

CITY OF DELAFIELD PLAN COMMISSION MINUTES

CALL MEETING TO ORDER

Mayor McAleer called the meeting to order at 7:02 p.m.

ROLL CALL

Present

Mayor Ed McAleer

Phil Schuman

Robert Trunzo

Fred Welch

Robert Transon

Marilyn Gardner

Diri Curtis Costa

Roger Dupler

Matt Carlson

Marilyn Czubkowski

Absent

Tom Maney

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

1. APPROVE MINUTES OF JANUARY 30, 2002.

P. SCHUMAN MOTIONED TO APPROVE THE MINUTES AS PRESENTED. R. TRANSON SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

2. DELAFIELD CITIZEN'S COMMENTS PERTAINING TO SUBJECTS ON THIS AGENDA.

Lynn Reich, 484 Garrison Court – Spoke on 7a, Kettle Moraine Evangelical Free Church. She is not in favor of this rezoning and feels that it is not right to change the zoning after someone purchases land. Stated reasons why the zoning should not be changed.

Jack Gochenaur, 864 South Dousman Road, Chairperson of Kettle Moraine Evangelical Free Church – Spoke regarding 7a, Kettle Moraine Evangelical Free Church. He is against the proposed rezoning because it will financially harm the church and potentially block their building plans. He reviewed the facts of the purchase of the land and stated that the purchase was contingent on the zoning of the property by the City of Delafield as P1. Costs and fees have now been incurred for building

CITY OF DELAFIELD PLAN COMMISSION MINUTES

plans. Several factors have made it not feasible to build as soon as had originally planned. He stated that the church has received a letter from a commercial broker listing options for the church to consider. The options are nonspecific and would not constitute an offer to purchase. The options will be reviewed by the board of elders at their next meeting, but no purchase or sale of property will be accomplished in the church without congregational approval of simple majority. The purchase or sale of property can only be conducted by congregational approval. They feel they would be financially disadvantaged by the rezoning of this property.

Bill Maslowski, 2007 Bay Point Lane – He represents a group of people in the neighborhood by the Kettle Moraine Evangelical Free Church. Reviewed the circumstances surrounding the purchase of the property by the church. Requested that the City go back and rezone the property back to the original zoning designation according to the City Master Plan. Feels it was improper for the past administrator of the city to negotiate the spot zoning for this particular piece of property to P1 when the church could operate under a conditional use permit. The resident's interest was that they would like this to go back to residential zoning. The focus is to correct an error that the residents feel was made by "spot zoning" to P1. Asked that this go to a public hearing.

Al Zietlow, 3312 Bayview Avenue – Spoke in regards to Item 5b, Ruff Estates. He has three concerns: 1. That the storm water ordinance be fully enforced. 2. That if the conservancy trust becomes nonfunctional or not capable of carrying out their role that there is something in the record so that the land does not revert to a developer. 3. That the 20' ROW going to Nagawicka Lake be thoroughly identified. On Item 7a, he thought that it would be in the best interest of the whole community that it be reverted to what the Master Plan identifies as R2. On Item 7b, he felt that this should not be addressed at this time.

Barb Barry, Timber Oak Court – She stated that many of the neighboring residents were not aware of the P1 change last summer. Asked that the commission take their feelings into consideration so that they have some say as to what happens to the land near their homes. She agreed with the points made by Mr. Maslowski.

Jim Zahorik, 1948 West Shore Drive – Addressed Item 2 and asked when the word "Delafield" was added. Mayor McAleer stated that this was added about four years ago. If you are not a member of "Delafield" you cannot speak during the plan commission meeting. During a public hearing anyone can speak. Regarding Item 7a – Mr. Zahorik stated that the zoning occurred in 1998. Proper notice was given. He stated that he

CITY OF DELAFIELD PLAN COMMISSION MINUTES

did not think it was right to change the zoning of a property purchased upon a contingency that had the contingency satisfied by the governing body. He stated reasons why an organization does not want to operate under a conditional use permit. In regards to the spot zoning, he asked if another area was recently changed in that area for park use, does not think that spot zoning holds any water. Regarding Item 7b, he asked why there is a P1 zoning.

Linda Kuklinski, Nagawicka Avenue – She stated that the City needs to be careful when looking at changing zoning every time the plan commission and council representatives change. This could invite trouble. In both Item 7a and Item 7b, a conditional use invites burdens on operations. She doesn't think that any more complex situations should be made. Under Correspondence, 12a, she hasn't seen the letter, but Nagawicka Lake is one of the cleanest lakes as far as these kinds of toxic materials are concerned and thought that the City does not need to invite any more of this kind of trouble.

Jim Zahorik, 1948 West Shore Drive – Regarding the gasoline barge for boat gas, asked the commissioners to think of the ramifications of a collision by any large vessel not being controlled properly.

3. CONSENT AGENDA

P. SCHUMAN MOTIONED TO APPROVE. D. CURTIS COSTA SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED..

- a. **Tax Key 798.051, 711 Main St.** Owner, Gary Gorski; Applicant, Dr. James Freiburger. Applicant seeks approval to operate an outpatient counseling center, *Allied Counseling Services S.C.* Hours of operation, 10AM to 8PM Weekdays, and by appointment only on Saturdays. One full-time employee.
- b. **Tax Key 804.994.002 & 804.994.006, 2863 Heritage Drive.** Owner: Wal Mart Store (Brendan Barrett), Applicant: Tripoli Temple (Robert McQuillan). Applicant requests permission to sell Vidalia onions in the grassy area on the north side of the *Wal Mart* store. Sale will be held on Friday, April 26 and Saturday, April 27, 2002, from 9AM to 4PM. Two full-time employees.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

4. PLANS OF OPERATION, SIGNAGE AND SITE PLAN

- a. **Tax Key 804.994.005, 2835 Heritage Drive.** Owner/Applicant: Fred E. Warden. Applicant seeks approval of signage and color change to exterior of *Ace Hardware*.

Mr. Warden was present at the meeting. He would like a larger sign in the front of the store and thought that they met all of the specifications. R. Dupler found very few objections. He clarified that the Ace sign is in the proposal and that the garden sign is not part of the proposal. Mr. Warden stated that the signage on the chain-linked fence would be taken down.

D. CURTIS COSTA MOVED TO APPROVE ON THE CONDITION THAT THE INCIDENTAL SIGNS ARE REMOVED AND THAT HE COME BACK IF HE WANTS TO PUT THEM UP. M. GARDNER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- b. **Tax Key 798.005, 621 Milwaukee St.** Owner: Tom Aul; Applicant, Phil Haseker. Applicant seeks approval of signage for the *Prickly Pear*.

Phil Haseker was present at the meeting. He would like to make the signs permanent. R. Dupler reviewed the signage and special clearance circumstances surrounding this location.

M. GARDNER MOVED TO ACCEPT THE SIGNAGE WITH THE CONDITION THAT THE BOTTOM OF THE SIGN ON WEST SIDE BE FLUSH WITH THE CANOPY AND TO ACCEPT SIGNAGE ELSEWHERE AS IS. F. WELCH SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- c. **Tax Key 804.994.002 & 804.994.006, 2863 Heritage Dr.** Owner/Applicant: Wal Mart Stores (Dan Uttech). Applicant seeks approval to operate the Lawn & Garden Greenhouse Compound at *WalMart*. Hours of Operation: 7AM-10PM, seven days. Five part-time, ten full-time employees.

Dan Uttech was present at the meeting. The temporary greenhouse would be set-up same as last year. R. Dupler stated that it was the same site plan as last year. Truck parking and overnight parking of delivery vehicles was discussed and it was stated that there would

CITY OF DELAFIELD PLAN COMMISSION MINUTES

be no long-term parking. In consideration of customer safety, no plants should be for sale on the outside areas of the greenhouse area.

M. GARDNER MOTIONED TO APPROVE THE OPERATION OF THE LAWN & GARDEN GREENHOUSE COMPOUND AT WALMART FOR USUAL DISPLAY BUT TO TAKE OUT THE DISPLAY OF PLANTS IN THE ROW OF TRAFFIC. F. WELCH SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- d. **Tax Key 803.988.003, 2574 Sun Valley Dr., Ste. 100.** Owner: Gary Storts, Applicant: Center for Diagnostic Imaging (CDI – Paul Geibl). Applicant seeks approval of Business Plan of Operation and Signage for Medical Diagnostic Imaging Center (*Center for Diagnostic Imaging*) Hours of operation: Weekdays: 7:30AM to 6PM, Tuesdays and Thursdays, 7:30AM to 8PM. Saturdays, 7:30 to Noon. Four Part-time and four full-time employees.

Paul Geib was present at the meeting. R. Dupler stated that the signage was compliant with all of the other signage. Explained uniqueness of this sign – 2 bands of text – can be 24” – 30” letter height. Current proposal is for 32”.

M. GARDNER MOTIONED TO APPROVE WITH THE REDUCTION OF THE LETTER HEIGHT AND CONTINGENT UPON STAFF REVIEW OF THE FONT CHANGE AND APPROVAL OF THE BUSINESS PLAN OF OPERATION AS WELL. P. SCHUMAN SECONDED THE MOTION. DISCUSSION TOOK PLACE ON WHAT THEY DO. ALL WERE IN FAVOR. MOTION CARRIED.

5. PRELIMINARY CONSIDERATION

- a. **Tax Key 797.974, 1307 E. Devonshire Rd.** Owner/Applicant: Tom & Wanda Berner. Applicant seeks preliminary consideration to reconfigure lot.

Wanda Berner was present and asked to split the lot off. R. Dupler stated that this is fully compliant and that there are a number of large lots in the neighborhood. There is potential that this is a trend that may continue.

R. TRUNZO MOTIONED TO APPROVE. M. GARDNER SECONDED THE MOTION. DISCUSSION TOOK PLACE ON

CITY OF DELAFIELD PLAN COMMISSION MINUTES

WHETHER THE NEIGHBORS WERE AWARE OF THIS (THEY ARE). THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- b. **Tax Key 797.945, Ruff's Estates.** Owner: Ray Ruff, Applicant: Wayne Foster (the Foster Group). Applicant seeks approval of preliminary plat for *Ruff Estates*.

Mr. Foster was present at the meeting. R. Dupler stated that this would be the approval of the preliminary plat – it has gone to the County and State. Review comments have been received from the County. The technical issues can be resolved easily to make it fully compliant with ordinance and with County recommendations. Suggested approval with conditions. M. Carlson stated that this was approved as a PUD for 40.7 acres of the property. The first step of approval is the GPD, which has already taken place. The second step is the Specific Implementation Plan (SIP) that goes in conjunction with the approval of the plat subdivision. The general development plan, the developer's agreement, deeds covenants and restrictions, storm water management plan – all those items that go with this development govern all 40.7 acres of the property. If the plat is surveyed should also reflect that GDP and document approval that was previously granted. This plat of subdivision will include all 40.7 acres. The language in the developer's agreement as to the conservancy land states that it would remain open land and conservancy. M. Carlson stated that the Waukesha Conservancy was accepting a Wisconsin DNR grant money to help it acquire the property. There are rules and requirements that go with accepting that money. It is his understanding that if the agency goes out of business the land would revert to the DNR. The intent is that it stay undeveloped in public ownership. Mr. Foster stated that he has an agreement in regards to the easement. Addressed the revision of the plat for larger cul de sac with a planting in the center. A 75' radius on the two corners satisfied the fire department's concerns, but he had to adjust two lots to do this.

R. TRUNZO MOVED FOR APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO THE CONDITIONS BEING SATISFIED IN THE WELCH HANSON LETTER AS WELL AS THE LETTER FROM THE COUNTY AND ALL OTHER NECESSARY DOCUMENTS RELATIVE TO THE PROJECT. M. GARDNER SECONDED THE MOTION. R DUPLAR STATED THAT THE REVISIONS TO THIS PLAT WERE BROUGHT BACK IN THE SIP STATEMENT PROCESS.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

DISCUSSION TOOK PLACE AS TO WHAT THE NEXT STEP WAS. THIS WAS PRELIMINARY CONSIDERATION TONIGHT, IT WOULD BE BROUGHT BACK TO THE PLANNING COMMISSION WITH THE AMENDMENTS AND WOULD BE SCHEDULED FOR SIP APPROVAL AND PRELIMINARY PLAT APPROVAL THE SAME NIGHT. THE CORRECTIONS WILL BE MADE ON THE PRELIMINARY PLAT. M. CARLSON SUGGESTED TO MAKE AMENDMENTS TO THE PRELIMINARY PLAT, FILE FOR FINAL APPROVAL OF PRELIMINARY PLAT PLUS SIP, GET IT BEFORE THE PLANNING COMMISSION AT THE NEXT MEETING AND ALSO PREPARE THE FINAL PLAT.

ALL WERE IN FAVOR. MOTION CARRIED.

6. FINAL CONSIDERATION, APPROVALS, PREVIOUS APPROVALS

None.

7. ZONING AND ORDINANCE REVISIONS

- a. **Key 756.996.002.** Owner: Kettle Moraine Evangelical Free Church N6 W31449 Alberta Dr., Delafield, WI 53018 Request from Ald. Schuman to initiate action to change the P-1 zoning on the land at Hwy 83 and Oakwood Rd. back to A-1.

P. Schuman commented. The residents in his district are concerned about what will happen to this land. He explained why he asked to have this on the agenda. He suggested zoning the property to A-1 with a conditional use for the church. Discussion took place.

P. SCHUMAN MOVED TO ADOPT THE RESOLUTION SAMPLE THAT WAS DISTRIBUTED ASKING FOR A PUBLIC HEARING ON THIS PROPERTY. THERE WAS NO SECOND. THE MOTION DIED FOR LACK OF A SECOND.

- b. Request from Ald. Schuman to change the zoning code to make medical and dental centers, clinics, hospitals and medical laboratories a Conditional Use in any zoning district that they would otherwise be permitted.

P. Schuman summarized. General discussion took place. Legal ramifications were a concern. R Trunzo stated that if you have a permitted use right now and that permitted use allows for a hospital or medical office building, you are telling the land owner that it is no

CITY OF DELAFIELD PLAN COMMISSION MINUTES

longer a permitted use, it is a conditional use. He has a problem with this. This issue raises the legal question. He suggested that specialized legal counsel look at this. He felt that certain uses were being laser beamed out. Asked where you stop. M. Carlson stated that the question is if there are other uses that would have a similar impact on the community that you want to convert to a conditional use. R. Trunzo focused on the Master Plan showing parcels zoned to allow a hospital use as a permitted use. Is concerned that if you laser beam this out on some process, you are taking something away from a property owner who already has a permitted use, taking away specific uses that are authorized by law. Thinks that it is altering the Master Plan. Need to understand the legal ramifications and the planning ramifications. Asked why this should be looked at now. Suggested specialized counsel if legal counsel is obtained. P. Schuman stated that Master Plan is a guideline, not an ordinance.

F. WELCH MOTIONED TO FORWARD THIS TO THE COMMON COUNCIL FOR REVIEW FOR SPECIAL CONSIDERATION AND RECOMMENDATION FOR RETENTION OF SPECIAL COUNSEL TO INVESTIGATE THE POSSIBLE RAMIFICATIONS OF THIS ACTION. D. CURTIS COSTA SECONDED THE MOTION. THREE WERE IN FAVOR (F. WELCH, D. CURTIS COSTA, AND P. SCHUMAN), THREE WERE AGAINST (R. TRUNZO, M. GARDNER, R. TRANSON). MAYOR MCALEER VOTED IN FAVOR. MOTION CARRIED.

R. Trunzo asked what the scope of the legal opinion would include. M. Carlson will draft this and present it to the City Council. R. Trunzo stated that in addition to the legal issue, we are laser beaming out some uses. Would like to broaden the scope of this. He will submit written comments to M. Carlson and copy the plan commission.

8. HEARING DATES

None.

9. ADMINISTRATOR'S REPORT

No report.

10. BUILDING INSPECTOR REPORT

A total of 19 permits plus three occupancy permits. New permits include one single family home.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

11. BOARD OF ZONING APPEALS

No report.

12. CORRESPONDENCE

M. Carlson discussed Item C. Mayor McAleer stated that the City Administrator reviews the proposal in accordance with the Lake Country Corridor Compact and if it necessitates, the City Administrator will speak at the public hearing if there is no conflict. Discussion took place.

- a. Correspondence from Boatgas Marine Refueling Service
- b. Correspondence from Southeastern Wisconsin Regional Planning Commission to Ald. Zietlow.
- c. Correspondence from the Village of Hartland – Notice of Public Hearing to consider a Conditional Use Request from Scott Thorson, dba Rosati's Pizza to operate a pizzeria including carry-out and delivery service in the Geason Commerce Center

13. ADJOURNMENT

P. SCHUMAN MOTIONED TO ADJOURN FROM THE MEETING. D. CURTIS COSTA SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED. THE MEETING ADJOURNED AT 8:34 P.M.

Respectfully submitted:

Minutes prepared by:

Marilyn Czubkowski, CMC
City Clerk/Treasurer

Accurate Business Communications