

MEETING:	REGULAR MEETING OF THE PLAN COMMISSION
DATE AND TIME:	Monday, March 10, 2025 6:30 PM
LOCATION:	Germantown Village Hall Board Room N112 W17001 Mequon Road

MINUTES

- I. **CALL TO ORDER:** *This meeting has been given public notice in accordance with Section 19.83 and 19.84, Wis. Stats, in such form that will apprise the general public and news media of subject matter that is intended for consideration and action.*
Chairman Wolter called the meeting to order at 6:30pm.

- II. **ROLL CALL:**
All Plan Commission members were present except for Commissioner Shadid who attended via Webex, as well as Community Development Director Retzlaff and Associate Planner Yanke.

III. **APPROVAL OF MINUTES:**

A. PC Minutes 2/10/25

Motion: Approve as presented

Motioned By: David Baum

Seconded By: Josh Tarantino

Yes: Dean Wolter, David Baum, Josh Tarantino, Robert Williams, William Shadid

No: None

Abstain: Bridget Henk, Robert Williams

Motion Passed (Yes 4, No 0, Abstained 2)

IV. **NEW BUSINESS:**

Motion: Change order on the agenda to take item D first as it will be quick

Motioned By: David Baum

Seconded By: Josh Tarantino

Yes: Dean Wolter, David Baum, Josh Tarantino, Robert Williams, William Shadid, Bridget Henk

No: None

Abstain: None

Motion Passed (Yes 6, No 0, Abstained 0)

A. Village of Germantown Community Development Department & Village Attorney- Proposed Text Amendments to Section 17 (Zoning) of the Village of Germantown Municipal Code. (PUBLIC HEARING AND ACTION)

Community Development Director Retzlaff presented five (5) proposed text amendments that he explained are necessary to maintain consistency between the Village's Zoning Code and Wis. Stats. Retzlaff explained that 2023 Wisconsin Act 16 adopted specific preemptions or limits on how municipalities, including Germantown, exercise their zoning authority authorized under various sections of the Wis. Stats. Retzlaff explained that many of the provisions adopted under 2023 Act 16 did not

become effective until January 1, 2025. Retzlaff referred to the Village Attorney's opinion regarding the proposed changes given questions that had been raised prior to the meeting. Baum asked whether these changes eliminated petitions completely. Retzlaff replied no that petitions can still be submitted, but they would not trigger the super majority vote requirement as currently stated in the Zoning Code. Shadid and Williams both questioned if the ruling from the state [2023 Act 16] already makes our code null and void. Then, why do we need to vote on the proposed amendment? Retzlaff explained that we need to eliminate the inconsistent provisions from our Zoning Code so as not to mislead residents and because Wis. Stats. and the Zoning Code require the Plan Commission to make a recommendation on any Zoning Code amendment.

Chairman Wolter opened the Public Hearing at 6:29pm and read two (2) comments submitted via email, one from Tammy Schneider, who lives on Lannon Road, and one from Scott Schroeder, who lives on County Line Road.

Residents that spoke in person included:

Lynn Bednarz, who lives on Pawnee Court, asked for a simple explanation of these changes as they are confusing.

Director Retzlaff stated that unlike the current provision in the zoning code that allows for a protest petition to be filed concerning a zoning amendment, which could be a text amendment or a district/zoning change to a particular property, this new provision would eliminate the impact of that protest petition on the number of members necessary to vote in favor of it. That does not mean that one can't file a protest petition; it simply means that a protest petition won't have the same effect of requiring a favorable vote of a super majority vote of the Village Board to pass a zoning change. Chairman Wolter stated that just so everyone understands the Plan Commission does not vote on this, the PC only makes a recommendation to the Village Board that will vote on this. Wolter stated that he feels the state is doing another overreach by limiting local government's ability to require a super majority and only allow a simple majority. That is a State Statute not ours. We are only changing our code to match the states.

Sarah Larson, who lives on Butternut Road, feels this topic should be tabled as it was published so late and feels that there are underlying things going on and thinks the timing is bad and this should wait until she's fully represented in District 4 after the April election.

Melanie Smythe, who lives on Cedar Lane, stated that she read the State Statute and said it does not state that a protest petition is not an option. She feels Act 16 is a bad decision at the state level and feels it benefits developers. She feels this is forcing high density and next-generation housing on communities. She also feels this decision should be delayed until after April 1st.

Scott Hefle, who lives on Old Farm Road, stated that he has a call into the legislative bureau with the State and said there is no date that municipalities have to comply with this by and feels we are trying to ram this through before the election, and it favors developers.

Scott Lopez, who lives on Lannon Road, is against this change and feels this should require citizen approval and thinks this stinks of corruption. Clearly, there is some dissent and this is being rushed through in the night and asked all residents to contact their representatives and let them know their feelings about this.

Tammy Schneider, who lives on Lannon Road, has already submitted her comments

via email and wants to speak further on this issue. She feels that it can't be voted on with a protest petition in it as it is not online in the State Statute. She states that multifamily is not desirable in the Lannon Road corridor and feels that the Village Board is not listening to residents. She wants the Plan Commission to vote no on this issue.

Chairman Wolter closed the Public Hearing at 6:50pm.

Staff recommendation is to APPROVE the proposed text amendments as presented and to move the proposed Zoning Code amendments to the Village Board for consideration and action.

Motion 1: Recommendation to approve the proposed text amendments to the Village Board for consideration and action as presented.

Motioned By: David Baum

Seconded By: Josh Tarantino

Discussion Followed. Shadid stated that he needs clarification and feels that people don't understand that this is not about a change in voting by the Plan Commission. Wolter stated that was correct. Shadid thinks there is a misunderstanding, and he suggests that the Plan Commission take a page out of something that was said about the dealings with the solar farm, that just because the state mandates something doesn't mean that we have to capitulate and do it. He is not in favor of this change and especially not before the April 1st election, and feels this should be put on hold. Henk stated that if we were to vote on this today, could this be put on hold until the full board is present? Wolter stated that yes if the Village Board chose to do that at their next meeting. Tarantino asked if a proposed developer comes to the Village with a proposal now, would they be using the statute that we are trying to adopt? Retzlaff stated that, as of now, certain provisions in our zoning code are outdated, and don't apply. For example, the provision that is currently in the code that allows for a protest petition is no longer allowed under State Statutes. Retzlaff reiterated that in 2017 there was Act 243 that repealed the same protest petition provision from the Wisconsin Statutes and now 2023 Act 16 reinforces the intent to not allow super majority requirements in municipal zoning ordinance by creating new section 66.10015(3)(a) in the Statute that stipulates that only a simple majority of a quorum of the body [Village Board] is required to pass a zoning amendment. That effectively renders a super majority requirement illegal for lack of a better word. So we are cleaning up the code to eliminate that inconsistency. Retzlaff stated that if the Village Board continued to allow a super majority vote requirement with a valid protest petition, and then they denied a zoning change, then the applicant could argue that the State Statute says you can't require a super majority vote and "I'm going to sue". And if they do, and we go to court, we will lose. I guess some residents are advocating that we go down that path, that we spend the money and time to do that because of whatever reasons they feel are important to do so. But Staff and the Village Attorney have an obligation to recommend that we clean up our code to eliminate this provision and maintain consistency with State Statutes. Retzlaff further stated that, like all zoning code amendments, including text amendments like the ones proposed tonight, the Plan Commission is charged under State Statutes to make a recommendation to the approving authority, which is the Village Board, to either approve the amendments or not. Ewert stated that, going back to the presentation earlier, it sounds like this battle was lost to the development lobbyists. Retzlaff said yes, all the way back to 2017, when the first act was passed that eliminated the protest petition allowance in Wisconsin Statutes. That's when it was

taken out of the Statutes, and it is made clear now with Act 16 that any zoning amendment only requires a simple majority of a quorum of the Board. Wolter stated that this is not the first time that the state has overreached in his opinion and a very recent example of that is with the solar farm. We had many residents come out to speak out against it and at that time there wasn't even a protest petition, but the Plan Commission and Village Board both denied the CSM and the Site Plan, knowing that we were going directly against State Statute. Wolter stated that it was his hope that the solar farm project was too small for the developer and owner to worry about and that they would go away because they usually liked the bigger farms and this was not that. He stated that we were wrong, and the developer pushed their precedence and appealed their case to the Board of Zoning Appeals. After filing a claim, the Board of Zoning Appeals turned it over. Wolter stated that our hands were tied, and it's not the first time the Board of Appeals has done that. Shadid asked if the Village Board could still pass this measure even if we gave them a negative recommendation? Wolter stated that is correct. Village Administrator Kreklow came forward and suggested that another way to respond to the State would be for the Village Board and Staff to prepare a resolution to be sent to our State Representatives indicating our opposition to the State Law that was changed. He thinks that might be a better approach than leaving in place an ordinance that contradicts the State Statute.

Kreklow stated that although the issue with the solar farm did not incur additional expense for the Village to go through the Board of Zoning Appeals process, if a protest petition came up today, the Village cannot legally honor that protest petition with a 3/4 majority vote requirement by the Village Board. He stated that leaving the Zoning Code as it is [with the protest petition vote requirement] could cause confusion with residents and potential developers and could result in the Village incurring additional expense. Wolter said that the proposed Zoning code amendment doesn't completely eliminate the ability for residents to bring forward a petition of any kind against any zoning changes. That can always be done, and a protest petition turned into the Village Clerk to be used as part of the consideration of the Village Board for whatever that issue is. So it doesn't remove the ability to make petitions.

Motion 2: Amend Motion 1 to add creating a resolution to the State of Wisconsin regarding overstepping local zoning authority

Motioned By: Bridget Henk

Seconded By: David Baum

Discussion on the motion followed.

NOTE: The discussion led to confusion over the appropriateness of amending Motion 1 to include direction to staff to send a resolution to the State and how to vote on such a motion if the members DID NOT want to approve the text amendments but DID want to approve sending a resolution to the State. Therefore, Motion 3 was made as summarized below. According to Robert's Rules of Order, an alternative process could have been to "divide the question" and split Motion 1 into two different motions to be voted on separately.

Motion 3: Motion to have a separate vote on the resolution [to be sent to the State regarding overstepping local zoning authority]

Motioned By: Bridget Henk

Seconded By: David Baum

Yes: Dean Wolter, David Baum, Robert Williams, William Shadid, Bridget Henk

No: Josh Tarantino

Abstain: None

Motion Passed

Following the vote on Motion 3 and after further discussion, a vote was taken on Motion 1 *[Recommendation to approve the proposed text amendments to the Village Board for consideration & action as presented]*.

Results of Motion 1: (Recommendation to approve the proposed text amendments to the Village Board for consideration & action as presented)

Yes: Dean Wolter, Robert Williams, Bridget Henk

No: David Baum, Josh Tarantino, William Shadid

Abstain: None

Motion Failed (Yes 3, No 3, Abstained 0) - Amendments move to Village Board with no recommendation.

Following the vote on Motion 1 and after further discussion, a vote was taken on Motion 2

Results of Motion 2:

Yes: Dean Wolter, David Baum, Josh Tarantino, Robert Williams, William Shadid, Bridget Henk

No: None

Abstain: None

Motion Passed

- B. Village of Germantown Community Development Department - Village Center District: Presentation & Discussion of Mixed-Use Re-Development Proposal Status & Next Steps (Mequon Road @ Pilgrim Road) (DISCUSSION ONLY)

Community Development Director Retzlaff gave a brief overview of the Village Center project and stated that tonight's presentation is the start of the next steps in the overall process. The Plan Commission will begin working with RINKA and Staff on developing a new Mixed-Use Zoning District that will guide future re-development while also providing for the continuation of existing land uses within the Village Center District. Tonight's meeting is for information and discussion only. No action will be taken and no decisions will be made by the Plan Commission tonight. RINKA will be laying the groundwork for future meetings at which new zoning regulations for this re-development area within the Village Center District will be presented for public feedback, discussion, and consideration for adoption by the Plan Commission and Village Board. Retzlaff introduced Bailey Copeland from Copeland Associates, Eric Mayne with RINKA, and Sam Schultz from Briesen & Roper, who went over the next steps in the project including: Housing, Economic Development and Land Use Goals, citizen input opportunities, Master Plan overview, conceptual designs, entries and parking information. Retzlaff stated that the March 31st Plan Commission meeting is important for a number of reasons, including a public hearing for the TID district, the project plan for recommendation and zoning code regulations for the district. Discussion Followed.

- C. Village of Germantown Community Development Department & Village Administrator; Discussion of Land Exchange Proposal Between the Village of Germantown and Blackstone Creek LLC/Heimat Group (Blackstone Golf Course Property) (DISCUSSION ONLY)

Administrator Kreklow gave an overview of a submitted proposal to consider the exchange of portions of property owned by the Village and the Blackstone Creek Golf Course owned by Heimat. The purpose of the exchange is to facilitate the development of a new residential neighborhood on portions of the Blackstone Creek Golf Course and the expansion of the Village's Haupt Strasse Park, which could include access to the river, splash pad, walking paths, disc golf course, golfing, etc. No action is to be taken by the Plan Commission. The purpose of this discussion item is for the Plan Commission to review and comment on the proposal.

Commissioner's comments included:

Williams asked what the developer planned to use the land they would be receiving for, and wanted to know why we would be paying them the difference in value on the land when it looks like we are giving them something they need instead of something that they can't use. Kreklow responded that they have not submitted a plan for what would be developed on the land yet and, secondly, this is the very first proposal that was submitted, so it's only a starting point which would start with appraisals of both properties to determine their value.

Henk asked if this was already presented to the Parks Commission? Kreklow stated that yes it was, they had a lot of questions, but they thought that it had a great deal of potential and were interested in continuing the conversation. Their concerns included the costs of replacing the pickleball and skateboard parks. In terms of acreage, we would be getting much more land for park use than we would be giving up, and they liked the idea of getting access to the river for recreational purposes. Park & Recreation Committee Chairman Brian Depies confirmed that as accurate.

Henk also asked how we would plan to mitigate more potential noise complaints if we move the pickleball & skateboard parks. Kreklow stated that this would be the ideal time to develop a Master Plan for this park which would include moving those parks away from existing residential development.

Henk stated that we should be looking at the costs of the Master Plan for the park as well as the relocation costs of the amenities in the negotiations with the developer.

Ewert stated that it looks like this is going to be developed along the lines of the Village Center, and asked whether this would be competing with TID10 in the future.

Kreklow said that with our current need for housing, the market could easily absorb both developments should they occur.

Baum stated that the land we would be receiving is not swamp land. There is a significant amount of land that is buildable, so he put together a simple vision with this drawing of what could happen with this land trade, free of charge. The Village Board needs to decide if we want to trade this land first before anything else can happen.

Henk stated that she supports the concept that parks and flood plains are completely compatible and parks along waterways are common.

D. Lemberg Electric, Agent for Green Bay Packaging, Inc., Property Owner - N128 W21600 Holy Hill Road; Sign Application Review. (ACTION)

Associate Planner Jordan Yanke went over the proposal for signs at the new Green Bay Packaging facility located just off Hwy 41 including wall signs, directional, and wayfinding signs.

Staff recommends approval of the proposed sign package for Green Bay Packaging for property located at N128 W21600 Holy Hill Road, subject to the following condition:

1. Applicant/owner shall obtain an electrical permit(s) from Building Inspection Services prior to sign installation.

Motion: Approve as presented

Motioned By: David Baum

Seconded By: William Shadid

Yes: Dean Wolter, David Baum, Josh Tarantino, Robert Williams, William Shadid, Bridget Henk

No: None

Abstain: None

Motion Passed (Yes 6, No 0, Abstained 0)

- V. CITIZEN INPUT/PUBLIC APPEARANCE:** *(Please be advised per 19.84(2) that information and comment will be received from the public. It is the policy of this municipality that public input be limited to a three (3) minute period per person with a time extension granted at the discretion of the Chairperson. Be advised that there may be limited discussion of the information received but no action will be taken under public comments.)*

Citizens that spoke included:

Lynn Bednarz who lives on Pawnee Court.

Sarah Larson who lives on Butternut Road.

Melanie Smythe who lives on Cedar Lane.

Scott Hefle who lives on Old Farm Road.

Judy Rogers who lives on Old Farm Road.

Dominic Damico who lives on Wagon Trail.

Tammy Schneider who lives on Lannon Road.

VI. ANNOUNCEMENTS:

Ewert reminded everyone about the Germantown School Board Meeting being held on 3/11/25 at 6pm at the School District Building.

Retzlaff stated that the Board of Zoning Appeals overturned the denial of the Site Plan for the OneEnergy Solar Farm project at their Feb. 27th meeting which means that it has been approved. So we will be proceeding with that development as plans are finalized and the project moves forward. The Crew Car Wash project on County Line Road that we approved a year ago is still moving forward and they plan to bring an extension request to this commission soon.

VII. ADJOURNMENT:

Chairman Wolter adjourned the meeting at 9:46pm.