take into consideration the technical requirements and compatibility of the proposed multi-family apartment building in the neighborhood. Updated drawings from August 29 were provided. One issue was with regard to the landscaping around the parking lot in the back of the building. There needs to be 75 percent opacity from any property line. The new landscaping plan meets that 75 percent opacity rule. Originally the developer had 91 parking stalls – 54 underground and 37 that were surface parking stalls. They have now met the technical requirements with 97 parking stalls. Staff had made some comments regarding the architectural elevations and use of materials. The north and south elevations did not meet the requirements. The developer has now changed it so it matches the ordinance. Some modifications were made to the use of the materials on the east and west elevations, and modifications were made to the balconies. The third-floor mezzanine has been removed, and this has lowered the building about half a story. The developer has now met the requirements of the site plan ordinance.

Town Engineer Richardson indicated he was concerned about the drainage way and was extremely concerned about the slope. The town has been provided with revised drawings that show an armoring of the ditch. He believes that what they are proposing will work. They are waiting for confirmation from Dane County Land Conservation.

Concerning town policies, this was looked at by the Town Board last month with regard to the language in the Development Agreement and with relation to the town's site plan review ordinance. The last piece of the puzzle was a determination of compatibility of this building with the neighborhood. The staff feels that what the Plan Commission can discuss at its meeting are building materials, roof lines, roof style, style of the building of the building, scale of the building, sidewalks, lighting, and landscaping.

Town Attorney Anderson stated that it was those factors that are set forth in the staff report that were looked at for compatibility. The primary concern that the town had was that it would not be possible to have a building of this size on the lot and meet those requirements. There has been enough progress for the Plan Commission to make a decision and recommendation.

Town Planner Rybarczyk explained the three options of the Plan Commission: (1) recommend approval of the site plan for Lot 137 with nine conditions of approval; (2) table any decision; or (3) deny based on discussions with regard to the compatibility of the development.

Town Planner Rybarczyk went through the drawings and showed changes in the materials and roof lines. There is now storage for each unit in the garage and a dog-washing area.

Town Engineer Richardson described armoring, which will be done by soil composition and inset block. If the block does not work, there are other options which Town Engineer Richardson explained. This will be covered in the storm water management agreement with Dane County.

Developer John DeWitt explained that the plan is pretty much the same, but they have addressed several items. Engineer Scott Anderson was present.

Steve Keating, 6891 Rembrandt Road, opposed the application. He owns the duplex across the street. The headlights will shine into his mother's bedroom. This will have a negative impact on the neighborhood. He can leave his garage door open and go to the store. He did not understand why this big of a building has to go there. Single-family or duplexes could be constructed. This will lower their property values. Why don't we keep the neighborhood the way it is?

Lucas Pechacek, 4371 Low Countries Road, opposed the application. He did not speak but did offer his written comments that as requested/suggested at the adjournment of the July meeting, Windsor Development Corp. has not reached out or involved the community or with any members known to date with further design of the proposed plan. As such, the Board should maintain its denial until further community involvement is achieved and established.

Steve Scott, while residing in Merrimac, owns the duplex at 6875-79 Rembrandt Road. He is neutral and opposed. He showed photographs of the effects of the three-inch rainfall in August. He discussed the traffic on Rembrandt Drive. He does not like having a three-story building. The town must make sure that the footprint fits. Storm water is the biggest issue. There are not enough culverts.

Aaron Kraemer, while living at 4626 Autumn Blaze Trail, owns 6865-71 Rembrandt Road. He was neutral and opposed and indicated he agreed with Steve Keating. Mr. DeWitt has the right to build something on this land. There are issues of traffic, safety, and storm water. His property is on the corner. Water does build up there. He would prefer the entrances and exits off of Gray Road. There is a lot of foot and bike traffic on Rembrandt Road. He is against the size of the building but also understands Mr. DeWitt has the right to build something. It should be scaled

down. He would like the town to take into consideration storm water management and the entrances and exits.

Tom Kreis, 6906 Old Amsterdam Way, stated he was skeptical of government. The developer did not get it right the first time. He does, however, not live near the proposed building. The building size is ridiculous.

Commissioner Hoffman noted that there is a holding pond scheduled for the roof water. The water from the Carroll property will always run through there.

The developer has to meet the standards set by Dane County. Dane County believes, even though not finalized, that the plan will be able to work on the site.

Town Engineer Richardson added that the developer has to take care of his own water, keeping it the same amount of flow as it was pre-development. The storm water issue is a regional issue from the Carroll property and the other side of Highway 51. Water will be moved from the roof and the parking lot into the detention pond. It will be held on the site and then released into the drainage way.

Engineer Scott Anderson stated that they have to infiltrate 90 percent of the pre-development water. They cannot control what comes from off their site.

Commissioner Eichinger stated his first feeling was surprise that this density would be allowed.

Engineer Richardson responded that this is a Development Agreement signed in 1999 in which the lots are listed and how many units per lot there can be. Mr. DeWitt developed part of the subdivision and sold the remainder of the subdivision to Veridian, except for this lot. Veridian looked at the lot on the back side which was to be a 100-unit apartment building on the north side. Veridian indicated it was not in the apartment building business and changed the lot to multi-family. Mr. DeWitt still retained Lot 137, and according to the Development Agreement he is entitled to 53 units if they can meet the requirements. Compatibility is determined within the 200-foot radius around the project.

Town Planner Rybarczyk showed what that radius would include. Most of the lots are duplex and multi-family on the north side. On the south side of Gray Road, it is single-family. However, none of the residents from the south side of Gray Road have come to the meetings. They were notified of the meetings by the town.

Commissioner Eichinger advised that he is a school bus driver, and that is his route. He mentioned compatibility and stated that aesthetics is subjective. The structure is immense, and it will have a shadow imprint. There is no parkland nearby. His opinion is that it does not meet the compatibility standard.

Commissioner Hoffman asked what does compatibility mean?

Town Planner Rybarczyk responded that compatibility should be kept to building materials, etc., not the number of units. The town has to do its best job making it look and feel the best with what it has to work with. Compatibility is defined on page 11 of the Development Agreement. The Town Board will need to make a determination.

Town Attorney Anderson read the significant portion from page 11 of the Development Agreement. The “surrounding neighborhood” does not refer to the entire Holland Fields plat but only a parcel within 200 feet of the R-4 lot. This project should have been built in the beginning because people do not take the time to read the papers they are given. This project was in the notices received by the landowners. There is a sign on the lot. People have enjoyed their homes for ten years and are now facing this project. The town is now facing property rights that were given fifteen years ago.

Commissioner Hoffman stated that one cannot assume that the green space is going to always stay that way.

Commissioner Trotter stated that she feels as strongly as Commissioner Eichinger. She asked Mr. DeWitt why he is proposing 53 units. Do you want to go that high?

Mr. DeWitt responded that the value of land to a developer is based on the number of units. He made his deal with the township in 1999, and that was what the deal was. He gave up a number of lots at that time. He went from 460 lots to 410 lots. He could take a floor off of the building, and that would take it down by one-third; but he has been paying taxes on 53 units. Cutting off three units would not change anything.

Commissioner Trotter indicated that she is disappointed that Mr. DeWitt did not reach out to the neighbors and explain to the neighbors what the situation was.

Mr. DeWitt replied that he made the decision consciously. Every time he has met with the neighbors it has had no effect. He has to get what he is entitled to. He made an upfront agreement with the town and will hold up his end of the agreement. He expects the town to hold up its end of the agreement. If it would appease the people by cutting off three units, he would.

Town Attorney Anderson stated that Mr. DeWitt has been paying taxes as if it is 53 units. The assessed land value is \$289,000. Taxes were \$5,800. The taxes are not a huge cost.

Mr. DeWitt responded that the taxes had been higher, but they went lower when the market crashed.

Town Attorney Anderson asked Mr. DeWitt whether he would entertain reducing the building by one story.

Chairperson LeGore asked that the Plan Commission go back to what it has been charged to do. He does see the scale issue, but it is also in the agreement in the past and is very clearly laid out. The land use is compatible. Issues from the last meeting have been met. He is encouraged that

Forward Management will manage the property. He has seen property in DeForest managed by Forward Management, and it looks very good.

Commissioner Heisig stated that the real power in the Development Agreement determines the impact of the property development on neighborhood. The 200-foot impact lies with the Town Board. This should go to the Town Board. It has to interpret that impact.

Chairperson LeGore stated that the Plan Commission can still act on one of the options presented. The Town Board can take this recommendation into consideration.

A motion was made by Commissioner Wendtland, seconded by Commissioner Hoffman, recommending approval of Plan 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 white paper Resolution with the nine conditions as presented).

Commissioner Eichinger stated that this project is targeted for singles, young professionals, and empty nesters. He asked Mr. DeWitt whether he had a study.

Mr. DeWitt responded that he did not have a study. He has six or seven other pocket developments that have apartment buildings. There are very few children in those apartments.

Commissioner Eichinger added that, in his experience with this type of building with this density, it is successful when it is within walking distance of schools, stores, etc.

Chairperson LeGore stated that this is very well situated on the pathway to DeForest. He understands what Commissioner Eichinger is saying.

Commissioner Trotter said she did not see a lot of young professionals wanting to live there.

An audience member stated this is not where he wanted to live when he was younger. He lived in Sun Prairie and the east side of Madison.

Commissioner Heisig said that there are people within 200 feet that have issues with compatibility. The party that has to discuss compatibility is the Town Board. He suggested tabling the matter and sending it to the Town Board.

Commissioner Wendtland responded that, by tabling the matter, it sits at the Plan Commission and does not go forward.

Town Attorney Anderson stated that the two options are two of many. The Plan Commission could recommend these conditions if this is approved and move forward. The Plan Commission could recommend that the issue of compatibility be tabled until the Town Board has the information to act on this.

Commissioner Wendtland stated that, at this point, the developer has met the Agreement.

Town Attorney Anderson added that the Plan Commission does not have the authority to interpret the Development Agreement. The Plan Commission could recommend that the Town Board consider this issue as well.

Town Attorney Anderson suggested there could be a hybrid. If the decision is to approve this with the conditions, we want the Town Board to take a hard look at compatibility.

Commissioner Wendtland stated that in 1999 the town decided this would work. He asked Mr. DeWitt regarding the value of the project.

Mr. DeWitt responded that it would be between \$5.5 and \$6 million.

Commissioner Wendtland stated that this tax base would be coming to the town and school district. Mr. DeWitt has done his due diligence and has come forward with a lot better plan than some that the town has approved in the past. It needs to move forward.

Commissioner Hoffman stated that the Plan Commission was charged with building materials, etc. The Plan Commission has addressed this, and that is why she seconded the motion.

Commissioner Eichinger stated that approvals were made on assumptions that turned out wrong.

Roll call vote taken:

Commissioner Trotter	No
Commissioner Heisig	No
Commissioner Wendtland	Yes
Commissioner Hoffman	Yes
Commissioner Eichinger	No
Commissioner LeGore	Yes

Tie vote; motion failed.

A motion was made by Commissioner Heisig, seconded by Commissioner Eichinger, to table this matter as there is an issue as to compatibility (the blue paper Resolution).

When Town Attorney Anderson asked Commissioner Heisig whether he wanted to include the conditions from the white paper Resolution, he indicated no.

Roll call vote taken:

Commissioner Trotter	Yes
Commissioner Heisig	Yes
Commissioner Wendtland	No
Commissioner Hoffman	No

Commissioner Eichinger Yes
Commissioner LeGore Yes

Motion carried with a 4-2 vote.

Town Attorney Anderson again asked about adding the conditions from page 2 of the white paper Resolution.

The wish was to have it tabled until the Town Board addresses the issue of compatibility.

Town Attorney Anderson advised that if this Resolution is adopted the town would want to request an extension of the 45 days that is in the Development Agreement. When asked by Town Attorney Anderson whether he would consent to an extension, Mr. DeWitt responded that he would not make a decision at the meeting.

Commissioner Wendtland noted that the Development Agreement is clear as to what can be considered. The compatibility issue is not whether the neighbors like it. The Plan Commission is not supposed to be looking at compatibility or density. The Plan Commission is doing this for all the wrong reasons.

Mr. DeWitt stated, for purposes of litigation, if this comes down to litigation, he wanted to poll the Plan Commission members.

Town Attorney Anderson recommended the Plan Commission members say nothing.

8. Adjournment.

At 7:45 p.m., a motion was made by Commissioner Wendtland, seconded by Commissioner Hoffman, to adjourn the meeting. Motion carried with a 6-0 vote.

Respectfully submitted,



Ellen G. Teed, Recording Secretary