

PLAN COMMISSION MINUTES

August 10, 2015

CALL TO ORDER: Chairman Wolter called the meeting to order at 6:38 p.m.

ROLL CALL: Chairman Dean Wolter, Trustee Representative David Baum, Commissioners Mary Ellen Gray, Bill Shadid, Peter Nilles and Tony Laszewski were present. Commissioner Tim Yokes was absent and excused. Village Planner Jeff Retzlaff and Planning Assistant Lori Johnson were also present.

PUBLIC INPUT: The following residents spoke:

-Dick Kent, N114 W15920 Hilbert Lane, commented on the sequence of the agenda and asked that it be adjusted to define the parameters.

-Paul Mraz, N132 W14879 Rockfield Road, asked for clarification on the Saxony Village rezoning proposal and said he did not support the development.

-Jenine Eilers, W163 N11504 Windsor Court, said she was opposed to the Saxony Village proposal and feels it will not attract higher end renters because of the close proximity to the train tracks and land contamination issues. She wants the area to remain vacant.

-Art Zabel, N97 W15737 Burr Oak Road, explained that he interprets Rm-2 zoning to not allow the use of wetland, flood way or flood fringe to be used as part of the total coverage for lot area. He said he believes it is defined in the code and feels it's wrong to include that land as total buildable area under the Planned Development District zoning.

-Nicky Broetzmann, W163 N11502 Windsor Court, spoke against the Saxony Village proposal.

PREVIOUS MINUTES: ***MOTION Baum second Shadid to Approve the minutes from 7-13-15.***

MOTION carried unanimously.

Enterprise Rent A Car – W190 N10953 Kleinmann Drive. The applicant is seeking approval of a monument sign for the existing rental car facility. Planner Retzlaff summarized the proposal.

MOTION Shadid second Baum to Approve the proposed monument sign for the Enterprise Rent-A-Car facility located at W190 N10953 Kleinmann Drive subject to the following conditions:

- 1. Electrical permits shall be obtained from Inspection Services prior to installation;***
- 2. All electronic components shall be inspected and labeled by a licensed lab;***
- 3. The nearest point of the monument sign (not just the base) shall meet a minimum setback of five (5) feet from all property lines.***
- 4. A revised landscaping plan meeting the minimum requirements of the Village sign regulations shall be prepared and submitted to the Village Planner for final approval prior to issuing any building/electrical permit. Said plan shall show the proposed location of the plantings, limits of the sign and nearest property line. Said plan shall include a table/list of the type, quantity and size at the time of planting. The minimum planting size should be 24" or 5 gal. for the evergreen shrubs and min. 2 gal. for the perennials.***

MOTION carried unanimously.

Bielinski Homes Inc. – Wasaukee Road North of Prairie Glen Subdivision – Request for approval of a Revised preliminary subdivision plat and final plat for Prairie Glen II, a 15-acre, 16-lot residential development located adjacent to and north of the Prairie Glen Subdivision on Wasaukee Road. Planner Retzlaff summarized the proposal.

Discussion followed regarding the stub water main extension. Planner Retzlaff said the Water Utility Superintendant forewarned that water quality may not be the best if a loop system is not used. The current residents at the end of Sawgrass Lane have the stub connection now, but it is unknown whether or not there is a legitimate water quality issue there today.

MOTION Baum second Laszewski to Approve the preliminary subdivision plat, final subdivision plant, construction plans and landscaping/street plan for the 15-acre, 16-lot Prairie Glen II residential subdivision on Wasaukee Road subject to the following conditions:

- 1. Developer shall enter into a Development Agreement with the Village pursuant to the Prairie Glen North PDD Conditions & Restrictions resolution (Res. No. 04-14) and Section 18 of the Village Code (Subdivision and Platting) regarding the requirements and other provisions set forth in Res. No. 04-14, as well as, the preparation of detailed plans for the installation of public utilities and improvements including, but not limited to public street and intersection improvements, sanitary sewer, storm sewer & storm water management facilities, water main, master grading and erosion control, berming, sidewalks & trails, landscaping & street trees, open space, lighting and signage.***
- 2. The construction plan set dated June 8, 2015 (revision date) is approved subject to all of the technical corrections and other items set forth in the Village Engineer's July 13 and July 14, 2015 review comments that shall be addressed in a final Development Agreement.***
- 3. The landscape plan set dated July 15, 2015 (revision date) is approved with the timing of installation of the street trees and open space landscaping to be determined as set forth in the Development Agreement.***
- 4. All easements shown on the preliminary and final plats must be specified as either "public" or "private".***

MOTION carried unanimously.

MOTION Baum second Shadid to go to Item D next on the Agenda.

MOTION carried unanimously.

Community Development Department – Discussion of Planned Development District (PDD) density provisions and the definition of net and gross density and lot size. Planner Retzlaff said the Village Board has directed the Plan Commission to discuss concerns regarding language pertaining to residential density provisions in the base zoning district regulations. He said there is a lack of a clear definition and methodology for calculating residential net acre or net density terms which are used commonly and interchangeably when talking about density provisions. After discussion, the Plan Commission should come up with a clear definition of net acre and other related terms so it's clear how the calculation of residential density and net acres are to be done within the context of the zoning code. He explained how each zoning district has a list of bulk regulations and allowed uses. Each district also has a narrative statement that indicates the general intent and lists the type of development and

density that is allowed. The statement, use list and bulk regulations in each district effectively determine the type of development allowed. He said the basic equations for calculating residential density and the number of dwelling units allowed is simplistic. The key component is land area. But how to define land area and what features are allowed to be used in that calculation need to be discussed. Features such as public rights of way, dedications, wetlands, floodplains and environmental corridors are features that may or may not be included in the total land area used for calculating density. He stated that his interpretation of the term net acre is gross area less any public dedicated lands. Plan Commission should discuss and come up with a clear definition of the terms. A lengthy discussion followed.

Trustee Zabel read from the Rs-1 and Rs-2 zoning code stating at the bottom of lot and building requirements "When lands in the Shoreland wetland, floodway or flood fringe district lie adjacent to lands in the Rs-1 District and under the same ownership, up to 60% of the land may be used to meet lot area requirements". In Rm-2 and the other codes it's silent. He said the code is all inclusive and if it states you're allowed to do it and if it doesn't state it you're not allowed to do it. Trustee Baum asked Trustee Zabel that his position is because there is an absence of this type of statement in any other zoning district, it is not allowed. Trustee Zabel agreed saying the code is written to be all inclusive and if it's not written it should not be all inclusive. Trustee Zabel stated that a previous attorney has confirmed his interpretation. Trustee Zabel said his interpretation is different from how the Village Planner interprets the code.

Planner Retzlaff said the attorney has told him that his interpretation, given the language or lack there of, is a reasonable interpretation of the code. He said the Board of Zoning Appeals is the formal process for appealing his interpretation. He said if the Village Board and Plan Commission feel his interpretation is incorrect, he doesn't have a problem with that. But technically, it is the Board of Zoning Appeals that is responsible for determining the correct interpretation.

Commissioner Laszewski said it comes to a definition of net. Planner Retzlaff said the Commission should come up with a clear definition for the future and decide if certain features should be excluded. He said personal and professional opinions vary and questioned if some development potential should be excluded because of wetland and easements and how development in a floodplain should be restricted. He said someone may file to go to Board of Zoning Appeals to decide if his interpretation is correct or Plan Commission can make a recommendation to the Board of Zoning Appeals to appeal his interpretation. He said Plan Commission's decision tonight has no effect on the Saxony Village proposal because the development applications were submitted before the code could change.

Commissioner Gray said she needs a better understanding of net and gross and more discussion about the pros and cons of including or excluding certain qualities before making a decision. Commissioner Laszewski agreed saying there are too many variables. Trustee Zabel said he feels the density allowance for a Planned Development District should go with the underlying zoning district. Trustee Baum said this is contrary to his experience because a Planned Development District establishes its own rules and involves negotiations for additional amenities. He said he would use the amenities in exchange for a development to have a higher density. Trustee Zabel disagreed. Discussion continued. Chairman Wolter said he would like to see a definition of what net and gross are. Trustee Baum said each zoning district

could have something different and there is a lot more discussion needed to clearly define net and gross.

MOTION Baum second Shadid to Table this item until Planner Retzlaff brings forward a clear definition of what other communities around us are using for net and gross density.

MOTION carried unanimously.

JB Development for Heritage Place Joint Venture, MCB Investments LLC and Jacobus Energy/Land 15 LLC -23.7 acres on Main Street (approximately N116 W16200) east of Lake Park East Condominiums and west of Oakwood Village Condominiums. The property owners have submitted a Planned Development District (PDD) Rezoning application (B-3 to Rm-2) for a 190-unit multi-family residential development called Saxony Village on 23.76 acres and a Conditional Use Permit application for a wetland fill (wetland& navigable stream crossing). Planner Retzlaff summarized the proposal.

MOTION Baum second Laszewski to Approve the proposed rezoning of Parcel II (1.33 acres) and Parcel III (.872 acres) from the B-3: General Business Zoning District to the Rm-2: Multi-family residential Zoning District subject to the following:

- 1. All requirements and conditions of approval recommended by the Public Works Department/Village Engineer (see July 28 and April 24, 2015 review memos) and Fire Department (see July 30, 2015 review email) shall be addressed as part of the detailed site development and building plan process.***
- 2. A traffic impact study shall be prepared and submitted for review and approval by the Village prior to or concurrent with submission of detailed site development and building plans. At a minimum, said traffic study shall assess the impact of, need for and minimum on-site and off-site street improvements necessary to provide safe and efficient vehicle and emergency vehicle access via internal street connections to Castle Drive, Hilbert Lane and/or Main Street.***

Planner Retzlaff explained a concept plan is required as part of the rezoning application so there is a better understanding of what the development could be like. If a Planned Development District is created, that particular site plan comes with an adopted general development plan that locks in the future development.

MOTION carried unanimously.

Trustee Baum questioned how the density was calculated.

MOTION Baum second Gray to Approve the Conditional Use Permit to allow the proposed wetland fill and development within the 25' wetland and 75' navigable stream setback areas as presented in the application exhibits and Mitigation Plan (dated August 5, 2015) pursuant to Section 24.04 of the Shoreland-Wetland Zoning Code and subject to the following conditions:

- 1. As part of the site development and building plan review process, the Developer shall: (1) make every attempt to further limit development within the 25' wetland and 75' stream setback areas; (2) update the calculations and presentation of the***

impacted wetland, wetland setback and stream setback areas on the final site plan (only Site Plan A is presented in the CUP application); and (3) update the Mitigation Plan prior to final consideration of the CUP application by the Village Board.

- 2. CUP approval shall be contingent upon the Developer obtaining any/all permits or approval required by the WI DNR and ACOE. In the event that DNR and/or ACOE permits/approvals are not issued, Village CUP approval shall become null and void.***
- 3. The applicant shall prepare and submit an annual monitoring report to Village staff concerning the various management activities proposed in the mitigation plan, including the installation of native grasses and plantings within disturbed setback areas. Said report shall, at a minimum, detail the type and amount of plantings and all activities carried out in the previous year, the observed success of previous activities, recommendations for new or different activities needed to ensure success of the mitigation measures and management activities carried out, and the planned activities for the coming year. Said report shall be submitted annually at the end of each year beginning with the calendar year following the year during which construction activities have commenced, and, continuing annually thereafter for three (3) years.***

Trustee Baum said something will be developed here and the access is needed. Planner Retzlaff clarified that option A goes with the straight B-3 to Rm-2 zoning and no PDD. The development of a PDD provides the ability to go to 3 story buildings without development in the southeast corner and removal of the Stormwater basin. Chairman Wolter said the CUP approves the process of building in the wetland for road access. He said the zoning change as proposed, B-3 to Rm-2 multi-family zoning district approves plan A which is 6 buildings at 2 stories and development of a Stormwater basin. He said locating a Stormwater basin in this plan would eliminate the need for a creating one when Main Street properties are developed further in the future.

MOTION carried unanimously.

Planner Retzlaff discussed the PDD option that would allow a 3 story building option. He said the developer has not presented any potential elevations or architecture that might weigh in on the Plan Commission's decision regarding 2 versus 3 story buildings. He stated that under the Rm-2 zoning district the maximum height allowance is 45 feet and the number of stories allowed is 2. If 3 stories were allowed, the building height maximum would still be 45 feet tall. He asked Commissioners if they want to consider 2 versus 3 stories in terms of appearance and architecture, before they completely vote on it one way or the other.

Trustee Baum said he couldn't support the PDD because he doesn't know the character of the development or the amenities. Gene Guskowski, AG Architecture, said the development team is looking for some direction to proceed before significant money is spent exploring different solutions. He said both a flat and pitched roof have been explored to stay within the 45 foot limit depending on the construction design. Commissioner Gray said she has seen 3 story buildings in Menomonee Falls, Waukesha and Brookfield would support them. Commissioner Laszewski felt this location is a good spot to put 3 story buildings. Jenine Eihlers said she didn't want to see that this development out of her window and wants the green space. Chairman Wolter said businesses are growing here and need the additional housing to attract a better educated workforce that doesn't want to buy. The future development would also create

foot traffic that will help to support the downtown area. He said Mr. Bence has a right to develop the property as an owner and the residents may voice their concerns at a public hearing. Discussion continued.

Trustee Baum said he doesn't have enough information on amenities, height, and character of the buildings and doesn't like the layout of the development. He wants more of a downtown, walking community feel like Oakland Avenue in Shorewood. Scott Bence asked for either a recommendation of the PDD with conditions the Plan Commission feels are appropriate and if

he if decides to work with those conditions, he will bring the plan back or, he will just move forward with the 2 story buildings proposal. He said is asking for an extra half story to allow for three story buildings. He is more than happy to work with the Village to commit the area for a regional basin and provide a public parking lot and trail system.

MOTION Gray second Shadid to Approve creating a Rm-2 Planned Development District (PDD) for the entire 23.76-acre Saxony Village development area subject to the following:

- 1. The Rm-2 Zoning District regulations shall constitute the basic conditions, restrictions, limitations and requirements for the Saxony Village PDD except that the specific list of allowances requested by the applicant as cited herein (i.e. 3-story building height for Buildings #3, #4, and #5 only) shall be included in the conditions & restrictions resolution submitted to the Village Board for consideration and approval.***
- 2. All requirements and conditions of approval recommended by the Public Works Department/Village Engineer (see July 28 and April 24, 2015 review memos) and Fire Department (see July 30, 2015 review email) shall be addressed as part of the detailed site development and building plan process and/or included in the Saxony Village PDD conditions & restrictions resolution as may be necessary.***
- 3. Subject to further revision required by the Plan Commission and/or Village Board, Site Plan B dated August 4, 2015 shall constitute the General Development Plan required under Section 17.27 of the Zoning Code. In the event that, further revisions to the General Development Plan are required by the Village Board prior to adoption of the PDD rezoning ordinance and PDD conditions & restrictions resolution, a revised General Development Plan shall be prepared and submitted to Village staff for review and approval prior to execution of the ordinance and/or resolution.***
- 4. A traffic impact study shall be prepared and submitted for review and approval by the Village prior to or concurrent with submission of detailed site development and building plans. At a minimum, said traffic study shall assess the impact of, need for and minimum on-site and off-site street improvements necessary to provide safe and efficient vehicle and emergency vehicle access via internal street connections to Castle Drive, Hilbert Lane and/or Main Street.***

Trustee Zabel said the proposed development with have a private street that goes to a public street and there will be nightmares in the future when people decide to cut through from one street to another. He said the Village cannot designate speed or parking restrictions with a private street and asked if it would be better if the street becomes a public street for safety and other concerns that may occur in the future. Planner Retzlaff said he has not received any comments from Public Works regarding the creation of the private versus a public street. Chairman Wolter said a public street would mean more streets to fix and plow. Discussion continued.

Chairman Wolter said he agrees with more of a Main Street feel and likes 5 buildings versus 6 because it builds a buffer towards Hilbert lane. It also gives the possibility of the amenity for storm water retention for the Village which is needed in the next 5 to 10 years for future development.

Motion to Amend Baum to have item #4 from Brionne Bischke's July 28th letter be included as a requirement at the developers cost. Motion retracted.

MOTION carried 5-1 (Baum)

Community Development Department – Floodplain Zoning Code Amendment – Revised Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRM's) for consideration and adoption for purposes of maintaining the Village's eligibility in the Federal National Flood Insurance Program (NFIP). Planner Retzlaff explained the Village is required to adopt the revised FIS and FIRM's as a part of an ongoing effort to maintain up-to-date information. The revised FIRM's include land around Lake Amy Belle and Bark Lake, both located in the Village of Richfield, but appear in the same FIRM's that cover the Village of Germantown.

MOTION Baum second Shadid to Approve the proposed Floodplain Zoning Code amendment as drafted which includes by reference the revised Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRM's) having an effective date of October 16, 2015.

MOTION carried unanimously.

ANNOUNCEMENTS: None

ADJOURNMENT: There being no further business, the meeting was adjourned at 9:58 p.m.

Respectfully submitted,

Lori Johnson
Planning Assistant