



TOWN OF EAGLE
P.O. Box 327
Eagle, Wisconsin 53119

Virtual Planning & Zoning Commission
Held Jointly with the Town Board Via Zoom
October 5, 2020
Approved Minutes

Chairman Malek called the meeting to order at 6:30 P.M. and led the Pledge of Allegiance.

Present: Chairman Malek; Supervisors Mommaerts, Muth, Suhm and West. Commissioners Lewis, Mann, Roberts and Kwiatkowski. Staff present: Town Planner Schwecke and Town Clerk Pepper. Also present: Laura Clemons, Diane Knauer, Dawn Latinovich, Erica Mallory, Joseph Mayer, Scott Mommaerts, Bob Peterson, John Skatrud, Michael Van Klunen, Jean Weedman, and Angie Yamashita.

Minutes – A motion was made by Commissioner Lewis, seconded by Commissioner Roberts to approve the minutes of September 10, 2020, and September 30, 2020, as amended. Upon voice vote, motion carried. A motion was made by Supervisor West, seconded by Supervisor Suhm to accept the recommendation of the Planning & Zoning Commission. Upon voice vote, motion carried.

Public Comment – Dawn Latinovich, Markham Rd commented on the proposed eighteen (18) lot subdivision off Sprague Road. She suggested that this subdivision could be treated as a conservancy subdivision, just like Eagles Preserve Subdivision. She expressed concern that the Jericho Creek and the Mukwonago River need to be protected. Ms. Latinovich offered to help the developers with their landscaping plans.

Erica Mallory, W367S9594 South Rd commented that the Board may convene into closed session tonight and it is her hope that the Board members consider the timeline of their efforts. She stated that they have a willingness to work with the Board and have a good chance of completing by October 31st.

Jean Weedman, W343 S9768 Red Brae Drive commented on the proposed subdivision off Sprague Rd. She suggested that any new owners of these lots be notified that portions lie within Waukesha County Shoreland Jurisdiction and the Environmental Corridor. She also suggested placing a deed restriction on certain lots prohibiting the removal of certain trees.

Site plan and plan of operation for a school, using the existing schoolhouse and existing driveway/parking spaces, with no new construction located at W351S7510 STH 59 (EGLT1772998); John Skatrud (application 2020-18) – Town Planner Schwecke explained this project was approved subject to the plan of operation and that the parking lot lighting is sufficient. Applicant John Skatrud stated that historically there has been a sign on the property and they would like to put their sign in the same location. It will be a simple wood sign and it will not be a lit sign.

A motion was made by Commissioner Lewis, seconded by Commissioner Mann to approve the proposed site plan/plan of operation as set forth in the petitioner's application, and supplemental materials, provided the property owner works with the Town Building Inspector and Fire Department to ensure the proposed use complies with all applicable code requirements. Upon voice vote, motion carried. A motion was made by Supervisor West, seconded by Supervisor Mommaerts to accept the recommendation of the Planning & Zoning Commission. Upon voice vote, motion carried.

Final certified survey map for the property located at the northeast corner of Godfrey Lane and CTH NN (EGLT1818999021); The Overland Group (Jacob Stauffer, agent and Joe Mayer, consultant) – Planner Schwecke explained that the Board previously approved the conceptual CSM (certified survey map). He is recommending two (2) technical/specific conditions. Mr. Joe Mayer, consultant on the project stated that he is aware of the conditions.

A motion was made by Commissioner Lewis, seconded by Commissioner Kwiatkowski to recommend to the Town Board the approval of the final certified survey map subject to the general and specific conditions listed below and Planner Schwecke's approval on the last page of the CSM.

General Conditions:

- 1. Staff and Governmental Approval. Prior to the Town signing the final CSM, the commencement of any construction of any improvement, whether public or private, or any site development, the developer shall satisfy all comments, conditions and concerns of the Town Engineer, the Town Planner and all reviewing, objecting and approving bodies, including, but not limited to, the Wisconsin Department of Administration per ch. 236, Wisconsin Statutes and ch. Comm. 85, Wisconsin Administrative Code; Wisconsin Department of Administration per ch. 236, Wisconsin Statutes; and Waukesha County Parks and Land Use Department.**
- 2. Professional Fees. Petitioner shall, on demand, reimburse the Town for all costs and expenses of any type that the Town incurs in connections with this development, including the cost of professional services incurred by the Town (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this approval due to a violation of these conditions.**
- 3. Payment of Charges. Any unpaid bills owned to the Town by the subject property owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the subject property if not paid within thirty (30) days of the billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible cause for termination of the conditional approval.**
- 4. Surveyor's Responsibility. Although the Town of Eagle has reviewed the subdivision plat/certified survey map, the surveyor is entirely responsible for the thoroughness and accuracy of the survey and related matters and compliance with all state and local codes, ordinances, and procedures. Modifications to the survey may be required should errors or changed conditions be found at a future date.**

Specific Conditions:

- 1. The petitioner must obtain the approval of the Town Engineer.**

2. **The surveyor's seal, signature, and date must appear on all sheets of the final CSM. The same revision date must also be noted on each sheet.**

Upon voice vote, motion carried.

A motion was made by Supervisor Muth, seconded by Supervisor West to accept the recommendation of the Planning & Zoning Commission. Upon voice vote, motion carried.

Special exception for second driveway for Big Rig Hotel expansion located at W355S8870 Godfrey Lane (EGLT1818999047); DRR LLC (Robert Peterson, agent) (application 2020-24) – Planner Schwecke explained that the second access currently exists on this property. There are eight (8) criteria that need to be considered when considering this request.

Commissioner Kwiatkowski raised questions regarding the regional stormwater basin. Planner Schwecke explained that the water flows from the east to the west. The basin does not have to be modified. The applicant's engineer is working with Town Engineer Tim Lynch.

Commissioner Lewis questioned the close proximity of the proposed driveway to the street corner. Supervisor West replied that the site vision is better in the corner. Here you can see the traffic from both corners. The culvert is also in good shape.

Comments were made regarding the size of the vehicles using the access without having to back up, the number of buildings on the property, and the need for an area in the center of the property for a swale for water retention. Mr. Peterson, Jr. added that big rigs need the second drive for traffic flow.

A motion was made by Commissioner Lewis, seconded by Commissioner Roberts approve the request for a special exception for a second driveway based on the size of the lot, which collectively had three (3) entrances; based on facilitating not having to turn-around, and based on the additional stormwater retention. Upon voice vote, motion carried. A motion was made by Supervisor Muth, seconded by Supervisor West to accept the recommendation of the Planning & Zoning Commission. Upon voice vote, motion carried.

Amendment of site plan/plan of operation previously approved in 2015 (application 2014-30) by adding 2 new buildings for property at W355S8870 Godfrey Lane (EGLT1818999047); DRR LLC (Robert Peterson, agent) (application 2020-21) – Planner Schwecke explained that in reviewing this application, it had come to their attention that there has been some landscaping issues with the current property. The landscaping plan called for specific trees but something different was planted. Bob Peterson Jr. explained that none of this was done on purpose; they thought they did it right.

Commissioner Kwiatkowski suggested adding language to term #11 stating "prior to any ground disturbance". Planner Schwecke suggested that, as a condition of approval, the Town require some financial guarantees, to be sure that what is promised is completed. Chairman Malek agreed that the Town needs to institute a policy for a financial guarantee. Landscaping issues can arise such as disease, insects, and lack of maintenance.

Planner Schwecke explained that Chairman Malek is currently Bob Peterson Jr. on the current lighting issue. He went on to explain that he met with Bob Peterson Jr. when he was at the site with his brother working on resolving the lighting issue. Every other light has been disconnected and are now staggered from one side of the building to the next. In addition, the lights are now motion sensed, rather than constantly being lit. Chairman Malek reported that the neighbors are pleased with the change in the lighting. Discussion ensued regarding calling for shielded lights rather than covert lighting as well as a

suggestion to gradually phase these lights in on the old buildings over a period of a few years. Chairman Malek suggested changing the lighting on the old buildings to down lighting as they are needed to be replaced. Bob Peterson Jr pointed out that since these lights will not all burn out at the same time, the lighting will not all match.

A motion was made by Commissioner Lewis, seconded by Commissioner Kwiatkowski to approve the site plan amendment consisting of two (2) new buildings subject to the terms and conditions of approval listed below, including modifying #9 to include calling for White Pines and Norway Spruce and Red Maples at the roadway, modifying # 11 to include the language regarding “prior to any ground disturbance”, modifying #12 to include language to reflect that that the lights on the new building are to be shielded and on a motion sensor and that the current buildings should have half as many as they currently have and those too shall be on a motion sensor, and adding #15 that the applicant must obtain approval of Chairman Malek for the updated landscaping plan.

Terms and Conditions of Approval

- 1. Prior to any land-disturbing activity, the applicant must provide documentation to the Town Planner that the Certified Survey Map merging the adjoining parcels has been recorded by Waukesha County.**
- 2. Prior to any land disturbing-disturbing activity, the applicant must submit a complete and final set of plans to the Town Planner. The town Engineer must verify in writing whether they have approved the final plans within their purview. Any outstanding matters must be resolved to staff's satisfaction.**
- 3. Prior to any land-disturbing activity, the applicant must reimburse the Town for any outstanding charges and establish an escrow account with the Town as may be required.**
- 4. Prior to any land-disturbing activity, the applicant must submit a special exception application for a second driveway and obtain approval of the same as set forth in s 500.605 of the Town's zoning code.**
- 5. Prior to submitting a building permit application to the Town, the property owner must obtain a zoning permit for the approved work.**
- 6. The applicant must obtain all required building permits within eighteen (18) months of this date and start construction within six (6) months of the date of the building permit issuance and continue in good faith to completion.**
- 7. All work related to this project must comply with all plans approved by the Town.**
- 8. The property owner must obtain all other approvals as may be required to construct the building as planned (e.g., fire department review).**
- 9. Prior to issuance of an occupancy permit by the Building Inspector, the Town Planner and Town Engineer must determine that all on-site improvements have been completed including any new landscaping and the replacement of any dead or dying plants. Further, landscaping must comply with previously approved plans, most notably spruce along the north and south lot lines.**
- 10. Prior to issuance of a building permit, the developer must submit a cash deposit or a letter of credit to the town as assurance the landscaping will be maintained for a period of one year following planting. The amount of the guarantee must equal the cost of replacement as recommended by the Town engineer.**
- 11. Prior to issuance of a building permit by the Building Inspector, the developer must provide documentation showing that the expanded site is covered by an agreement to use the regional stormwater basin.**
- 12. All outdoor lighting, including existing light fixtures, must be fully shielded. The number of lights above the overhead doors on the existing buildings must be reduced by half.**
- 13. Outdoor storage of any kind is specifically prohibited.**
- 14. A unit shall not be leased to a contractor or a similar business as their base of operation.**

Upon voice vote, motion carried.

A motion was made by Supervisor West, seconded by Supervisor Mommaerts to accept the recommendation of the Planning & Zoning Commission. Upon voice vote, motion carried.

Preliminary plat for 18 residential lots located on east side of Sprague Road (EGLT1826998004); Camtec Inc; Diane Zakrzewski, agent (application 2020-19)/ Request to waive the depth-to-width ratio stated in s. 480.168(C) of the land division regulations for two lots (1 and 2) in the proposed subdivision; Camtec Inc; Diane Zakrzewski, agent (application 2020-24) / Residential allotment for a preliminary plat for 18 residential lots located on east side of Sprague Road (EGLT1826998004); Camtec Inc; Diane Zakrzewski, agent (application 2020-20) – Planner Schwecke explained that Camtec has three (3) different agenda items tonight. They have submitted a new subdivision layout. The initial submittal showed two (2) phases where the second phase would come go out to Sprague Road. The new submittal has phase one coming off Sprague Road and the second phase extending to Jericho Corners. He stated that there is sufficient information provided by the applicants to work with the allotment.

Commissioner Kwiatkowski suggested doing the allotment first, to see if they meet the score before proceeding with anything else. He added that if the subdivision proceeds, it is his opinion that the entire road should be done at once.

Applicant Diane Zakrzewski explained that she, Sandy Campbell and John Stigler Came up with this new 2-phase plan. The first phase has ten (10) lots, it has a stormwater outlet, and the road is less than 1,200 feet. Phase two (2) is the remaining eight (8) lots. She explained that are trying to work within their means. She stated that another possible option for them would be to take the lots in phase two (2) and make them one big lot. Planner Schwecke added that there would be a Developer's Agreement where there will be a financial guarantee for the road extension. Applicant Zakrzewski explained that they are willing to take some of the money made off the sales of the lots in phase one and put it in an escrow account for the finishing of the road.

At this time, the Planning & Zoning Commission and Town Board worked on the allotment and each gave a numerical score ranging from +4 to -4 on the following criteria:

1. Preservation of environmental corridors, isolated natural areas, and natural topography.
2. Surface water drainage
3. Overall density of the development
4. Preservation of agricultural lands and the rural character
5. Traffic circulation and capacity of major streets
6. Soils consideration for roads and basement construction
7. Lot size variation
8. Buffers
9. Future public costs and benefits.

The scores were averaged, and the preliminary final score was 7.322.

Applicant Zakrzewski stated that none of these roads go into the environmental corridor whatsoever. There is a full report on the test kits used in the preliminary site evaluation. She expressed her frustration with this system. John Stigler, the applicant's engineer, reported that the report showed that four (4) tests came out fine and they did not hit bedrock on any of the eighteen (18) lots.

Discussion ensued regarding the scoring and the threshold of ten (10). Planner Schwecke explained that this threshold has worked because it creates an incentive to create appropriate land divisions of high

quality. Planner Schwecke stated that the Land Division Code is very explicit in that you must have ten (10) points, period. At this point that are three (3) options going forward: 1) the Board can table this discussion; 2) the Board can circle back and look at the Land Division Code and make revisions; or 3) make a determination that this subdivision scored a 7.32.

A motion was made by Commissioner Lewis, seconded by Commissioner Roberts to table the residential allotment to the next meeting but to be prepared to discuss variations and well as discussion on whether the Land Division Code needs revisions. Upon voice vote, motion carried.

Applicant Zakrzewski granted the Town an extension of the review period for the three agenda items, to review the Land Division Code.

A motion was made by Commissioner Lewis, seconded by Commissioner Mann to table the waiver and the preliminary plat, with an extension of the review period granted by the applicant. Upon voice vote, motion carried. Upon voice vote, motion carried.

Waukesha County updates by Supervisor Mommaerts –Supervisor Mommaerts reported that the County Board has been working on their capital budget program, which is more than six hundred (600) pages. She explained that public works is expensive to maintain. Snowplowing is a huge expense. The County is going with a brine solution for the roads this year costing \$200,000. Supervisor Mommaerts reported that the Town of Eagle is last on the County’s list for getting our County roads plowed. County Roads ZC and CI only get plowed every four (4) hours. Supervisor Mommaerts reported that she is currently working with a resident regarding a cemetery issue and has also been working with the Register of Deeds Office.

Mukwonago River Initiative (MRI) by Commissioner Lewis – No report.

Set date for special meeting to review proposed zoning code revisions – It was the consensus of the group to hold a special workshop on Thursday, October 15, 2020 at 6:30 P.M.

Adjournment by Plan Commission – A motion was made by Commissioner Mann, seconded by Supervisor Mommaerts to adjourn the Plan Commission Meeting at 9:20 P.M. Upon voice vote, motion carried.

TOWN BOARD ONLY:

Report on any alleged or outstanding violation(s) –

W377S10780 Betts Road, Scott Woeckner and Diane Bush – Planner Schwecke explained that he has copies of all their registrations and titles and will be going out to conduct another site-inspection. He stated that he will report back his findings

W367S9594 South Road, Erica and Zachary Mallory – Planner Schwecke explained that a site inspection was conducted on September 30th.

Complaint on CTH NN – Planner Schwecke reported that a complaint has been received for a property on CTH NN.

The certified letter that was sent to the property owner was received but he has not heard from the property owner. If the property owner does not respond, the process for a special inspection warrant begins.

Chairman Malek announced that the Board may convene into closed session pursuant to Wis. Stat. 19.85 (1)(g) for the purpose of conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved. Topic for discussion. Erica and Zachary Mallory Non-Compliance. Upon conclusion, the Board will reconvene into open session to take any action required to be taken in open session.

A motion was made by Supervisor West, seconded by Supervisor Muth to convene into closed session pursuant to Wis. Stat. 19.85 (1)(g) for the purpose of conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved. Topic for discussion. Erica and Zachary Mallory Non-Compliance. Upon roll call vote: Chairman Malek – aye; Supervisor Mommaerts – aye; Supervisor Muth – aye; Supervisor Suhm – aye; Supervisor West – aye. Motion carried.

A motion was made by Supervisor Mommaerts, seconded by Supervisor Suhm to reconvene into Open Session at 11:05 P.M. Upon roll call vote: Chairman Malek – aye; Supervisor Mommaerts – aye; Supervisor Muth – aye; Supervisor Suhm – aye; Supervisor West – aye. Motion carried.

A motion was made by Supervisor West, seconded by Supervisor Muth to authorize Town Attorney Alexy to send a response letter consistent with what was discussed in closed session. Upon voice vote, motion carried 5-0.

A motion was made by Supervisor Muth, seconded by Supervisor Mommaerts to adjourn the Town Board Meeting at 11:07 P.M.

Lynn M. Pepper
Eagle Town Clerk