

**CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES**

Call to Order

Aldersperson Michele DeYoe called the meeting to order at 7:00 P.M. acting as Plan Commission Chairperson in the Mayor's absence.

Pledge of Allegiance

The Pledge of Allegiance was recited.

Roll Call for the September 26, 2012 Plan Commission meeting:

Present

Michele DeYoe, Ald.  
Kent Attwell  
Kevin Fitzgerald  
Dan Jashinsky  
Matthew Katz  
Tony Drake  
Roger Dupler, Planner  
Scott Hussinger, Building Inspector  
Tom Hafner, City Administrator/Director of Public Works

Absent

Ed McAleer, Mayor  
Chris Smith

**PUBLIC HEARING #1:            ZONING CODE TEXT AMENDMENT  
RE-3 THREE-ACRE RURAL ESTATE DISTRICT**

**APPLICANT:**                    City of Delafield

**MATTER:**                        An Ordinance (670) repealing and recreating Section 17.39(4)(a) 17.39(4)(b) of the Municipal Code of the City of Delafield, Waukesha County, Wisconsin Related to horses and structures for horses in the RE-3 Three-Acre Rural Estate District.

M. DeYoe called the public hearing to order at 7:02 P.M.

**PUBLIC COMMENTS:**

Marian Cronin, Horseshoe Bend, stated her family owned six acres with horses present. Changing the rules would affect the whole area and she thought part of the charm of living in Delafield was that the horses, rural areas, lakes and other recreational amenities were so close together. She questioned why this matter was coming forward as she did not know anyone on the lake with horses.

R. Dupler clarified the proposed ordinance as providing consistency in the existing ordinances. The keeping of horses was allowed in the general provisions of the Code. K. Fitzgerald explained the next public hearing was related to restricting horses to certain areas. M. Cronin stated she thought the restrictions were a bad idea.

Barb Ashley, 2509 Hirschman Lane, owned miniature horse and questioned whether she was affected by these proposed restrictions. R. Dupler stated she was removed from the affected area. B. Ashley questioned whether the ordinances could tell her to get rid of the horses after keeping them all this time. She had manure picked up through Veolia each week and there was not a manure issue on her property.

Robert Coon, 498 S. Lapham Peak, provided calculations on a three acre parcel of land, noting that to remove 200-300 feet would reduce the parcel's use by 55% and he thought it only fair to reduce the property taxes by that amount as well if the ordinance changes were passed. He thought the proposed changes were egregious and should include dogs as well as livestock if passed as they were similarly messy.

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Jody White, 1910 Price Road, stated she had just purchased her property for the opportunity to have horses and had made several inquiries of the City prior to purchase for this reason.

John Zablocki, 833 Hawks Hollow Drive, stated he was in opposition to the proposed ordinance as well as there was no reason why this should be done.

George Bogdanovich, 2010 Price Road; stated he had horses and lived on the lake. He had invested substantial money, time and effort into upgrading his barn and corral. He had paid his taxes each year and was in support of a healthy lake; however, he did not understand the need for this ordinance that would reduce his property value. He questioned how many people would be impacted by this proposed change. R. Dupler clarified the portions of the Bogdanovich property that would be impacted if the proposed ordinance were recommended for approval.

**K. ATTWELL MOVED TO CLOSE PUBLIC COMMENTS PERTAINING TO THE ZONING CODE TEXT AMENDMENT - RE-3 THREE-ACRE RURAL ESTATE DISTRICT PUBLIC HEARING AT 7:13 P.M. T. DRAKE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

**PUBLIC HEARING #2: ZONING CODE TEXT AMENDMENT  
KEEPING OF LIVESTOCK WITHIN 200 FEET OF NAVIGABLE WATERS**

**APPLICANT:** City of Delafield

**MATTER:** An Ordinance (671) repealing and recreating Sections 17.23(5), 17.39(2)(b) and 17.39(3)(b), of the Municipal Code of the City of Delafield, Waukesha County, Wisconsin Related to the keeping of livestock within 200 feet of navigable waters.

M. DeYoe called the public hearing to order at 7:14 P.M.

**PUBLIC COMMENTS:**

Comments from Public Hearing No. 1 were also considered part of the Public Comments for this hearing at the request of the residents providing comment. There was no further commentary on this public hearing.

**K. ATTWELL MOVED TO CLOSE PUBLIC COMMENTS PERTAINING TO THE ZONING CODE TEXT AMENDMENT - KEEPING OF LIVESTOCK WITHIN 200 FEET OF NAVIGABLE WATERS PUBLIC HEARING AT 7:15 P.M. D. JASHINSKY SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

**PUBLIC HEARING #3: PLANNED DEVELOPMENT & CONDITIONAL USE AMENDMENT  
TO ACCOMMODATE STOREFRONT AWNINGS**

**OWNER:** Delafield Investment, LLC./United Properties  
**APPLICANT:** Bauer Sign, Bob Hacker

**MATTER:** Applicant seeks an amendment to the Planned Development and Conditional Use for a unified design of storefront awnings for Village Square.

M. DeYoe called the public hearing to order at 7:15 P.M.

**PUBLIC COMMENTS:**

None.

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K. ATTWELL MOVED TO CLOSE PUBLIC COMMENTS PERTAINING TO THE PLANNED DEVELOPMENT & CONDITIONAL USE AMENDMENT - TO ACCOMMODATE STOREFRONT AWNINGS AT 7:15 P.M. T. DRAKE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

1. Approve Plan Commission meeting minutes of August 29, 2012 meeting.

K. ATTWELL MOVED TO APPROVE THE AUGUST 29, 2012 PLAN COMMISSION MEETING MINUTES AS PRESENTED. K. FITZGERALD SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

2. City of Delafield Citizen's Comments pertaining to subjects on this agenda.

K. ATTWELL MOVED TO CLOSE CITIZEN'S COMMENTS PERTAINING TO SUBJECTS ON THE AGENDA AT 7:17 P.M. D. JASHINSKY SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

3. Consent Agenda (Recommended approvals in accordance with the staff report).

- a. DELC 0792.055.001, 817 Genesee Street, Delafield. Owner: Tom Aul. Applicant: Steve T. May. Applicant seeks approval of a Business Plan of Operation for a professional services recruitment office, Foster Crown, LLC. Hours of Operation are Weekdays 9A.M. to 4 P.M. with no employees.
- b. DELC 0794.020, 24 Enterprise Road, Suite E, Delafield. Owner: Cushing Park Plaza Properties/Greg Smith. Applicant: Patrick Lammert. Applicant seeks approval of a Business Plan of Operation for a residential heating and air conditioning business, The Iron Fireman. Hours of Operation are Weekdays 6 A.M. to 5:30 P.M. with 13 full-time employees.

K. FITZGERALD MOVED TO APPROVE THE ITEMS ON THE CONSENT AGENDA IN ACCORDANCE WITH THE STAFF REPORT. K. ATTWELL SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

4. Final Consideration, Approvals, Previous Approval.

- a. DELC 0733.998.002, 3001-3091 Village Square Drive, Hartland. Owner: Delafield Investment, LLC./United Properties. Applicant: Bauer Sign, Bob Hacker. Applicant seeks final approval for an amendment to the Planned Development and Conditional Use for a unified design of storefront awnings for Village Square and recommendation to the Common Council of the same.

**FROM PLANNER DUPLER'S STAFF REPORT:** A number of tenants at the Village Square desire an awning to shade their south facing windows. Since the shopping center was approved as a Conditional Use Planned Development, and since the awnings are an architectural modification, the petitioner has submitted for a public hearing to allow the proposed change. The awnings are uniformly designed and complement the existing façade. The color is uniform but the addition of tenant signage on the face of the awning has been determined as unacceptable. The existing settlement agreement is silent on architectural improvements. In preparation for the public hearing the petitioner was requested to provide a schematic diagram to illustrate the pedestrian clearance beneath the awnings. In addition the Plan Commission requested that language be created to ensure that the continuing maintenance and potential replacement of the awning fabric is guaranteed. Such language should include a trigger mechanism to initiate necessary replacement. The details of such language will be provided by the petitioner at the meeting. **Recommendation:** Approval, recommend to the City Council for concurrence.

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Bob Hacker of Bauer Signs noted he had spoken to United Properties representatives who were agreeable to providing language in the leasing materials that would require maintenance of awnings on a semi-annual basis with the awnings to be washed and cleaned. Awnings would all be of the same materials and unified throughout the complex by color and strategically placed where the brick structure and fascias would allow. The original request came from the dentist's office as there were issues with excessive sunlight coming into the waiting room. K. Attwell requested clarification on specific placement of the awnings on the building. He also clarified that awnings were not a requirement of tenants but could be requested when they agreed to utilize the space. He remained concerned these awnings were not architecturally pleasing in all locations. D. Jashinsky clarified the awnings were an option not a requirement to existing tenants.

**K. FITZGERALD MOVED TO APPROVE THE AMENDMENT TO THE PLANNED DEVELOPMENT AND CONDITIONAL USE FOR A UNIFIED DESIGN OF STOREFRONT AWNINGS FOR DELC 0733.998.002, 3001-3091 VILLAGE SQUARE DRIVE, HARTLAND. OWNER: DELAFIELD INVESTMENT, LLC./UNITED PROPERTIES. APPLICANT: BAUER SIGN, BOB HACKER AND RECOMMEND TO THE COMMON COUNCIL OF THE SAME. M. KATZ SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. MOTION CARRIED WITH ONE NAY BY K. ATTWELL.**

5. Plans of Operation, Signage and Site Plan.

- a. **DELC 0787.087.001, 715 Milwaukee Street, Delafield. Owner/Applicant: William Brown.** Applicant seeks approval of architectural modifications and upgrades to the existing accessory building.

**FROM PLANNER DUPLER'S STAFF REPORT:** The commercial property contains an accessory building and the owner wishes to make architectural improvements. The building is designed as a garage but the owner wants to enlarge it and improve the aesthetics. Since this is a commercial property the Plan Commission must approve the upgrades. This building is not allowed to house a residential use. In the CBD-2 district residential use is permitted only in the primary structure. Residential use could only be allowed if the accessory building were attached to the primary structure. As a stand-alone structure a residential use requires 900 sf minimum, the garage is currently 319 sf. Any enlargement of the building will require specific Plan Commission, regardless of use, because it is a non-conforming structure in regard to its location on the lot. Currently the building exhibits a side yard setback of 1.2 feet. Ordinance 17.39(19)(h) allows the Plan Commission to waive the setback requirement, if there is a recordable deed restriction approved on the adjacent lot. Such a deed restriction would impose an 18.8' building setback on the neighboring lot, thereby respecting the mandatory 20' building separation equal to the combined district side yard requirements. Photographic examples of the intended aesthetic improvements are submitted for Plan Commission approval. Although no specific architectural drawings have been provided the Plan Commission may defer final approval to the Building Inspector at the time of building permit application. **Recommendation:** Approval of the existing garage upgrades, contingent upon Staff review and approval of architectural detailing. The Plan Commission may also consider approval to expand the garage, contingent upon the recordation of the mandatory deed restriction on the neighboring property.

Billy Brown 715 Milwaukee Street, wanted to use the existing office space in the garage as storage space. He wanted to side the garage so it no longer looked like a garage but better matched the architectural character of the house. There would be no running water placed in the space; however a fire place would be added. Also, the garage door would be removed with a single small entrance door installed.

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K. ATTWELL MOVED TO APPROVE THE ARCHITECTURAL MODIFICATIONS AND UPGRADES TO THE EXISTING ACCESSORY BUILDING FOR DELC 0787.087.001, 715 MILWAUKEE STREET, DELAFIELD. OWNER/APPLICANT: WILLIAM BROWN SUBJECT TO STAFF REVIEW AND RECOMMENDATIONS. K. FITZGERALD SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

6. Preliminary

- a. **DELC 0792.065, 1101 Genesee Street, Delafield. Owner: St. John's Northwestern Military Academy. Applicant: MSI General Corporation – John Kutz.** Applicant seeks preliminary feedback for façade improvements to the existing gymnasium building and set public hearing date for the same.

**FROM PLANNER DUPLER'S STAFF REPORT:** The military academy wishes to improve the west elevation of the existing gymnasium building. The proposal offers to upgrade the facade materials by replacing the existing brick pilasters with stone, enlarging the window openings, and reconstructing the entrance. There are no site plan changes. Since the campus is governed by a Conditional Use Permit any proposed changes require a public hearing. **Recommendation:** Share comments with the petitioner and schedule a public hearing.

John Kutz, and Craig Coursin, both of MSI General Corporation, were present.

K. ATTWELL MOVED TO SCHEDULE A PUBLIC HEARING FOR OCTOBER 31, 2012 FOR DELC 0792.065, 1101 GENESEE STREET, DELAFIELD. OWNER: ST. JOHN'S NORTHWESTERN MILITARY ACADEMY. APPLICANT: MSI GENERAL CORPORATION – JOHN KUTZ FOR FAÇADE IMPROVEMENTS TO THE EXISTING GYMNASIUM BUILDING. D. JASHINSKY SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- b. **DELC 0798-030-001, 0798-032-001, 0798-033-001, 0798-036-001, 0798-037-001, 0798-038-001, and 0798-039-001, Wells Street, Delafield. Owners/Applicants: Steve Reich and The Villard Company, Inc. Jane Lazynski President.** Applicants seek preliminary feedback on a change of zoning from CBD-2 to CBD-1, and a redevelopment plan that will combine the usage of the seven lots and set public hearing date for the same.

**FROM PLANNER DUPLER'S STAFF REPORT:** Two property owners in the western portion of Block 4 of the original City Plat bounded by Wells Street, Oneida Street, and Main Street request the Plan Commission's consideration to rezone their properties from CBD-2 to CBD-1. In total the petition includes seven lots; Lots 1, 3, 4, and 7-10. These properties are contiguous with existing CBD-1 property at the corner of Oneida and Main Streets. This proposal is supported by the Comprehensive Plan, in that the entire area is identified as Central Business. By considering this petition the City will further the goals and objectives as stated in Chapter 7 Land Use, Goal 1; Objectives a-d. This area cannot be considered a residential neighborhood; there is only one residential home in the seven lots, owned and occupied by one of the petitioners. Of the fifteen adjacent properties only four are exhibit residential use, one of which is a rental property: Blazek residence at 717 Main Street, Gilbert residence at 723 Main Street, Koehn residence at 730 Main Street, Johnson rental property at 726 Wells Street. All of the surrounding properties have commercial zoning. This proposal also conforms to the recommendations of the 1993 Downtown Plan, wherein the description of the CBD land use identifies retail as the primary intent and single family and multifamily uses as secondary. In the Zoning Recommendations and Design Guidelines this area is

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identified as “Downtown – Non-historic Core”. In consideration of any proposed development it is recommended that the architecture be compatible with the historic features of downtown and that the use of “parking courtyards” in the rear of buildings be considered. This development proposal may also offer the opportunity to expand the successful streetscape elements of downtown further east. **Recommendation:** Share with the petitioners your opinions and schedule a public hearing as determined appropriate.

Steve Reich, 484 Garrison Court, and 706 Main Street, was present in support of the application for zoning change. Jane Lazynski, of Villard Company, 711 Wells Street, was also present. J. Lazynski and S. Reich noted there were no plans to proceed with the conceptual drawing presented at this time. K. Fitzgerald suggested it would be logical to include the five parcels surrounding the proposed area as well so that a nonconforming island of parcels was not created. K. Attwell stated he was concerned about the lack of parking in the downtown area and should a project proceed for this location, parking was imperative. Discussion ensued regarding parking areas related to any future plans for the proposed location. R. Dupler stated the applicants would be required to return with plans and all issues could be considered at the time a formal plan for the properties was submitted, thus no further action was required at this time.

### 7. Zoning and Ordinance Revision.

- a. Discussion and action on Ordinance 670, An Ordinance Repealing and Recreating Section 17.39(4)(a) and 17.39(4)(b) of the Municipal Code of the City of Delafield, Waukesha County, Wisconsin Related to Horses and Structures for Horses in the RE-3 Three-Acre Rural Estate District and recommendation to the Common Council of the same and discussion and action on Ordinance 671, An Ordinance Repealing and Recreating Sections 17.23(5), 17.39(2)(b) and 17.39(3)(b) of the Municipal Code of the City of Delafield, Waukesha County, Wisconsin Related to the Keeping of Livestock Within 200 Feet of Navigable Waters and recommendation to the Common Council of the same.

**FROM PLANNER DUPLER'S STAFF REPORT:** Ordinance 670 - In an attempt to eliminate the duplicity of information contained in the zoning ordinance, Ordinance 670 is proposed. Section 17.38(10) governs the erection of structures intended for the housing of livestock and therefore reference to such is not needed in 1739(4)(a). In addition, The keeping of horses is a right secured by 17.23(5), reference specific to this use may be removed from 17.39(4)(b). Ordinance 677 - The Lake Welfare Committee has recommended that a consideration be given to amending the zoning text to curtail the potential for run-off pollutants and over-nutrifcation impact to the Lake. One possible solution may be to impose a setback from the navigable waters. Such setback would afford the opportunity for filtration of storm water run-off by natural means through grassed swales of the existing drainage patterns. Examples of other ordinances are provided for reference. These restrictions range from 75' to 300' and many require compliance with other regulations or variances from jurisdictional County boards. A reasonable buffer may be incorporated into all districts lots implemented with a zoning text amendment. To illustrate the potential impact of a 200' setback a map is included in the Plan Commission packet. Throughout the entire City, 51 lots that fall within the illustrated 200' buffer are greater than 1 acre and therefore able to keep chickens. In most all cases, the existing lots afford ample space for chickens well removed from the delineated buffer zone. The few exceptions are along Garrison Court, Evergreen Lane, and Ridge Drive, all on the east side of the Lake. Only 10 lots that fall within the 200' buffer are greater than 3 acres and able to keep horses or livestock. Of these 10 lots, one is St. John's Campus, and one is Margaret Zerwekh's property on the west edge of the City. Five others are in the immediate proximity of Nagawicka Road and the River. The Salden property, on the west side of Nagawicka Road south of the River, has a barn

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capable of housing horses. The property is zoned RE-2 so livestock other than chickens and horses are prohibited. The barn location is already 203' from the river, so the proposed buffer would require that horses be pastured only on the south side of the barn. An area of approximately 2 acres exists south of the barn. Further east three properties larger than 3 acres are encumbered by the proposed buffer. The Roy property, on the south side of the River at Highway 83 also exhibits a barn capable of housing livestock. In this instance the barn is 296' from the River. The area exclusive of the proposed 200' buffer that is suitable for grazing livestock is approximately 10 acres. The Roy property is zoned A-1 and therefore any livestock allowable in the district may be kept. The final two properties are those formerly known as the Walcott Farm. In these two parcels the area of encumbrance is minimal compared to the size of the properties. These A-1 zoned properties currently have row crops and are not used for grazing. The potential impact of a 200' setback is negligible in consideration of the entire parcel sizes. With this understanding of the potential impacts to affected residential and agricultural properties the Plan Commission may wish to move the following text amendment forward.

**K. ATTWELL MOVED TO ADOPT ORDINANCE 670, AN ORDINANCE REPEALING AND RECREATING SECTION 17.39(4)(A) AND 17.39(4)(B) OF THE MUNICIPAL CODE OF THE CITY OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN RELATED TO HORSES AND STRUCTURES FOR HORSES IN THE RE-3 THREE-ACRE RURAL ESTATE DISTRICT AND RECOMMENDATION TO THE COMMON COUNCIL OF THE SAME. K. FITZGERALD SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

With regard to proposed ordinance no. 671, K. Fitzgerald requested clarification on the issue with the current regulations identified by the Lake Welfare Committee (LWC). K. Attwell stated the LWC likened this issue to the reason for sewerage the lake area as it was important to try to keep excessive nutrient growth from the lake. Effluent did not benefit the lake and caused excessive weed growth. K. Fitzgerald stated this proposed ordinance was not impacting the larger agricultural effluent producers as this impacted residential properties. In addition, there was no problem identified that the proposed ordinance was attempting to fix and he thought the changes illogical. Also, there were several residents in opposition to it that were immediately impacted.

**K. FITZGERALD MOVED TO DENY ADOPTION OF ORDINANCE 671, AN ORDINANCE REPEALING AND RECREATING SECTIONS 17.23(5), 17.39(2)(B) AND 17.39(3)(B) OF THE MUNICIPAL CODE OF THE CITY OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN RELATED TO THE KEEPING OF LIVESTOCK WITHIN 200 FEET OF NAVIGABLE WATERS AND RECOMMENDATION TO THE COMMON COUNCIL OF THE SAME. T. DRAKE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. MOTION CARRIED WITH ONE NAY BY K. ATTWELL.**

8. Reports of City Officials:
  - a. Clerk
    1. October 26 (Meeting); September 28 (PH Deadline); October 12 (Reg. Deadline)
  - b. Planner

There was nothing further to report on at this time.
  - c. Building Inspector

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S. Hussinger stated the total number of permits to date was 65 with no occupancy permits this month. There were no new single family home permits.

9. Adjournment.

**K. ATTWELL MOVED TO ADJOURN THE SEPTEMBER 26, 2012 PLAN COMMISSION MEETING AT 8:14 P.M. T. DRAKE SECONDED THE MOTION. ALL WERE IN FAVOR. MOTION CARRIED.**

Minutes Prepared By:

Accurate Business Communications, Inc.