



Planning & Zoning Commission
Held Jointly with the Town Board In-Person & Via Zoom
April 5, 2021
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 Kwiatkowski, Lewis, Mann, and Roberts were present. Staff present: Town Planner Schwecke and Town Clerk Pepper. Also present from Waukesha County Land Use Planner Jacob Heermans. Also, present: Jenny Benjamin, Erica Brewer-Mallory, Tom Day, Pete Jensen, Diane Knauer, Wendy Konichek, Randy Mielke, Judy Rozinski, JR Rupinski, Molly Schneider, Sandra Shorr, and Diane Zakrzewski, also Deb, I-Pad, and Mojo.

Minutes – A motion was made by Commissioner Lewis, seconded by Supervisor West to approve the minutes of March 1, 2021, March 24, 2021, and March 31, 2021. Upon voice vote, motion carried 7-0. A motion was made by Supervisor West, seconded by Supervisor Muth to accept the recommendation of the Planning & Zoning Commission. Upon voice vote, motion carried 5-0.

Public Comment – Barb Pinekenstein, W345 S10489 CTH E stated that she is in favor of the Eagle Spring Lake Management District’s request for a conditional use to store a truck on their property to facilitate weed removal.

Randy Mielke, S83 W35258 Westwind Dr spoke on item #8 in the deed restrictions for Royal Aire Estates, specifically 5.10. He asked that that it be modified to get rid of incandescent lights and allow for LED lights instead.

Erica Brewer Mallory, W367 S9594 South Road questioned the language used in the motion that was made at the first public hearing of March 24th adjourning the meeting to the 31st of March. She commented on her perception of limiting public speech by not allowing those who spoke at the first meeting speak at the continuation of the first meeting. Regarding the public hearing tonight, from what she understands, Eagle is exempt from Waukesha County Zoning. If that is the case, then this property would be in RR zoning. She explained that others parked and screened their vehicles and ended up facing penalties. She also asked how to get items on the agenda.

Recommendation to Waukesha County regarding a conditional use application for property (W344S10505 CTH E) located in County shoreland jurisdiction, Eagle Springs Lake Management District, applicant (application 2021-07) – Chairman Malek explained that Waukesha County is looking for a recommendation from the Town of Eagle on this application. Ultimately, it is the County’s decision since the property lies in their jurisdiction.

Jacob Heermans, a staff representative with Waukesha County Parks & Land Use opened the public hearing at 6:41 p.m. Anyone who would like to comment should state their name and address for the record. Mr. Heermans read the notice into the record as follows:

Notice is hereby given that a Joint Public Hearing will be held by the Town of Eagle Plan Commission and a Staff Representative of the Waukesha County Department of Parks and Land Use – Planning & Zoning Division, on Monday, April 5, 2021 at 6:30 p.m. at the Eagle Town Hall, located at 820 E. main St., Eagle WI , to consider the Conditional Use request (CU52) of Peter R Jensen on behalf of the Eagle Spring Lake Management District, PO Box 196, Eagle WI 53119. To allow year-round parking/storage of a utility dump truck on the property for the transportation of cut aquatic growth from lake harvesting operations and/or the delivery of emergency supplies. The subject property is described as Outlot 1 of Certified Survey Map No. 9679, part of the NW ¼ of Section 36, T5N, R17E, Town of Eagle. More specifically, the property located at W344 S10505 CTH E, Mukwonago WI 53149 (Tax Key No. EGLT 1870.953.003)

Mr. Heermans explained that this property has a history of conditional use permits and site plan/plan of operations. The most recent was in 2016 for two (2) weed harvesters; one truck; and one shore harvester, conditioned that it would only be on the property between April 1st through September 30th each year. This new application is asking for year-round parking of the utility dump truck. The applicant is proposing to park the vehicle on the north side of the property. The shoreland requirement calls for a minimum of ten (10) feet from the lot line. The current location would not conform to that. The applicant is willing to move the vehicle to a conforming location and is willing to landscape or screen the area so the truck will not be visible from the roadway.

Eagle Spring Lake Management District (ESLMD) Chairman Pete Jensen explained that he submitted the application on behalf of the Eagle Spring Lake Management District. ESLMD Chairman Jensen explained that the Lake Management District purchased the utility vehicle to move the cut growth from the harvesting equipment at the Kroll Outlet and to move emergency equipment and supplies such as fire pumps, oil spill equipment, and sandbagging equipment.

Clerk Pepper read an email from Mary Koeper dated March 6, 2021. Ms. Koeper recognized the need for the quick removal of weeds and supports the decision to park a truck next to the weed cutter.

Dale Brugger, W344 S10519 Island View Ln stated that he was also in support of the application.

In response to Erica Brewer Mallory's question, Mr. Heermans stated that the notice was published in the Waukesha Now.

Commissioner Lewis asked Mr. Heermans to address the comment regarding the opinion that the Town was exempt from Waukesha County. Mr. Heermans explained that areas that fall within one thousand (1,000) feet of a lake or pond or three hundred (300) feet of a river or stream are in Waukesha County Floodland/Shoreland Zoning Jurisdiction. This parcel, zoned P1 Public Institutional, falls within this jurisdiction.

A motion was made by Commissioner Lewis, seconded by Commissioner Roberts to recommend to the Town Board approval of the application subject to suitable parking and suitable screening. 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.

A motion was made by Commissioner Lewis, seconded by Commissioner Mann to close the public hearing at 6:55 p.m. Upon voice vote, motion carried.

Review of development agreement for Royal Aire Estates subdivision located on east side of Sprague Road (EGLT1826998004); Camtec Inc, applicant (Diane Zakrzewski, agent); (application 2021-05) – Planner Schwecke reported that the Town Attorney has looked at the developers agreement. Approval will be subject to final approval of the Town Attorney and the Town Engineer. Planner Schwecke referred to number 14 on page 9. He explained that he spoke with Attorney Alexy on this, and this is part of a template that was drafted back in 1990 and is more of a policy question. What it says is that you cannot have more than four (4) active building permits at one time. His recommendation is to remove the underlined section.

Commissioner Lewis said that this could be limited to the developers for their models, not for the new property owners. Commissioner Roberts agreed. Planner Schwecke responded that some developers do the construction and then sell the property. Commissioner Lewis suggested leaving it as written, so there are not several houses for sale at one time **by the developer**. She suggested that this be approved as drafted, subject to final review.

Commissioner Kwiatkowski questioned the financial guarantee. He asked how taxpayers are going to be protected in the event of a default. Will there be enough money to finish the project? He explained that the Letter of Credit must automatically be renewed until the project is completed. Planner Schwecke explained that if the developer moves the dirt and then stops the project, the Town could use the Letter of Credit to stabilize the property and bring it back to its original state. If the developer proceeds with the development and only puts the first lift on, then the Letter of Credit could be used for the final lift. The taxpayers would not be on the hook for anything. Commissioner Kwiatkowski described the situation the Town had on Saddleridge Drive where the properties on the road were special assessed for a second lift.

Developer Diane Zakrzewski asked who was responsible for paying the conversion tax. Planner Schwecke replied that State Statute states that the developer pays the fee. As far as the developer permits, she is okay with that.

A motion was made by Commissioner Lewis, seconded by Commissioner Mann to recommend to the Town Board approval of the Developers Agreement subject to completion of the agreement with the preliminary plat and the description at the back that are currently blank; and subject to final review and approval of the Town Attorney and the Town Engineer; and subject to completion of dates that were highlighted and possibly tentative adding something that puts the burden of the renewal or at least notification of the expiration of the Letter of Credit on the developer. Upon voice vote, motion carried 7-0. 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 5-0.

Supervisor Suhm had a question on page 11 where the developer opted to pay the impact fee. Planner Schwecke replied that the Town has an impact fee ordinance for each lot. Developers have the option of providing open space instead.

Review of deed restriction for Royal Aire Estates subdivision located on east side of Sprague Road (EGLT1826998007); Camtec Inc, applicant (Diane Zakrzewski, agent) (application 2021-08) – Planner Schwecke explained that the applicants tried to follow the deed restrictions of the subdivision to the north, Jericho Corners. He explained that he did not verify to what extent the proposed draft mirrors Jericho Corners. He explained that what the Town does not want to do is to be drawn into is enforcement of the deed restrictions.

Chairman Malek explained that the Town is looking for restrictions that are consistent or transitional to the neighboring subdivision. Developer Zakrzewski stated that they followed the deed restrictions of Jericho corners.

Supervisor Muth commented that these are three (3) acre minimum lot sizes, and all qualify for having animals. The number of allowable animals falls back onto the Town code.

Commissioner Roberts, who resides in Jericho Subdivision stated that this document follows Jericho Corners Subdivision's deed restrictions closely. This document addresses animals, which is different from theirs and is handled well. Another difference is the allowable size of the outbuildings.

Commissioner Roberts suggested for those future homeowners who are purchasing properties that are located within the Environmental Corridor or Shoreland District, that they be given the restrictions in advance of purchasing the lot, so they know what is expected.

Some points were raised regarding a few suggested changes to the restrictions. Supervisor West suggested rather than incandescent lighting, LED lighting should be listed instead. Commissioner Lewis suggested taking out the type of light since it is shielded and downward.

A motion was made by Commissioner Kwiatkowski, seconded by Commissioner Roberts to table for the developer to come back with the second draft. Upon voice vote, motion carried 7-0.

Waukesha County Updates by Supervisor Mommaerts –No report.

Mukwonago River Initiative (MRI) by Commissioner Lewis – Commissioner Lewis reported that the local Nature Conservancy office has new staff, Ashley Flor in the office, and Brian Miner as the new land steward. Pam Meyer reported that the Friends of the Mukwonago River received a DNR Forest Weed Management grant for the watershed, with which they funded projects by 18 landowners (covering 35 acres total). Peter Duerkopp, DNR property manager for Lulu plus more, is trying to bring more Landowner Incentive Program (LIP) grants in our area. Laurie Lawlor reported that the Booth Lake Management District has officially withdrawn their proposal to drain excess water, thru a pipe under the Girl Scout camp, into Pickeral Creek. Jayne Jenks is continuing to work on training for the state "Salt Wise" program, to minimize salt pollution from road run-off. The Kettle Moraine Land Trust is continuing to offer a variety of programs, remotely and in-person outdoors.

Upcoming Meetings –The next regular meeting will be held on Monday, May 3, 2021, if needed.

A motion was made by Commissioner Mann, seconded by Commissioner Kwiatkowski to adjourn the Planning & Zoning Commission Meeting at 7:49 P.M.

TOWN BOARD ONLY:

Request of Sandy Shorr for permission to spearhead a "cemetery clean-up project" at the Oak Grove Cemetery and for permission to enter the property to conduct the clean-up – Sandy Shorr explained that she would like to have the clean-up completed by May 15th, the date for the Town yard waste drop-off event at the Town Park. There is quite a bit of debris, downed branches and leaves and some headstones have fallen over. She stated that she hopes to enlist the help of a scout troop that is possibly working on earning a badge or an Eagle Scout working on their Eagle project. She stated that

she is asking for permission to move forward with the clean-up. Supervisor Mommaerts added that the state resurfacing project is aware of this proposed project.

A motion was made by Supervisor West, seconded by Supervisor Suhm granting Sandra Shorr permission to spearhead a cemetery clean-up project, including re-marking gravesites. Upon voice vote, motion carried 5-0.

A motion was made by Supervisor West, seconded by Supervisor Suhm to adjourn the Town Board Meeting at 7:56 P.M.

Lynn M. Pepper, Eagle Town Clerk