

MINUTES
SPECIAL MEETING OF THE PLAN COMMISSION OF THE TOWN OF POLK
POLK TOWN HALL 3680 Hwy 60, Slinger, WI. 53086
7:30 PM Monday, April 13, 2015

- I. The Meeting was called to Order by Chairman Albert Schulteis at 7:30PM.** The Pledge of Allegiance was recited.
- B. Chairman Schulteis read the Official Meeting Notification. Notice of the meeting was sent to West Bend Daily News, the Hartford Times Press, WBKV, WTKM, Milwaukee Journal Sentinel, and posted at the Town Hall, Roskopf RV Center and Cedar Lake Hills bulletin boards.
 - B. Roll Call. Present: Chairman Albert Schulteis, Supervisor Robert Roecker, Dennis Sang, Karen Reiter, Mark Peters, William Whitney, Zoning Secretary Tracy Groth, and Town Attorney Paul Rosenfeldt. Excused Absence, Timothy Yogerst.
 - C. Chairman Schulteis called for a moment of silent prayer.

II. Unfinished Business

- A. Conditional Use Permit for ITEX Company, in accordance with Section 4.0 of the Town’s Title X Zoning Ordinance, to operate a Residential Based Addiction Treatment Service (Community Based Residential Facility). Business to be located at 4509 Arthur Road and 4505 Arthur Road, Slinger, Washington County, Wisconsin. 39.35 Acres. Section 8. Zoned A-1 Agricultural District. Tax Key Nos. T9-0364-00B, T9-0364-00C, T9-0364-00D, T9-0364-00E. Applicant ITEX Company, an Illinois partnership or its assignees, c/o Aber Hollander. Property Owners Joseph J. Mentor and Kathleen L. Mentor; and Steven M. Kearns respectively.**

Chairman Schulteis read the procedure for the meeting. A Special Joint Meeting of the Plan Commission and Town Board was held on March 3, 2015 to hear Public Comment on the Conditional Use Application for ITEX Company. Since the Public Hearing, the Town has received written communications in support of, and in opposition to, the Conditional Use Application. Those materials have been distributed to the Plan Commission and Town Board members. Additional materials have been received from the Applicant to address questions by the Plan Commission. Those materials have also been distributed. Please note that Public Comment is not on the agenda. There will be no comments or questions by the Public this evening.

Chairman Schulteis commented that since the previous Plan Commission meeting [March 3 2015], the applicant was presented with various follow up questions to the Conditional Use Application. The applicant has responded to those questions, and while the Commission members have an opportunity to review the applicant’s responses, the Public has not. Therefore, the procedure for this evening will be for the applicant to present their responses. [The questions submitted to the applicant by the Plan Commission and their responses are attached to the Minutes as “Exhibit A”.]

The applicant’s attorney, Hal Karas, introduced the applicant, Aber Hollander; Ron Cope attorney with Nixon, Peabody; Richard S. Larkin, SRA an appraiser that will address property value questions; and Dr. Andrea Barthwell. Dr. Barthwell is a graduate of Wesleyan University, received her doctorate degree from Michigan Medical College; past President of the Illinois Society of Addiction Medicine, and past President of the U.S. Society of Addiction Medicine. Dr. Barthwell also served on President George W. Bush’s sub-cabinet on national substance control policy; and is a recipient of the Betty Ford Award on drug addiction research.

Chairman Schulteis asked, “A concern among the Townspeople is the potential for the devaluation of the properties adjacent to a Residential Addiction Treatment Facility. Could you please address the concerns expressed relative to potential devaluation of properties in proximity to the proposed facility?”

Karas responded. There are no studies out there that give a clear indication as to the impact of property values by a facility like the one being proposed. This project is unique and there aren’t many facilities out there quite like it. When a negative impact in property value has been indicated, it has been minimal and short term. Most of the impact is based on fear of the unknown. The property values began to level once the facility becomes an established

part of the community. Karas referred to Mr. Larkins's report which indicates two rehabilitation facilities, Rodger's Memorial and a facility in Washington County, do not have a negative effect on property values. Karas suggested that there is "nothing out there that indicates this project will have a negative impact on property value"; and other permitted uses might lead to a more serious devaluation of adjoining properties. For example, some farming uses may have a worsening effect. Karas noted that this information was available within the report submitted to the Plan Commission. [See "Exhibit A"]

Dennis Sang asked if the two parcels will be used agriculturally by the applicant. Karas responded the property will remain as it is now. There will not be any buildings added, no cultivation.

Chairman Schulteis commented, "A study was brought to the Town's attention which indicated that properties near residential rehab facilities dropped 8-17% in local values. There are no other facilities quite like this one [in the area]. The facilities referred to in the study were methadone clinics. Please respond to the indicators in this study".

Larkin responded, "The study you are referring to is Not in My Backyard by Claire R. LaRoche, Bennie Waller, and Scott A. Wentland came out small college, Longwood University in Farmville, Virginia. With this study "I found a mixed bag with no definitive indicators of the effects of this type facility on property values". There are no studies of high quality facilities in low density suburban areas. In speaking with real estate agents, appraisers, and the developer of residential properties near Rodgers Memorial, there has been no market resistance because of the proximity of Rodgers Memorial, which is a much larger facility. In researching Exodus House, a residential facility in Kewaskum, I spoke with local realtors and an appraiser about the effects of the facility on neighboring property values. According to the realtors and appraiser, there has been no market resistance because of the residential facility.

William Whitney asked Larkin if Rodgers Memorial has a lakefront campus. Larkin responded, "Yes". Larkin reported that there are neighboring residential lakefront properties nearby valued at \$1.2 million.

Chairman Schulteis asked, "Millennium Manor would be ITEX's first experience in operating a Residential Addiction Treatment Service. Could your client expound on its qualifications to operate an Addiction Rehabilitation Facility?"

Karas stated that they will answer the question in two ways; first by giving a brief overview of ITEX and secondly through a presentation by Dr. Barthwell. Hal Karas responded that ITEX, for over 30 years, has been a family owned company that has owned and managed a large number of nursing home facilities. These facilities are much larger than the facility proposed here [Polk]. There are much more intensive regulations and intense care with nursing facilities. ITEX considers it an honor to have the trust of families to take care of their loved ones. ITEX is adequately prepared to handle the rigors of a program like this. They have the experience to put in place the appropriate infrastructure of facilities, staff, procedures, and clinicians.

Dr. Andrea Barthwell thanked the Plan Commission for allowing her to present the program. They are excited to bring this program to Wisconsin. President Bush told her that "A country that is hard on drugs needs to be compassionate to addicts"; and that is what ITEX intends to do. The establishment of a residential treatment facility is greatly needed in this area. According to a phone interview based study conducted by [inaudible], 76% of the people that have this problem, have an addiction problem and don't even know it. An addict's family and employers usually know before they do. There are people who know they have a problem but don't seek treatment for several reasons (IE: funding problems, programs are hard to find, access to childcare). Only 17% of addicts receive treatment. One of the main problems is that it is hard to get these programs sited. Here [proposed Arthur Road locations] we have a secluded, serene setting where people can start recovery. ITEX's program will exceed the national average for the industry. Dr. Barthwell has looked at programs in all 50 States. With this program there will be 2-3 staff people for each client. There will be a highly structured program all day with awake overnight staff. These programs usually require two primary capabilities: Management the domicile; and Management of the Clinical program. We intend to hire an expert medical staff and put the applicants through a rigorous admission process. The treatment the client will

receive will be very structured. For example the client will awake at 6:00AM, break their fast, do a sun salute to get their brain functioning and engage in an exercise period to wake up their joints. They will have a breakfast and be given time to prepare their personal space and their person. Then they will attend a group meeting before beginning their treatment for the day.

Some programs expose clients to lots of down time with films and reading. The ITEX program will have a lot of group time under the direct supervision of staff during the morning, lunch and early afternoon. In the later afternoon, the clients will have exercise time. Individuals addicted to drugs tend to give up their personal relationships and activities. We build physical activity into the program to get them moving and to help restore health. Our three goals for the program are to restore peace, physical well being, and personal productivity. In the evening time, they will have homework that helps them move their goals forward. They will have dinner as a family. There are more group meetings and 12 step activities in the evening. Then they will have time to prepare for bed with lights out at 10:00PM. Their day will be highly programmed under the supervision of clinicians. There will be bed checks all night long.

Barthwell discussed the admission process. Some clients will need withdrawal support at a hospital. They will not be admitted to the facility until the admissions and clinical staffs agree to the admission. The clients must be medically stable before admission. This facility is for a small group of people living together as a family under the guidance of clinical staff. Their recovery depends on them following professional guidance and group support. These clients are not court mandated to attend. Many are highly functioning in their professions. This facility is not a psychiatric facility. There is a concern that those suffering from addiction have an underlying psychiatric/mental disorder. We have found substance abuse addicts that have been exposed to a chemical (drugs, alcohol, cigarettes) within a peer group respond differently than most people. 8% of people exposed to drugs become addicted to them. 17% of individuals exposed to alcohol will become addicted. Individuals do not have to develop a mental disorder to develop addiction. Some people have a genetic predisposition to become addicted.

Dr. Barthwell discussed elopement from the program. Those admitted to the program have a desire to become well and make a contract with their peer group to follow the program and the instructions of the clinical professionals to get better. There are concerns by some of what will happen if one of the clients elope or run away. Again, there will be constant supervision by clinical staff. Each client will make contract with staff that says if they feel like they want to leave, they will tell the staff. "The commitment to staff will be to stay (24-48 hours) until this time tomorrow and if your interventions don't convince me to stay, I will leave; and you will help me go somewhere else." Clients can't leave the facility and flag down a cab or catch a bus to the airport. This is an isolated area. Staff will facilitate them leaving. People won't wander off. Staff will get them to the next safe place. Generally, they will be going to another treatment facility because they have an agreement with their family to get help.

Dr. Barthwell discussed family participation and visitation. In her experience there are two kinds of family members. One type drops their loved one off at the gate and rushes away. They are tired of the problem and are relieved to be leaving the loved one at the facility. The other type of family member wants to spend the night and not leave the loved one. They are much enmeshed in the loved one's lives. We will start to work with family to help them understand how they supported the addiction. That is done remotely, usually by helping them find help at home. Staff will facilitate monitored phone calls home until it makes sense for the family member to come and join in group therapy to talk about how it will be when their loved one leaves treatment. "With our clientele, we are talking about low instance of illness, and ability to pay for high end treatment; therefore, we expect to be able to individualize family group therapy. We will bring family in when it makes sense for the client. We will be very selective in who we admit to the program." 1 in 4 people are affected by drug and alcohol addiction. By knowing that help is available, it gives families hope for their loved ones. Just by having a facility in the community gives families hope that there is help available for their loved one. For every person that recovers from addiction, they will have a positive effect on at least 10 people; their family, other people in treatment with them, and to other people they reach and to whom they tell their story. Barthwell appealed to the Plan Commission to understand that they will create an environment where people will get better and recover from this disease.

Whitney asked Dr. Barthwell if she is with the corporation, ITEX. Barthwell answered that she is not with the corporation. "I am contracted to help them develop this program." She will help staff develop a clinically luxurious program.

Schulteis asked if the family would be allowed one day a week, such as Saturday for visitation. Barthwell responded that there will be a rigorous schedule focused on the client. One day a week, usually Saturday or Sunday, will be family visitation day when it's appropriate for the client to have visitation. Visitation will be a clinical decision. Occasionally, family members will be brought in on other days when necessary (IE: To discuss post admission plans). Barthwell made it very clear - sometimes it's not in the client's best interest to have visits from loved ones.

Karas commented that the original question was whether ITEX had the experience to run a residential treatment program. Based on the information from Dr. Barthwell, the Plan Commission can see the commitment by ITEX to get the best possible people to help develop and run this program. The target clientele are likely doctors, lawyers, corporate leaders, and managers who understand the nature of their treatment and why they want it. This is why ITEX can lead a program of this nature.

Chairmen Schulteis asked of the applicant, "Please provide an equivalent to a traffic study indicating the anticipated vehicle traffic accessing and egressing the facility on a typical weekly basis".

Karas noted that a traffic study was submitted (see Exhibit A) to the Plan Commission. Aber Hollander stated that they attempted to breakdown the number of employees and when they would be on the grounds. There will be approximately 30 staff members. Assuming occupancy is at 80% (about 20 clients) for the 8:00AM to 4:00PM shift, there will be a peak number of 16 employees on the grounds. Family visitation will occur on the weekends when staff patterns are lower. We have about 30 spaces available on the property. Computer monitoring on the property indicated that in one recent weekend there were over 30 cars coming onto the property. ITEX will not have 30 cars accessing the property at one time. Traffic will not be significantly impacted on Arthur Road. Karas added that the Town Building Inspector met with Aber at the property and approved of the adequacy of parking from the Building Inspector's point of view.

Chairman Schulteis asked the applicant to describe their preliminary site plan indicating parking areas and exterior lighting. Karas answered "No new parking pads are required." A lighting study was submitted for the Commission's packets.[See Exhibit A] No new lighting implements are needed. The current lighting was reviewed by the Town Building Inspector and found to be in compliance. Chairman Schulteis noted that any new lighting must be down lighting.

Chairman Schulteis commented, "The proposed facility abuts the Ice Age Trails – public land used recreationally by local residents. Please describe the safety plan to address how the facility will manage situations should the residents leave the grounds and to prevent the public from accessing the facility".

Karas provided a two part answer to the question. ITEX will build a fence around the entire perimeter of the property. Safety is a priority for our clients as is the public's safety. Dr. Barthwell addressed the Commission. The level of care is not a locked facility. They [clients] can move around freely. Every movement is monitored by staff at all times. "When clients are accepted by our criteria, they must let us know they want to leave (against medical advice)". The clients may be put on a "Glue Contract" with a peer or staff. All clients will have to move about the property in odd numbered groups (not one). Odd numbers of people typically don't make schemes to fool the staff. If they want to walk around the property, they must advise staff plus ask peers to go with them. Again, the clients are on a very structured, monitored schedule.

Robert Roecker asked how situations involving the violation of the client's contract would be handled. Barthwell responded, "We orient the thinking that you can't get kicked out; kicked up, but not out." Perhaps a person

needs a higher level of care, or the client is being adolescent to test boundaries. If they can't make it here, we call loved ones to transfer the client to another program. Sometimes we take a time-out to send the client to another program; and they may elect to come back.

Chairman Schulteis commented on the condition of the two stub roads off County Road NN, noting that heavier traffic will be accessing those roads. "Is there anything to address with the stub roads off NN? There is an issue of more activity. Are there any provisions you are willing to address at this time?" Karas commented that he was not aware of the issue, but ITEX is willing to work with the town to figure something out. He further commented that the traffic study submitted to the Town shows that the impact won't be that much.

Mark Peters asked if there were any health safety issues with the State regarding exterior lighting. Aber Hollander answered that life and health safety inspectors found the exterior lighting to be adequate. The interior would require some exit lighting. An on-site generator would cover the exterior lighting [in the instance of power outage]. The parking lot is well lit.

William Whitney asked for clarification as to the number of employees and clients at the facility. Aber Holland answered that they went for the maximum number of beds to be able to have a turn over. Their goal is an 80% occupancy rate. The number of employees is 30 people on payroll. The peak number is 16 employees for the weekday 8:00AM to 4:00PM shift.

Mark Peters commented at 2-3 staff per client, there would be more than 16 people per shift. Aber Hollander answered that the 2-3 staff to client ratio was over all shifts, not 2-3 at any given moment. Karen Reiter asked if the sanitary septic was sufficient for the operation. Aber Hollander stated that at the advice of the Town Building Inspector, he contacted Washington County. Hollander was put in contact with an engineer who made recommendations for necessary improvements to the POWTS (septic system).

Hal Karas addressed the Commission. He noted at the last meeting [March 3, 2015 Special Meeting], ITEX was challenged to explain why the addiction treatment facility would be good for the Town. ITEX offers five reasons why the facility would be good for the Town.

1. The applicant intends to preserve the natural beauty of the property. No expansion is planned and no buildings will be added.
2. The facility will create high paying professional jobs and other jobs. Jobs attract new residents.
3. The use of the property will remain taxable.
4. Permitted agricultural uses may have negative effective on the value of surrounding properties.
5. The traditional use of this property as a single family home with large pool parties and ATV's being run on the property could devalue the surrounding properties. Who knows who would end up acquiring the property? ITEX intends to maintain the quiet and rural nature of the property.

Chairman Schulteis made the following statement: "To put it mildly, we have had an interesting five weeks to investigate both facts and fears about the question at hand. Besides the comments presented at the Public Hearing, letters both pro and con have been received at the Town Office. If Mr. Hollander's CBRF had gone to a Residential or R-1 zoned property (Lexington Village, Cedar Lake, Birnamwood, Scenic View, and Janz subdivisions or any of our R-1 sites) and proposed an 8 bed or less facility, he would have gone to the State of Wisconsin, and proceeded with the application process without asking us. At Mr. Hollander's first presentation, it was assumed by our Plan Commission that this was a business use request. As it is, a Community Based Residential Facility is by State of Wisconsin definition, a Residential Use Facility. Since residential uses are allowed in our A-1 Agricultural Zoning District, this facility could fit the criteria. During the past weeks, much research has consumed us by diligently pursuing answers to questions brought up at the Public Hearing. Calls have been made to facilities to sort through the assumptions and fears of residents. One such facility in a neighboring community has been in existence since the early eighties. This facility is in a village [and] has had little if any negative impact on their community. The fire/rescue department was contacted. I asked the Fire Chief, "How many calls do you have to this facility in a year's time?" After going through

his records, the response was last year they had four calls due to asthma attacks at this facility, nothing else. We as a people do not embrace change and we fear the unknown. The Town cannot consider factors such as who the clients are or what disability they may have. There are many options for this parcel. This proposal allows the Town to place conditions on the applicant that will insure an annual review of the procedures and overseeing the compliance and will remain as a taxed property. The taxable use status of being re-zoned to I-1 Institutional could be lost and the Town may have minimal control over operations”.

Dennis Sang commented that in R-1 zoning, an 8 family CBRF can be established without conditional use. “The way I look at the State Statutes, A-1 permits single family residences and any zoning that allows single family residences don’t need a permit. Hypothetically, two 8 bed facilities would not need Town approval. They are coming to us for 24 units and that is why they must operate with condition use permits”. Sang further commented that after 11 months of operation, the operation is subject to review any if there are incidences of non-compliance, ITEX could lose its license. ITEX has a lot riding on this. This use may supersede anything we have in the Town’s Title X Ordinance. The State says it’s a residential facility in a residential area. Also the CBRF goes along with the 2035 Comprehensive Plan [See pages 112 and 141]. The Plan Commission signed off on the plan.

Chairman Schulteis asked Zoning Secretary, Tracy Groth, to read proposed conditions for a conditional use permit for the ITEX Residential Addiction Treatment Service.

Proposed Conditions

- The Permit is conditioned upon the completed acquisition of the property by the applicant.
- Annual review of the Permit with the condition that the Town will renew the permit if all permit conditions have been met.
- Indemnification. ITEX Company will indemnify the Town if any claims are brought against the Town arising out of ITEX Company's operations.
- Require liability insurance of the applicant.
- The Operator will be in compliance with State and Federal regulations.
- ITEX's Safety Plan will be part of the Conditions.
- The applicant will reimburse the Town for all costs incurred with connection to the permit process.
- The applicant will keep on file with the Town, current contact information.
- Protection of Tax Status provision
- Type of Treatment provided at the facility will be limited to those described in Applicant's application/plans.
- Land Use Defense provision
- CUP is not transferable to any assignees without returning to the Town for approval.
- No deliveries to the site by semi-truck. The preferred delivery route will be via County Road NN.
- Provision for a Property Value Protection Plan
- Lighting, parking, signage, and exterior alterations to the site require Plan Commission review and Town Board approval.
- Impact fee for improvements to Deifenbach Road and Arthur Road from County Rd. NN to Deifenbach Road.
- The approval is subject to any further conditions deemed necessary by the Town Attorney.

Karen Reiter added two conditions to the list: (1)No detoxification at the facility (2) As part of the safety plan, there shall be a security fence installed the entire perimeter of the property. Attorney for the Town of Polk, Paul Rosenfeld recommended adding the following conditions: (1)In addition to adhering to Federal and State regulations, ITEX should adhere to local regulations as well. (2) A Severability clause should be added so if one condition is not enforceable, that does not render whole CUP unenforceable. (3) The applicant shall pay for attorneys fees charged to the Town for the preparation of the Conditional Use Permit.

There being no further questions from the Plan Commission, Chairman Schulteis called for a motion.

Robert Roecker moved to recommend to the Town the approval of the Conditional Use Permit for ITEX Company, in accordance with Section 4.0 of the Town's Title X Zoning Ordinance, to operate a Residential Based Addiction Treatment Service (Community Based Residential Facility) with the understanding that there are conditions to be met; and that the Town Board will consult with the Town Attorney regarding those Conditions, and approval by the Town Board. The recommendation is made with those Conditions read by Zoning Secretary and to also include the installation of a perimeter fence; no detoxification at the facility; the applicant shall adhere to local regulations; the inclusion of a severability clause; the applicant shall pay for attorneys fees incurred by the Town for the preparation of the Conditional Use Permit. Dennis Sang seconded the motion.

The Roll was called by the Zoning Secretary for a voice vote:

William Whitney:	Yes
Dennis Sang:	Yes
Timothy Yogerst:	Absent
Mark Peters:	Yes
Karen Reiter:	Yes
Robert Roecker:	Yes
Albert Schulteis:	Yes

All voted in favor and the motion carried.

Chairman Schulteis commented that the Town Board would take up the matter the following evening at the regularly scheduled Town Meeting [April 14, 2015].

III. New Business - None

IV. Adjourn. Karen Reiter motioned to adjourn. William Whitney seconded the motion. All voted in favor and the motion carried. The meeting adjourned at 9:09PM.

Respectfully submitted,

Tracy Groth
Zoning Secretary