



TOWN OF EAGLE  
Planning & Zoning Commission  
Held Jointly with the Town Board  
July 5, 2016  
Approved Minutes

Chairman Kwiatkowski called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

Present: Chairman Kwiatkowski; Supervisors Davis, Malek, Rasmussen and West; Commissioners Anderson, Lewis, Mann, and Samuels. Also present: Town Planner Schwecke.

Approval of Agenda – A motion was made by Supervisor Malek, seconded by Commissioner Samuels to approve the agenda. Upon voice vote, motion carried.

Minutes – A motion was made by Supervisor Malek, seconded by Commissioner Mann to approve the minutes of May 2, 2016, as corrected. Upon voice vote, motion carried. A motion was made by Supervisor Rasmussen, seconded by Supervisor Malek to accept the recommendation of the Planning & Zoning Commission. Upon voice vote, motion carried.

Stasik, Michael and Lorie – Request for a Conditional Use Permit for a “Mother-in-Law” Unit – Planner Schwecke referred to his staff report dated June 30, 2016. The property at W369 S10660 Shearer Road is 4.1 acres and is zoned A-3. The proposed floor area of the in-law unit is less than 900 sq. ft. Planner Schwecke explained that the Planning & Zoning Commission and Town Board need to consider whether the proposed use is consistent with the purpose of the A-3 zoning district. In addition, the Planning & Zoning Commission needs to determine that the six (6) standard conditions exist. Planner Schwecke explained that should the Planning & Zoning Commission and Town Board approve the request, a proposed conditional use was included in their packets. Lastly, Planner Schwecke stated that the notice of public hearing was published on June 15 and June 22, 2016. Notices were sent to neighbors within 300 ft.

Chairman Kwiatkowski opened the public hearing at 7:06 P.M.

Amy Kinosian, S108 W37560 Draper Road explained that there are currently two (2) in-law units in the vicinity. The first unit is located on Shearer Road, where there used to be a Christmas tree farm. The second unit is on Draper Court. Given that the current in-law units in the area have had no issues, Ms. Kinosian stated that she does not object to the request.

Dan Treutelaar, W370 S10667 Shearer Road stated that he does not object to the request.

After hearing no public comments, a motion was made by Supervisor Malek, seconded by Commissioner Mann to close the public hearing at 7:08 P.M. Upon voice vote, motion carried.

In response to Commissioner Lewis, Chairman Kwiatkowski stated that this property is the old farmstead. All of the buildings on the property have been torn down.

A motion was made by Commissioner Samuels, seconded by Commissioner Anderson to approve the in-law unit as a conditional use based on the findings in sec 3.08(1) of the zoning code, subject to the conditional use order date June 30, 2016. A question was raised regarding the ending date of the conditional use order. Planner Schwecke stated the conditional use approval is personal to the property owner and shall not be transferred to a subsequent owner of the subject property, except upon approval of the Town Board. In response to Commissioner Malek, Planner Schwecke explained that, in regards to protection against the property becoming a rental property, the order is set-up that the unit shall not be rented or occupied by anyone outside of the family who is not related by blood or marriage. In addition, the only entrance into the in-law unit is through the main entrance of the house. Upon voice vote, motion carried. A motion was made by Supervisor West, seconded by Supervisor Malek to accept the recommendation of the Planning & Zoning Commission. Upon voice vote, motion carried.

Stasik, Michael and Lorie – Site Plan Approval Request – Planner Schwecke referred to his staff report dated June 30, 2016. Planner Schwecke stated that the site plan depicts the proposed location of the buildings on the property. In response to Chairman Kwiatkowski, Applicant Lorie Stasik stated that their intent is to enter the property off of Shearer Road, where the existing driveway is located.

A motion was made by Commissioner Samuels, seconded by Supervisor Malek to approve the site plan. Upon voice vote, motion carried. A motion was made by Supervisor Rasmussen, seconded by Supervisor Malek to accept the recommendation of the Planning & Zoning Commission. Upon voice vote, motion carried.

Land Division Ordinance Rewrite – Chairman Kwiatkowski explained that Commissioner Lewis submitted a draft of the Mukwonago River Initiative (MRI) subcommittee's ideas, which could be incorporated into the Town's code, if we so choose. Chairman Kwiatkowski explained that Commissioner Lewis also located infill language that the Zoning Text Review Committee had discussed previously, regarding the number of unbuilt subdivision lots before new subdivisions could be started.

Planner Schwecke reported that the draft ordinance was sent to the Town Attorney for review. Attorney Alexy suggested using a code format, rather than using an ordinance. The content either way remains the same. Planner Schwecke explained that before the Planning & Zoning Commission and Town Board tonight is "Chapter 480, Land Division and Development Control Code." Chairman Kwiatkowski added that the Town Board will be working on putting all Town Ordinances into this format.

Planner Schwecke stated that an advantage to using this format is the ability to amend a section of the code, without the need for publishing it in its entirety. The revised version would have to be available in the office fourteen (14) days prior to the public hearing. Discussion followed regarding the efficiency of the new format, without losing anything in translation.

Planner Schwecke stated that the topic tonight is proposed Chapter 480. Planner Schwecke explained that the Town Attorney made some recommendations/revisions, some of which are policy related. Planner Schwecke stated that the proposed "Purpose" section of the proposed code is mirrored to state statute.

Commissioner Lewis explained that the Mukwonago River Initiative will be recommending incorporating some local ordinance language for the protection of the river system but so far only has discussion drafts. Nevertheless, Commissioner Lewis recommends incorporating some of these ideas in our purpose statements. Commissioner Lewis explained that she believes that Attorney Alexy has incorporated our

previous purpose statements in the first two (2) paragraphs but she has did not have enough time to try to correlate them with the MRI's draft.

In response to Chairman Kwiatkowski, Planner Schwecke went on to explain that there are some differences with the MRI ideas however the substance of the document that is used to regulate and control land activity will not change. Purpose statements are there to explain why the regulations were adopted; what the provisions are intended to do. In response to Commissioner Lewis, Chairman Kwiatkowski stated that Town Attorney Alexy seems to have already covered the language that Commissioner Lewis is requesting.

Discussion ensued regarding erosion control, sedimentation, and what is considered pollution in a farming industry. Chairman Kwiatkowski stated that the Town has no control over the lands around the river or the headwaters. These lands are governed by the Department of Natural Resources (DNR), Waukesha County or the Nature Conservancy. Planner Schwecke added that Waukesha County administers Shoreland/Floodland regulations. The Town's Land Division Ordinance regulates the entire town.

Supervisor Malek questioned how many layers are really needed. Commissioner Lewis explained that their proposed language is not meant to add a layer; it is simply to clarify the purpose.

Planner Schwecke reviewed and discussed with the Planning & Zoning Commission and Town Board the language suggestions from the MRI draft. Planner Schwecke stated that the Land Division Code addresses the rural atmosphere of the Town. In regards to erosion and sedimentation control, the Town already has an Erosion Control Ordinance, as well as a Stormwater Management Plan. Regarding green development and infrastructure, Planner Schwecke explained that there is not anything specific to address it. In regards to adequate light, air, and water, these are addressed. In regards to secure safety and resiliency from disastrous storms, Planner Schwecke explained that there is not anything specific to address it.

Discussion ensued regarding promoting conservation, protection and proper development. Planner Schwecke explained that the MRI's draft language for this is good and could be implemented into the text. Discussion followed regarding Planned Unit Developments or P.U.D.'s, which are dictated by zoning. Chairman Kwiatkowski stated that the Town needs to protect its natural resources. The Town does not have community wells or sewer mains. This community is designed to be a rural area with larger lot sizes. It was the consensus of the group to include the MRI's drafted language regarding promoting conservation, protection and proper development into the proposed code.

Planner Schwecke explained that Town Attorney Alexy added some language to add some flexibility regarding oversized lots. In response to Commissioner Mann, Chairman Kwiatkowski stated that smaller lots can be made out of a larger one provided they applicant complies with all of the requirements to make the divisions. The Town can also place restrictions on the division.

Planner Schwecke explained that Town Attorney Alexy referenced an ordinance number on page 23. On page 29, under (N) Flag Lots, Town Attorney Alexy added the words "relating to topography and environmental constraints". Discussion followed.

Supervisor West questioned the proposed definition of "Minor land division". Planner Schwecke responded that the definition mirrors state statutes. Discussion followed regarding minimum lots sizes and how many divisions are permitted within a five (5) year period. Based on the discussion, Planner Schwecke stated that he will find out if the Town can supersede the state statute language by stating a three (3) acre minimum rather than one and one-half (1 ½).

In response to Supervisor West, Planner Schwecke stated that state statute allows adjoining property owners to walk in to the Register of Deeds Office and record any land transaction between them. The Register of Deeds Office has an obligation to record the document, whether or not the document is legal. The new language that is being proposed will require the adjoining property owners to have the document reviewed by the Town, prior to recording. This way the Town can determine if the land transfer meets the requirements of the zoning code.

Chairman Kwiatkowski explained that back in 2009, when the Town had a different Town Planner, the Zoning Text Review Committee discussed allotment language for unbuilt lots. Previous ordinances had limited subdivision development as there were many unsold and vacant lots in the Town. Discussion followed regarding the current number of vacant subdivision lots, acceptance of the roads, and the cost to maintain them. The language that the Zoning Text Review Committee considered stated that the infill number would be based off of the number of unbuilt lots in developments that have been completed in the preceding five (5) years. Commissioner Lewis added that the prior language was put it when the Town was going through rapid growth. Discussion ensued regarding final authority. Chairman Kwiatkowski stated that the language will reflect that approval of the Planning & Zoning Commission is required, with final approval by the Town Board. Discussion of infill continued. Supervisor West cautioned that requiring a certain number of lots to be sold prior to allowing another subdivision could force ones hand if that property already abuts the village. Planner Schwecke suggested moving forward with the proposed code at this time. Allotment language could be added later, as Article 15 – Residential Allotment System (reserved).

A motion was made by Supervisor Davis, seconded by Supervisor Malek to schedule the public hearing for the proposed Land Division Code, as amended tonight, for Monday, August 1, 2016. Upon voice vote, motion carried. A motion was made by Supervisor Rasmussen, seconded by Supervisor Malek to accept the recommendation of the Planning & Zoning Commission. Upon voice vote, motion carried.

Zoning Code Update – Planner Schwecke explained that the Planning & Zoning Commission and Town Board sent the topic of “agri-tourism” to the Zoning Text Review Committee for review. The committee met, reviewed the draft and made some changes. Page 500-29 lists the proposed different land uses and their definitions. Page 500-129 shows the matrix with agri-tourism carried forward. Planner Schwecke stated that it shows the districts in which the use may be allowed by conditional use. Nothing will be permitted by right.

Planner Schwecke explained that the development standards for each of the different standards can be found on page 500-156. A certain number of acres will be required in order to apply for a conditional use for each certain land use. Chairman Kwiatkowski added that the operator must reside in a residence on the property.

A motion was made by Commissioner Samuels, seconded by Commissioner Anderson to incorporate “Agri-Tourism” into the proposed zoning code. Upon voice vote, motion carried. A motion was made by Supervisor West, seconded by Supervisor Malek to accept the recommendation of the Planning & Zoning Commission. Upon voice vote, motion carried.

Planner Schwecke reported that he distributed a staff report that relates to adult establishments and secondary effects. Town Attorney Alexy recommends that the Planning & Zoning Commission and Town Board thoroughly read, understand, and attest that they are adopting these regulations with consideration of the secondary effects.

Mukwonago River Initiative – No report.

Chairman's Report – Chairman Kwiatkowski reported that property owner Annalyse Victor was served a summons and was required to respond within twenty (20) days. Ms. Victor called and was directed to contact the Town Attorney. Town Attorney Alexy advised Ms. Victor to hire an attorney. Ms. Victor responded to the summons without legal counsel. Chairman Kwiatkowski reported that Town Attorney Alexy found that the response was insufficient and is moving ahead with requesting a judgement. The property owner has claimed that the previous owner, the realtor, and the Town said it was okay to operate a trucking business on their residential property. Chairman Kwiatkowski stated that the business, Victor Trucking continues to be operating on the property, at all times of day and night. Neighbors have been complaining on the noise, traffic, and ground vibrations. Chairman Kwiatkowski reported that he visited a neighboring property and witnessed the activity himself.

Recommendation for Future Agendas – None.

Citizen Comments – Tom Day, W350 S10115 Highview Road explained that he left last week's joint meeting frustrated and disappointed with regards to the library. Mr. Day explained that, in his opinion, communities are defined by two (2) things, schools and libraries. The current library board, as well as former library boards has struggled with what the library has now. There is a wide distribution of people that use the library. Mr. Day stated that the Village Board and the Town Board should keep the "process" going. Let the residents vote. Mr. Day explained that he asked to be on the Village's agenda on July 14<sup>th</sup> to ask them to let the process proceed and is requesting to be placed on the Town Boards agenda for July 20<sup>th</sup> for the same.

A motion was made by Supervisor Malek, seconded by Commissioner Samuels to adjourn the meeting at 8:48 P.M. Upon voice vote, motion carried.

Lynn M. Pepper, Eagle Town Clerk