

CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES

Call to Order

Chair DeYoe called the Wednesday, February 28, 2018 Plan Commission meeting to order at 7:00PM.

Pledge of Allegiance

The Pledge of Allegiance was recited.

Roll Call for the Wednesday, February 28, 2018 Plan Commission meeting:

Present

Michele DeYoe, Mayor

Tim Aicher, Ald.

Dave Greenway

Dan Jashinsky

Jeff Krickhahn

Jeff Miller

Jim Reiher

Roger Dupler, Planner

Absent

David Simon

1. Approve Plan Commission meeting minutes of January 31, 2017 meeting.

Hearing no objections, the January 31, 2017 Plan Commission meeting minutes were approved.

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

**Wayne Dehn, Alderperson, 3479 Broken Bow Trail**, was present regarding item 4b. He distributed to Commissioners a timeline of historical events related to the Hartland Sportsman's Club (HSC) Conditional Use Permit filed in 2013. In the past, an HSC attorney provided misleading testimony in front of the Circuit Court that the City had not provided any expert witnesses regarding the safety of the gun club. This was misleading because it was not the City's responsibility to provide expert testimony at that Public Hearing. At that time, he had testified at that hearing. His knowledge and experience was noted on the timeline of events. Additionally, he had designed several ranges in the past and had one designed for use March 14-18, 2018 at an exclusive hunt club. It was misleading to say there was no expert testimony provided against the HSC at the 2013 Public Hearing.

There was no one else present wishing to speak at this time. DeYoe closed City of Delafield Citizen's Comments.

3. Consent Agenda

- a. **DELC 0804.994.017, 2722 Heritage Drive, Delafield. Owner: Heritage-Hillside LLC. Applicant: Hart Hearing Care Center LLC.** Applicant seeks approval of an amended Business Plan of Operation for Hart Hearing Care Center, an existing specialty service to relocate from downtown to the Heritage shopping center, and a permanent sign. Hours of Operation and number of employees are unchanged.

- b. **DELC 0804.999.008, 3230 Golf Road, Delafield. Owner: Shoppes at Nagawaukee Equity, LLC. Applicant: Blommer Inc.** Applicant seeks approval of a Business Plan of Operation for The Chocolate Factory, a specialty restaurant, to locate in the shopping center. Hours of Operation are 10:30 A.M. to 10:00 P.M. Monday through Saturday, 11:00 A.M. to 9:00 P.M. Sunday, with three full-time and seventeen part-time employees.

CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES

- c. **DELIC 0792.056.001, 525 Main Street, Delafield. Owner: Hendricks Commercial Properties, LLC. Applicant: Benolli Corporation.** Applicant seeks approval of an amended Business Plan of Operation for Benolli's Pizza, a specialty restaurant, to locate in Milwaukee Street Traders. Hours of Operation and employee count are unchanged.
- d. **DELIC 0798.075, 805 Wells Street, Delafield. Owner/Applicant: Scott Campbell:** Applicant seeks approval of a Business Plan of Operation for Lifetime Radon Solutions, Inc., a specialty contractor. Hours of Operation are Monday through Friday 7:00 A.M. to 5:00 P.M., Saturday 7:00 A.M. to 12:00 P.M. with eight full-time employees.
- e. **DELIC 0804.986, 3195 Hillside Drive, Delafield. Owner: RDDD LLC. Applicant: Children's Hospital of Wisconsin.** Applicant seeks approval of a replacement sign panel.

Hearing no objections from Commissioners, the Consent Agenda was approved as presented. Clarification was provided that approval of Consent Agenda item 3c was contingent upon issuance of the proposed beer and wine license application as noted in the Staff Report for this meeting.

4. Unfinished Business.

- a. **DELIC 0799.973, 0799.983, 0799.984, 0799.984.001, 0799.984.002, 0799.984.003, 0799.984.004, 0799.984.005. 147, 150, 163, 166, Tomahawk Trail,** Applicant seeks approval of a Conditional Use Permit to accommodate a General Development Plan.

***PLEASE SEE PLANNER'S REPORT IN THE EPACKET FOR THIS MEETING TO LOCATE DETAILED INFORMATION ON THIS ITEM.***

**KRICKHAHN MOVED TO DENY THE PROPOSED PLANNED DEVELOPMENT CONDITIONAL USE PERMIT ON THE GROUNDS THAT IT IS NOT APPLICABLE TO THE SUBJECT SITE ZONING DISTRICT AND NOT COMPATIBLE WITH THE NEIGHBORING LAND USES FOR DELIC 0799.973, 0799.983, 0799.984, 0799.984.001, 0799.984.002, 0799.984.003, 0799.984.004, 0799.984.005. 147, 150, 163, 166, TOMAHAWK TRAIL AND RECOMMEND TO COMMON COUNCIL OF THE SAME. MILLER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. FOUR WERE IN FAVOR. MOTION CARRIED WITH AICHER AND GREENWAY VOTING NAY.**

- b. Discussion and necessary action to set date for consideration of Hartland Sportsman's Club Conditional Use application.

***PLEASE SEE PLANNER'S REPORT IN THE EPACKET FOR THIS MEETING TO LOCATE DETAILED INFORMATION ON THIS ITEM.***

Discussion took place regarding setting a date for consideration of the Hartland Sportsman's Club Conditional Use application in a Special Meeting of the Plan Commission. The Special Meeting was scheduled for Wednesday, March 21, 2018 at 7PM.

5. New Business - None.

6. Zoning and Ordinance Revision.

**CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES**

- a. Discussion and action on Ordinance No. 732 Creating Section 17.30(1)(m)-17.67(10)(a)-(d)-17.70(4) Electronic Signs.

Commissioners discussed Ordinance No. 732 Creating Section 17.30(1)(m)-17.67(10)(a)-(d)-17.70(4) Electronic Signs. It was noted that the allowed rate of change on the electronic signs was consistent with the Department of Transportation recommendations on this type of signage.

**JASHINSKY MOVED TO APPROVE ORDINANCE NO. 732 CREATING SECTION 17.30(1)(M)-17.67(10)(A)-(D)-17.70(4) ELECTRONIC SIGN AS PRESENTED AND TO RECOMMEND TO THE COMMON COUNCIL THE SAME. GREENWAY SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. FIVE VOTED IN FAVOR. MOTION CARRIED WITH AICHER VOTING NAY.**

7. Reports of City Officials:

- 1. Plan Commission Meeting Dates & Deadlines  
Plan Commission Meeting – March 28, 2018  
Submittal Deadline – March 13, 2018  
Public Hearing Deadline – February 26, 2018

It was noted that a Special Plan Commission Meeting was scheduled for March 21, 2018.

- 2. Correspondence
  - i. Letter in Opposition to Hendricks Proposal from Kristi & Sam Monroe.
  - ii. Letter in Opposition to Hendricks Proposal from Amanda Siegel.
  - iii. Letter in Opposition to Hendricks Proposal from Lisa Dedinsky.
  - iv. Letter from Village of Summit re Amendment to Village of Summit Master Plan.

b. Planner.

Consideration of the Hendricks proposal for the current BP gas station site was slated for the March 28, 2018 Plan Commission meeting.

c. Building Inspector. – None.

8. Adjournment

There was no further business; therefore, the Wednesday, February 28, 2018 Plan Commission meeting adjourned at 7:20PM.

Minutes Prepared By:

Accurate Business Communications, Inc.

Since the discussion of the H.S.C. is on the Plan Commission Agenda I thought I would address the history of the issue. Each of the Hartland Sportsman's Club (HSC) C.U.P.'s applications submitted to the city in 1998, 2009 and 2013 contained extensive historical narratives written by and slanted to the benefit of the applicant. Prior to the potential re-review of the 2013 C.U.P. for the Hartland Sportsman's Club, I thought you should be privy to a more factual history of the neighborhood, Town and City fight with the HSC. While any new application or consideration of a C.U.P, should be considered absolutely new and subject to the terms of 17.42, (The Plan Commission shall base its determination on the effect of such grant on the health, safety and welfare of the community and of the immediate neighborhood in which such use would be located, including such considerations as compatibility with existing uses, problems of fire and police protection, traffic movement and control, water, sanitation and utilities, impact (aesthetically or otherwise) on surrounding property values, noise, dust, smoke, odor and such other factors appropriate to the granting of a conditional use.) , the misleading language in the 2013 C. U.P. regarding the history should be deleted from the C.U.P. or at least replaced with the following factual history.

The HSC was formed while the property on Maple was in the jurisdiction of Town of Delafield.

Town of Delafield:

- 1955—The Town of Delafield approved the Hartland Sportsman's Club's (HSC) application to build a 40-acre shooting range on land zoned residential.
- 1964—The Town of Delafield restricts (in writing) the conditions under which the HSC could operate (shooting hours, number of members, etc.). This was not a Conditional Use Permit (CUP).
- 1968—The HSC applied for a CUP to build an indoor shooting range. The Town of Delafield issued the Permit which also contained restrictions. The HSC rejected the CUP since the Town of Delafield retained the authority to review, modify or revoke the CUP.
- 1980's—Neighbors report HSC stray shots (Jack Young, John Ormson).
- 1991—Town of Delafield residents (represented by attorney James Hammes) and joined later by The Town of Delafield, filed suit in the Circuit Court demanding that the HSC operate within the restrictions of its 1968 CUP. The HSC maintained that it existed prior to any Town of Delafield zoning and that, therefore, the 1968 CUP did not apply and was invalid. The Town of Delafield eventually proved that it had implemented a 2-district zoning ordinance in 1939 and the Court ruled against the HSC.
- 1991—Town of Delafield residents petitioned the Town of Delafield for relief from the HSC noise and CUP violations.
- 1991--A Town of Delafield Administrative Hearing was convened to review complaints against the HSC and its CUP violations.
- 1992—Based upon the Administrative Hearing's Findings of Fact, the Town of Delafield issued a new CUP which added further restrictions to the HSC's 1968 CUP.
- 1992--The HSC filed suit in Federal Court claiming the Town of Delafield's Administrative Hearing in 1991 had violated its 14th Amendment 'due process rights'. The Court ruled firmly against the HSC with prejudice.
- 1992-1996—The HSC accumulated \$360,000.00 in CUP violation citations which were eventually considered uncollectable by the Town of Delafield.

City of Delafield:

- 1997— Not happy with the C.U.P. and restrictions placed upon it, the HSC sought annexation and a more favorable C.U.P. from the City of Delafield. The HSC requested and unprecedented 84 hours a week of operation from the City. City residents and Town residents implored the City of Delafield not to annex the HSC property. Delafield Citizen and current District 4 Alderman, Wayne Dehn warned the City not to annex the H.S.C., as history had shown the club was a law suit waiting to happen. The HSC was annexed by the City of Delafield and issued a CUP, but with limited hours and other restrictions. The President of the H.S.C, David Hickey signed the C.U.P. document agreeing to the terms, including the City's right to terminate the agreement.
- 2000-2003—Four documented cases of HSC stray shots (3 impacted the City of Delafield, one impacted the Town of Delafield). The City threatened daily fines against the H.S.C. for failure to adhere to several conditions of the C.U.P.
- 2009—The City of Delafield modified the conditions of the HSC's CUP.
- 2010—The City of Delafield conducted two Public Hearings to consider complaints against the HSC and to determine if the CUP violations warranted a CUP termination rather that modification. Many city residents testified against the H.S.C. Wayne Dehn and Richard Simmons, (a member of the HSC), present evidence to the city that many

safety violations and other violations of the C.U.P were committed by the HSC. They warned that the club was operating in an unsafe manner.

- 2010 (April)— The very next day a HSC stray shot wounds a pregnant women dining at the Delafield Brewhaus (City of Delafield Police Incident Report #D10-02006). A legal shot has not be fired at the H.S.C since (8 years)
- 2010—The City of Delafield revokes the HSC’s CUP.
- 2013—The HSC applies for a new CUP.
- 2013 (Sept.)—The City of Delafield holds a Public Hearing to consider the proposed HSC CUP. James Fendry states that the National Rifle Association’s legal defense fund is paying for the HSC’s legal team.
- 2013 (Nov.)—The City of Delafield’s Plan Commission votes unanimously to recommend to the Common Council that it reject the HSC’s request for a new CUP.
- 2013 (Dec.)—The City of Delafield Common Council votes unanimously to reject the HSC’s request for a new CUP.
- 2014—The HSC files suit against the City of Delafield in the Circuit Court contending that the City of Delafield violated the Range Protection Act when it revoked the HSC’s CUP in 2010.
- 2016—The Circuit Court reinstated the HSC’s CUP stating that the City of Delafield acted arbitrarily and without good cause when it rejected the HSC’s request for a new CUP in 2013.
- 2016—The City of Delafield appeals the Circuit Court decision.
- 2017—The Appeals Court rules that the Range Protection Act did not prevent the City of Delafield from regulating the HSC and that the HSC failed to seek a ‘timely ‘review of the 2010 decision to revoke its 1997 CUP. The Court also ruled that the City of Delafield acted ‘arbitrarily’ when revoking the HSC’s CUP and remanded the case back to the City of Delafield for resolution.
- 2017 Sept.)—The HSC filed a Petition for Review with the Wisconsin Supreme Court contending that the Range Protection Act prevented the City of Delafield from regulating the HSC.
- 2018—The Wisconsin Supreme Court denied the HSC’s Petition for Review.

Thank you in advance to Charles Winters for providing the previous details.

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NRA Shotgun Level One Instructor  
WI DNR Hunter Safety Instructor  
Certified Online Hunter Safety Field Day Instructor  
WI Scholastic Shooting Sports Board of Directors Member  
National Shooting Sports Foundation/Scholastic Shooting Sports Foundation Advisor  
University of Wisconsin-Whitewater Shooting Sports Team Head Coach  
Member American Trap Association  
Designed several 5 stand range and trap courses