

MINUTES

Town of Polk Plan Commission
3680 Hwy 60, Slinger, WI 53086
July 7, 2015 7:30PM

Approved 8-4-2015

I. Call meeting to Order. The meeting was called to order at 7:31PM. The Pledge of Allegiance was recited.

- A. Official Meeting Notification. Chairman Albert Schulteis read the Official Meeting Notification. Notification was made to West Bend Daily News, Milwaukee Journal Sentinel, WBKV, and WTKM; and posted on the Town website, the Cedar Lake Hills, Roskopf RV, and Town Hall bulletin boards.
- B. Roll Call. Present: Chairman Albert Schulteis, Supervisor Theodore Merten, Dennis Sang, Karen Reiter, Mark Peters, William Whitney, and Zoning Secretary Tracy Groth. Absent: Timothy Yogerst.
- C. Chairman Schulteis called for a moment of silent prayer.
- D. Approval of the Plan Commission Meeting Minutes, July 7, 2015. Changes: Add Theodore Merten to attendance. Two minor edits were noted. Karen Reiter moved to approve the corrected Minutes. William Whitney seconded the motion. All voted in favor and the motion carried.

II. Unfinished Business- NONE

III. New Business

- A. **Certified Survey Map (CSM)** for John P. Peil to create one 6.147 acre lot from a 29.28 acre parcel located at Pleasant Valley Road and County HWY Z, part of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 2, Town of Polk, Washington County, Wisconsin. Tax Key # 0039-00Z. Zoned A-1 General Agricultural District. John P. Peil property owner.

Chairman Schulteis invited the applicant to present to the Commission. John Peil commented that he had nothing further to present other than what appeared in his application. Zoning Secretary Groth noted that the City of West Bend has approved and signed the CSM document. Schulteis stated that there was a request in December 2014 by the Plan Commission that the applicant develop a master plan for the development of his remaining contiguous parcels [north side of Pleasant Valley Road]. To date the Town has not received a development or division plan for those parcels. Schulteis stated, *"After the application before the Commission this evening, we need to see plans for the rest of the parcels or you are going to end up with land locked parcels."* Mark Peters stated, *"The parcel east of [newly created] Lot 1 was a gravel pit for Highway Z, so there may be restrictions on that for building a house there. Engineering will be needed to determine if a house will stay-put there."* Schulteis commented that soil boring at the site would note irregularities with the soil.

Karen Reiter stated, *"As with other minor land divisions, I feel that Lot 1 should have a shared drive with the parcel to the east. I know when there was no potential buyer for Lot 1 in December, you said you had given us a general review of what you wanted to do down the road and we addressed it [shared drive] at that time and Eric Schmidt [surveyor] said that you didn't want to do that. Everybody else in the Town has had to do that. But when the road has been that close to an intersection, you had to have a shared drive with the next parcel and I feel there should be [a] shared drive thirty three (33) feet on Lot 1 and thirty three (33) feet on the other side so down the road you will have a shared drive. And I would like for that to be part of the motion."* Secretary Groth interjected that if the Town required a shared drive on the unplatted remaining parcel, it may limit the applicant's options in developing the parcel. Karen Reiter stated that he has room to put a road in. Schulteis agreed that a designated shared driveway could cause problems later. Reiter commented, *"Call it [drive] a shared road, then"*. Schulteis commented, *"If we required a shared road, he may have to install it now before the Lot 1 could be sold or a home built on it."* There was discussion regarding other parcels that had been divided and shared drives required. The examples discussed required shared drives on County Roads. Karen Reiter reiterated that she would like to see 33 feet on Lot 1 and 33 feet on the adjoining parcel for a shared drive. Sang

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commented that the remaining parcel is unplatted. There was discussion as to whether it would be appropriate to make requirements of unplatted land and as to whether there was enough frontage with the remaining unplatted land to install a future private road. It was the consensus of the majority of the Commission that there was sufficient frontage along Pleasant Valley Road to accommodate the 66' frontage for a 24' driveway for Lot 1, and to install a future a private road along the frontage of the remaining unplatted parcel; and that an access for the unplatted lands could not be addressed with the CSM application before the Commission. It was generally agreed that it is up to the developer to determine how to develop the unplatted land. Schulteis confirmed that there is no Town Ordinance to prevent the installation of a driveway along the unplatted lands; and that with this situation, there does not appear to be a safety or vision problem by allowing a driveway off Pleasant Valley road to the unplatted lands. Peters suggested a 66 foot out lot access to Lot 1 off Pleasant Valley Road designated to be reserved for a future private road instead of the 66 foot frontage for Lot 1 as described in the CSM document. William Whitney moved to approve the Certified Survey map for John Peil as presented; and there will be no further dividing of John Peil's unplatted lands without a development plan approved by the Town of Polk. Dennis Sang seconded the motion. Chairman Albert Schulteis, Supervisor Theodore Merten, Dennis Sang, Mark Peters, and William Whitney voted in favor. Karen Reiter voted in opposition. With a majority vote, the motion carried.

- B. **Business Use Permit** Dave's Automotive for vehicle mechanical work at 3291 State Highway P, Jackson, Washington County, Wisconsin. Section 25. Tax Key T9-0769. Zoned B-1 Business Use. Joshua and Nicholas Houle, Business Operators. Dave Houle property owner.

Chairman Schulteis invited the applicant to present to the Commission. Joshua and Nicholas Houle addressed the Commission. The applicants stated that they want to keep the family business and continue the auto mechanical repair business [previous operator was their father, Dave Houle, deceased]. They are trying to clean up the business site and will continue to do so. The applicants confirmed that the business use application was for mechanical work only. No painting, no body work, no sales would take place at the business. Joshua Houle commented that they are working toward reducing the number of vehicles stored outside to ten or fifteen. After some discussion with the applicant, and input from the neighboring property owners, it was determined the Town would require the applicant to reduce the number of cars parked outside on the lot to ten (10) within thirty (30) days. Currently, there are in excess of forty (40) vehicles on the lot. Secretary Groth read a list of potential conditions for business use:

- The Permittee shall provide sufficient off-street parking to accommodate all customers and employees of the business and shall not exceed 10 vehicles
- Business Hours are 8:00AM to 5:00PM, Monday through Thursday, and 10:00AM to 5:00PM on Saturday.
- The Permittee shall store all scrap, salvage, tires, and spare parts within the aforementioned structure.
- No painting or auto body work shall be allowed.
- All vehicles stored outside shall be whole vehicles.
- No sales of vehicles
- All required environmental protection regulations shall be adhered to and it is further understood that the applicant shall comply with all applicable local, county, and state regulations as related to the particular business.
- The Permittee shall adhere to Town of Polk Zoning Ordinance Section 9.0 PERFORMANCE STANDARDS.
- This Business Use Permit is for Dave's' Automotive is not transferrable and is issued for the exclusive use of Joshua and Nicholas Houle.
- Inspection of the property by Town of Polk personnel shall be allowed at any time.

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- It is understood that the Business Use Permit shall be rescinded if the Permittee is found to be in violation of the Conditions.
- Any fees incurred by the Town for professional services for the review or any preparation of the Business Use Permit or other related services for this application shall be paid by the Permittee. In the event the Town is required to enforce any of the conditions, the Permittee shall pay all professional fees incurred by the Town, including but not limited to, attorney's fees. In the absence of payment by Permittee, the property owner shall be responsible for payment.
- The Town may modify these conditions as they see appropriate to the particular property.

Al Baumgartner, a neighbor of the Houle property addressed the Commission. (Attendance list attached to Minutes). Baumgartner contended that the painting of vehicles was being conducted on the property and expressed his concern over the number vehicles and junked vehicles on the property.

William Whitney asked the applicants why there were so many vehicles on the property. The applicant responded, *"That's the way it was when our dad had it. We are trying to make changes. Some of the cars are for parts, some belong to customers. Some are scrap"*.

Laura Baumgartner addressed the Commission. She acknowledged that the applicants appeared to be trying to clean up the lot, but is looking to the Town to make sure that the improvements continue because they have had to live near the situation too long.

Karen Reiter commented that there are state statutes regulating the handling and disposing of oil filters, engine waste oil, anti-freeze, oil absorbents, and other materials common to the auto repair industry. The applicants commented that they contract for disposal of those materials. Reiter also asked the applicants about the sale of vehicles and painting of vehicles at the location. Houle reconfirmed that they are not selling vehicles or painting vehicles at the location. Reiter commented there was a "Sales" sign at the business location. Houle stated that the sign would be taken down. Karen Reiter suggested that the Town Board may want to see the applicant's contracts with their waste disposal vendor(s).

Laura Baumgartner asked about the business hours. Joshua Houle stated their business hours are 8:00AM-5:00PM weekdays. 10:00AM-5:00PM Saturday. Houle asked if they could extend the hours temporarily to 7:00AM-7:00PM to get the excess vehicles removed from the property.

Wayne Dubois, owner of Bieri's Cheese, wished the applicants luck, *"But hope that you will make the corner look good"*.

Dennis Sang commented that there are quite a few regulations, even if the Town does not have them, regarding the painting of cars and waste disposal. Schulteis noted that Business Use approval will note that the applicant is responsible for following the state, federal, and local regulations with regard to the vehicle repair business and that this statement will cover the applicant's responsibility for being aware of and following those regulations. Secretary Groth noted that the applicant's business is not located in the appropriate zoning to paint cars.

There was discussion as to whether the Town should require a fence on the lot as screening. The consensus of the Commission was that a fence would not be appropriate due to the small size of the lot. Secretary Groth recommended adding to the list of conditions, *"Vehicles shall not be parked on the road right of way or in the vision triangle at the corner of County Road P and Sherman Road"*.

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Dennis Sang moved to recommend to the Town Board the approval of the Business Use Application for Joshua and Nicholas Houle, dba Dave's Automotive, at 3291 Hwy P, Tax Key T9-0769, along with recommendations read by the Zoning Secretary and to include thirty (30) days for clean up to reduce the number of vehicles on the lot to ten (10) and to extend business hours to 7:00AM-7:00PM during clean up. Mark Peters seconded the motion. All voted in favor and the motion carried.

- C. **Petition 2015.01** by the Town Of Polk Plan Commission to Amend the Text of Town of Polk Title XI Land Division Ordinance Section 3.03 Preliminary Plat Approval; Section 3.05 Final Plat Approval; Section 3.06 Minor Land Division (Certified Survey Map); Section 5.09 Recordation by updating approval and recordation deadlines so as to comply with Wisconsin State Statute Chapter 236; Wisconsin Act 376.

Karen Reiter moved to table the Petition so the Zoning Secretary may confirm with SEWRPC that all legislative updates have been correctly noted within the Petition regarding the Land Division Ordinance Sections 3.05 and 3.06. William Whitney seconded the motion. All voted in favor and the motion carried.

- D. **Petition 2015.02** by the Town of Polk Plan Commission to Amend the Town of Polk 2035 Comprehensive Plan Map by changing the land use designation of a parcel of land as described in Exhibit A from A-1 Agricultural Use to Mixed Use. Town of Polk, Washington County, Wisconsin, Section 20, Tax Key # T9-0643.

The Zoning Secretary reported that the property owner purchased the parcel at least 20 years ago. At the time of purchase, the property was zoned B-1 Business District. At some point in time the property was rezoned to M-1 Industrial District and then at some point in time was rezoned to A-1 General Agricultural District. The Zoning Secretary has not been able to locate documentation indicating how, when or by whom, the rezonings were initiated. The property owner contends that he did not initiate the rezoning. The property owner wants to sell the property and market it as a B-1 Business District property. He has petitioned the Town to re-zone the property. The Town Board will be sending the Petition to the Plan Commission in August. Because the 2035 Planning Map designated this parcel as A-1 General Agricultural District, the map would require amendment before the Town could approve a re-zoning of the parcel. The Commission members discussed the location of the parcel. The parcel is surrounded by the Village of Slinger and commercial zoning. There was also discussion as to whether the Plan Commission should be reviewing the 2035 Planning Map as a whole for appropriate zoning. Secretary Groth commented that in 2016, the Plan Commission would begin the process of updating its 2035 Comprehensive Plan and a review of the Planning Map would be part of that process. Karen Reiter moved to Petition the Town Board to amend the 2035 Comprehensive Plan Map to change the designated use of the parcel described in Exhibit A from A-1 General Agricultural District to Mixed Use District. Dennis Sang seconded the motion. All voted in favor and the motion carried.

- E. **Petition 2015.04** by the Town of Polk Plan Commission to Amend the Text of Town of Polk Title XI Land Division Ordinance Section 7.03(h)(8) regarding sureties so as to comply with Wisconsin State Statute Chapter 236.

New legislation allows a town to require a performance surety; however the developer has the latitude to choose a letter of credit or surety bond rather than a town dictating the type of surety required to insure that public use infrastructure is completed by the developer. The Town's current Ordinance stipulates a cash bond. Chairman Schulteis noted that with a letter of credit or surety bond, the Town will have to track the sureties each year to make sure the obligations are being met by the developer. A cash bond gave the Town something to fall back on, but a cash bond is no longer an option. Karen Reiter moved to Petition the Town Board to Amend the Text of Town of Polk Title XI Land

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Division Ordinance Section 7.03(h)(8) regarding sureties so as to comply with Wisconsin State Statute Chapter 236. William Whitney seconded the motion. All voted in favor and the motion carried.

- F. **Petition 2015.05** by the Town of Polk Plan Commission to Amend the Text of Town Zoning Ordinance Title X of the Municipal Code of the Town of Polk, Washington County, State of Wisconsin 13.02 SPECIFIC WORDS AND PHRASES and 4.07 MOBIL TOWER SITING so as to apply consistently within the Ordinance, definitions regarding Mobile Service Facilities as defined by Wisconsin State Statutes Section 66.0404(1).

There was no discussion. William Whitney moved to Petition the Town Board to Amend the Text of Town Zoning Ordinance Title X of the Municipal Code of the Town of Polk, Section 13.02 SPECIFIC WORDS AND PHRASES and 4.07 MOBIL TOWER SITING. Karen Reiter seconded the motion. All voted in favor and the motion carried.

- G. **Editorial adjustments** to Town Zoning Ordinance Title X of the Municipal Code of the Town of Polk, Washington County, State of Wisconsin Section 4.07 MOBILE TOWER SITING [MOBILE SERVICE FACILITIES].

Nancy Anderson with SEWRPC recommended editorial changes to the Ordinance. Nancy Anderson suggested that the severability clause within the Mobile Tower Siting Ordinance was redundant since the Town's Title X Zoning Ordinance contains a severability clause. Secretary Groth reported that the Town attorney included the clause in the Mobile Tower Siting Ordinance due to the particular nature of the application process for siting mobile towers. The consensus of the Commission was that the severability clause should remain in the Ordinance.

Mark Peters questioned fees on page 43 of Title X. "Does State Statute determine the \$3000 engineering fees and application fees?" Secretary Groth explained that the State Statutes regarding Mobile Tower Siting are specific as to the \$3,000 limit on engineering fees. The Town determines the Conditional Use Fee to certain limits. The Plan Commission may Petition the Town to change the language of the Ordinance to set the CUP "application fee as established from time to time by Resolution of the Town Board and not to exceed the statute limitations for application fees for Mobile Tower Siting".

Karen Reiter moved to recommend to the Town Board the approval of the editorial adjustments except for the striking of the severability clause and directs the Zoning Secretary to research and verify the limitations of engineering and application fees allowed within the Mobile Tower Siting Ordinance. Mark Peters seconded the motion. All voted in favor and the motion carried.

Sang commented on Title X Section 4.08 Installation and Use of An Accessory Energy System. The Ordinance is open as to what an Accessory Energy System is. The system could be a wood burner, oil burner, burning tires, any incinerator, or back up generation. The Town is not defining anything in the Ordinance. The Commission directed the Zoning Secretary to present a definition of an Accessory Energy system at a future Plan Commission meeting. Sang also requested that the Town Ordinance be reviewed with regard to the regulation of broadcast towers.

D. Zoning Violations

Zoning Secretary Groth provided an update on the properties in violation of junk ordinances at Hwy 60 and at County Road C. The Town has a deferred judgment on the Highway 60 property. The property must be cleaned up by September 1, 2015 or the property owner faces significant fines. The County Road C property must be cleaned up by October 31, 2015 or the Town will take legal action.

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IV. Other Business

- A. Correspondence. NONE
- B. Informational Items. NONE
- C. Zoning Board of Appeals Report.

Karen Reiter reported that the Zoning Board of Appeals convened on June 4, 2015 to hear a variance at 3897 Cedar Creek Road to consider a variance to Section 3.03(3) of the Zoning Ordinance to allow a variance of seventy eight feet and one inch (78'-1") to the minimum front yard setback of one hundred fifty feet (150') from the centerline of the road; and five feet and eleven inches (5'-11") to the minimum side yard setback of thirty feet (30') on an Existing A-1 General Agricultural Lot to construct a detached four (4) car garage. The Zoning Board of Appeals granted the variance based on the extreme topographical issues with the lot.

IV. Adjourn.

Karen Reiter moved to adjourn the meeting. Mark Peters seconded the motion. All voted in favor and the motion carried. The meeting adjourned at 8:52PM.

Respectfully submitted,

Tracy Groth, Zoning Secretary