

## **TOWN OF OTTAWA PLAN COMMISSION**

### **Meeting Minutes March 3, 2014**

Chairman Arrowood called the meeting of the Ottawa Plan Commission to order. Roll call attendance was taken and Commissioners Hausser, Franklin, Hanson, Kershek and Mundschau were present, as well as Supervisor Goodchild. Also present was Town Planner Sandy Scherer.

The first item on the Agenda was for Payne and Dolan, Inc., approval of Restoration Agreement. Chairman Arrowood explained that Planner Scherer had been working with the Town Engineer and the Town Attorney on the Restoration Agreement. Planner Scherer read from her Memorandum that approval of the attached Restoration Agreement is the final condition (No. 21 of CU-0806D) to be satisfied prior to issuance of the Conditional Use Permits pending with Payne and Dolan (P&D). A copy of the Restoration Agreement has been reviewed by the Town Attorney, Town Engineer, Town Planner, and the County LRD, as required. Upon consideration by the Town Plan Commission and Town Board, the same will be presented by Planning and Zoning Division staff to the Waukesha County Park and Planning Commission for consideration. It was recommended the Town Plan Commission approve the Restoration Agreement as submitted in order to satisfy Condition No. 21 of CU-0806D.

Commissioner Kershek stated that he felt this will eventually be financially beneficial for the Town when the cost of reclamation is returned. He asked Planner Scherer if there was a financial assurance worksheet on file? Planner Scherer answered that it was on file with the County LRD, as it is needed for their permits. Commissioner Kershek asked what Attorney Macy's role was in this? Planner Scherer answered that Attorney Macy reviewed the Restoration Agreement since he was involved when it was originally drafted in 1990 for Vulcan, and it needed to be revised and updated for Payne & Dolan. Chairman Arrowood asked if they would still be calling it Dousman Sand and Gravel? Planner Scherer answered, yes. Commissioner Kershek asked if there were any other quarries doing restoration in the County? Planner Scherer responded that some have restored portions, but not a total reclamation that she is aware of, but not all quarries are within the county's zoning jurisdiction either. Commissioner Goodchild stated that Genesee Aggregate may eventually be going in that direction in Ottawa, and would need to work together with Payne & Dolan in the future. Chairman Arrowood explained that the two companies work very well together. Supervisor Goodchild asked Planner Scherer if she was comfortable with this Restoration Agreement? Planner Scherer answered that she was comfortable with it, as did the Town Engineer, Town Attorney, and Payne & Dolan.

Commissioner Kershek made a motion, based on Planner Scherer's recommendation and Attorney Macy's work, to approve the Restoration Agreement. Commissioner Franklin seconded the motion and it carried.

The list of zoning violations in Ottawa that are currently pending with Waukesha County was reviewed.

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The next item on the Agenda was the Town of Ottawa Assessors Report. Chairman Arrowood stated that he and Planner Scherer had been discussing ideas for moving forward with trying to implement some changes to help with approval of transfers of adjacent lands and other conveyances before they were recorded with the Register of Deeds (ROD).

Planner Scherer stated that there were issues with the current laws and processes in place. Planner Scherer had spoken with Candy White at the County Tax Listing Office and gave her a summary of the issues currently taking place with transfers of adjacent lands and the recording process. Ms. White felt it would be best to make changes at the State level, if possible, as that would take care of the problem statewide. Planner Scherer felt that may be difficult to do politically, so we should start locally. We first need to determine if the new AG opinion can trickle down to the Town level to give the Town the authority for approval of such transactions. If it can, Planner Scherer suggested having Attorney Macy draft an Ordinance to this effect. Currently the ROD has to record what is put before them. Theoretically, the Assessor would catch any issues that arose, but that would be after the document has already been recorded, and that is unfortunately too late in the process. However, even with drafting an Ordinance, the ROD office would need to implement any Ordinance in place in order for the process to work. Planner Scherer indicated that will be the difficult part to implement.

Chairman Arrowood added that Attorney Macy is very interested in this subject. Since the item is on the agenda, we have the right to discuss this item in detail. Attorney Macy has other towns with the same problems, and in drafting an Ordinance, costs could be split amongst multiple municipalities.

Supervisor Goodchild asked who might challenge a new Ordinance on this subject? Planner Scherer responded developers, the MBA, and certain land owners might challenge this, however, the AG has provided a legal opinion to support what the town is considering. Commissioner Kershek inquired as to how we would get full compliance with an Ordinance on any transfer of adjacent lands - how would the ROD go about doing this? Planner Scherer said that is the question, and also questioned what would trigger the ROD to ensure local approval has been received for a transfer of adjacent lands if every municipality is not required to do it (how would the ROD know which ones do require approval)? Commissioner Kershek asked if we even have the authority to tell the ROD what to do? Planner Scherer answered that the ROD does have to obey laws, but they are not skilled in interpreting, particularly local, zoning and land division law. Chairman Arrowood added that a new town Ordinance would become part of law. Supervisor Goodchild stated that they have already been recording non-legal lot creations; the problem is that no one is checking those recordations against existing (local) laws/ordinances. Maybe requiring a signature of approval from the town before the recording can take place would be an option? Planner Scherer stated that this problem shouldn't exist, but no one checks.

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There is no trigger in place for the ROD to check (local) Ordinances. Supervisor Goodchild stated that the language in the Ordinance is already good, but that, as a policy, the ROD needs to know about it and check. Planner Scherer added that there are 38 municipalities with regulations plus the County for the ROD to check. Supervisor Goodchild stated that all we would need to do is to review requests before they are recorded, but not necessarily as a CSM. Planner Scherer explained that to do this type of review would be basically the same process (amount of work) as a CSM as you are going through the same review process to determine if the transaction can be done as a transfer of adjacent lands or if it has to be a CSM – the amount of work is basically the same, at least at the outset. Chairman Arrowood added that the Attorney General stated that it is legal for the County (town) to charge for this process. Commissioner Kershek stated that he felt every conveyance should be approved by the town to avoid problems. Planner Scherer agreed, but explained that the ROD may not find it practical with so many differing municipal regulations to consider and given the volume of documents they record. Commissioner Kershek asked where the biggest area of concern was for this Ordinance? Planner Scherer answered with combining parcels, splitting parcels, and lot line adjustments. Chairman Arrowood added that larger parcels may break off a single lot, or a series of lots, on up to a subdivision. Commissioner Kershek stated that it looks like any creation or change of lot lines is at least a place to start.

Commissioner Goodchild stated that the Ordinance creation is the easy part; administering it would not be easy if the ROD doesn't follow it. Chairman Arrowood explained that Planner Scherer would pursue this issue with Candy White and Candy will inform her of any problems. Planner Scherer will follow up with this project to determine if the AG's opinion is available to utilize at the town level, and from that point, the town can decide if they want the Town Attorney to draft an Ordinance.

There was no correspondence to discuss.

Supervisor Goodchild made a motion to accept the minutes from the February 3, 2014, Plan Commission meeting as revised. Commissioner Hausser seconded the motion and it carried.

Commissioner Hanson made a motion to adjourn. The motion was seconded by Commissioner Hausser and it carried.

Respectfully submitted,

Lori Geyman  
Deputy Clerk/Treasurer, Town of Ottawa