

## OTTAWA PLAN COMMISSION

May 4, 2015

Chairman Arrowood called the meeting of the Ottawa Plan Commission to order at 6:30 p.m. Roll call attendance was taken. Plan Commissioners Kershek and Hausser were present as well as Supervisor Goodchild. Commissioner Weber arrived at 6:45 p.m. Planner Scherer from the Waukesha County Department of Parks and Land Use was also present.

The first item on the agenda was for Discussion and Action of the Hying request for approval of multiple accessory buildings. Planner Scherer read from the ordinance on multiple accessory buildings as follows:

Sections 3.11 (4) 5 and 7 of the Waukesha County Zoning Code and Sections 3(j)4D and E of the Waukesha County Shoreland and Floodland Protection Ordinance Accessory Buildings and Structures state that where more than two such accessory buildings are existing/proposed, the Town Plan Commission shall review said structures in light of Section 3.04 (3)B and 3(d)3B respectively Junk and Undesirable Buildings or Structures and render a finding to allow or disapprove of the proposed structure. The Sections state that no building shall be erected in a manner, which adversely affects the property values and general desirability of the neighborhood. The Plan Commission shall base its determination on the following:

1. The design or appearance is of such unorthodox or abnormal character as to have a substantial adverse affect on the property values and general desirability of the neighborhood.
2. Whether the exterior appearance is compatible with the design, style, architecture and appearance of the principal buildings on the parcel as to have a substantial adverse effect on the property values and general desirability of the neighborhood in the event there is a dispute with the building inspector's determination.

Planner Scherer added that this request is for a large detached garage with a shed roof and would be the third building on the property. There is also a shed and an outdoor woodburning furnace building on the property. Chairman Arrowood asked Mr. Hying if there would be a driveway to access this garage and if it would house vehicles? Mr. Hying responded yes, the garage would be located about 30 feet from existing driveway and will house a truck, boat, snowblower, lawnmower, and other items. Planner Scherer asked how tall the building would be to peak? Mr. Hying responded 14 feet. Commissioner Kershek made a motion to approve the request. It was seconded by Commissioner Hausser and it carried.

Items 3, 4 and 5 on the Agenda were tabled to the June Plan Commission Meeting per the petitioner's request.

The next item on the Agenda was Discussion and Action for Jeff Foat – Preliminary CSM and necessary waivers. Planner Scherer read from her report has follows:

**TOWN OF OTTAWA**  
**PLANNER REPORT AND RECOMMENDATION**  
**PRELIMINARY CERTIFIED SURVEY MAP**

SENT VIA EMAIL

**DATE:** May 4, 2015

**PETITIONER/OWNER(S):** Jeff Foat  
W349 S3280 Waterville Road  
Oconomowoc, WI 53066

**SURVEYOR:** Mark Powers, PLS  
Lake Country Engineering, Inc.

**DATE OF CSM:** March 20, 2015

**DATE CSM RECEIVED:** March 30, 2015

**TAX KEY NO(S):**

OTWT 1634.999.003 (the Foat's also owned a 3.05 acre lot adjacent to the north, Tax Key No. OTWT 1634.012 which was sold in January)

**LOCATION:**

Lot 1, CSM No. 4884, Volume 39, Page 289, located in the NW 1/4 of Section 13, T6N, R17E, Town of Ottawa. More specifically, the property is located at the Waterville Road address cited above.

**LOT SIZE(S):**

16.57 acres (per CSM, however that only excludes a 33' ROW and the WCSHW Map now requires a 40' ROW or 0.09 acre, leaving a net lot size of 16.48 acres).

**EXISTING USE(S):** Residential and four outbuildings

**REQUESTED USE(S):**

A two lot CSM (5.0 acres and 11.48 acres). Each lot would have access from Waterville Road.

**WAUKESHA COUNTY ZONING CODE – ZONING DISTRICT CLASSIFICATION(S):**

A-5 Mini-Farm (5 acre minimum lot size, 300' minimum average width).

**SOIL TYPES:**

The SCS soil types indicate the soils are well drained with an area of steeper slopes in the northeast portion of the larger parcel.

**SUBMITTAL OF SOIL TESTS:**

Soil tests for the larger lot were submitted with the Preliminary CSM. The EHD stated the site perked for a conventional septic system.

**CONFORMANCE WITH THE WAUKESHA COUNTY COMPREHENSIVE DEVELOPMENT PLAN AND THE TOWN OF OTTAWA COMPREHENSIVE DEVELOPMENT PLAN:**

The WCCDP and the Town’s CDP designate the property as Suburban Density Residential II (3.0-4.9 acres per dwelling unit). The proposal conforms with both plans.

**PLANNER ANALYSIS:**

As mentioned above, the petitioner is proposing a two lot CSM (5.0 acres and 11.48 acres). Each lot would have access from Waterville Road, a state designated Rustic Road in the Town of Ottawa. The recorded CSM dedicated only 33’ of ROW for Waterville Road, whereas the adopted Street and Highway Width Map for Waukesha County requires 40’ of ROW on each side of the centerline of Waterville Road. Therefore, additional ROW **has been** dedicated with the CSM. The property contains an area of steeper slopes in the northeast corner of the larger parcel. The four accessory buildings were approved by the Town in 2010 (only two are permitted by ordinance). It should be noted the petitioner also owned a 3 acre parcel to the north of the subject property **that was sold in January**.

Relative to the Town’s adopted Land Division Review Checklist and review of the Preliminary CSM, the following list of items need to be shown on the face of a CSM and/or submitted in conjunction with the next CSM submittal to the Town Planner and Town Engineer.

Items 2, 9, 11, and 13 are Town Plan Commission action items.

1. Any contiguous area owned shall also be shown on the CSM unless a waiver is granted. **This item is no longer necessary as the petitioner sold this lot in January.**
2. Utility easements, if and as required by the Town of Ottawa Land Division and Development Ordinance and/or the Town Engineer, shall be shown on the CSM, unless a waiver is granted.
3. The location of the soil borings shall be shown on the CSM with numerical cross references to the date.  
The County EHD must approve the functionality of the existing septic system on the smaller lot prior to the submittal of a Final CSM. **This has been completed.**  
A Sanitary Permit shall be issued by the County EHD prior to the issuance of any permits for the construction of a residence on the larger parcel.
4. The following technical item shall be shown on **the next submittal of the CSM**: the existing access drive(s).
5. **General Note No. 2 on Sheet 1 should state “...300’ minimum average width....”.**

6. The petitioner shall submit all information required by the Town Building Inspector and the Town Engineer for their review in order to approve of the most proper and safe location of an access to the larger parcel. This location shall be finalized prior to the submittal of the Final CSM. **Although it sounds like the petitioner has talked with the Town Building Inspector, the petitioner submitted a private driveway access application for the County DPW. Unless the petitioner received this document from the town for their use, this is not needed as Waterville Road is a town road. Please be sure to consult with the Town Building Inspector and Engineer regarding this matter, if you have not already done so.**
7. The owner should contact the County LRD and inquire about any storm water requirements/permit prior to the submittal of the Preliminary CSM. **I have confirmed the petitioner's statements that nothing is required from the County LRD in regard to this CSM.**
8. If further divisions of the larger parcel are contemplated in the future, an overall conceptual development plan must be submitted with the Preliminary CSM for review and consideration by the Town Plan Commission. A note may need to be placed on the face of the CSM stating that there shall be no further land divisions involving any lots on the CSM without Town approval of the land division and the construction of a public road extended to serve all lots within the (larger) land division, and the proposed land division meeting all other requirements in effect at the time of the proposed land division unless otherwise waived by the town.
9. For a period of time, the horse barn/arena will be located on a lot without a principal residence. That issue must be addressed **with the County PZD (contact the POD) prior to the Town approving of the CSM and prior to the issuance of a Zoning Permit for the new home.** Further, the smaller parcel would have three accessory buildings, whereas the maximum is two per the Zoning Code. **The Town Plan Commission should approve of this situation prior to the approval of the Preliminary CSM. Separate May 4, 2015 agenda item.**
10. There is a very small amount of slopes in excess of 12% on the property. The Town's LDDO requires that **(1) all slopes 12% or greater shall be shaded or otherwise identified on the CSM, and (2) that a note shall be placed on the CSM stating the slopes 12% or greater as identified on the CSM shall be preserved in permanent open space.** It is recommended this information be placed on a separate detail map with the required 2' topo contours to clearly identify this information. **The note (2) has been place on sheet 2 of the CSM, however it is very difficult to see the 12 % slopes specifically identified on the CSM as required in (1) above. Please shade or cross hatch or otherwise more clearly identify this area(s) on the CSM.**
11. **The Town Plan Commission should discuss if any lands should be set aside for the Ice Age Trail along Waterville Road.**
12. **If the County determines the CSM needs flag lot/lot not abutting a public road approval, the petitioner will need to contact the County Land Division Review Staff at (262) 548-7790 for further direction. I have provided them with a copy of the CSM to make this initial determination.**
13. **Lot 2 exceeds the lot width to depth ratio requirement of the Town's LDDO and**  
 Foot Conceptual Land Division                      May 4, 2015                      Page 4  
 requires a waiver.

14. **On sheet 4, under Plan Commission approval, Melissa Klein should be noted as the Clerk/Treasurer, not the Secretary.**

15. Town of Ottawa Standard CSM Conditions:

- A. Subject to the Developer satisfying all comments, conditions and concerns of the Town Planner and the Town Engineer, which includes compliance with the Town's adopted Land Division Review Checklist and Land Division and Development Ordinance; and all reviewing, objecting and approving bodies, which may include but not be limited to the State of Wisconsin Department of Commerce per Chapter 236, Wisconsin Statutes and Chapter COMM 85, Wisconsin Administrative Code; State of Wisconsin Department of Administration per Chapter 236, Wisconsin Statutes; the Waukesha County Department of Parks and Land Use (including the Planning and Zoning Division, Parks System Division, Land Resources Division, and Environmental Health Division) and the Waukesha County Department of Public Works; as applicable, in regard to the Preliminary and Final CSM, and obtaining all necessary permits and approvals, prior to commencing construction of any improvement, whether public or private, or site development or approval of the Final CSM, whichever is earlier.
- B. Subject to the Developer submitting to and receiving from the Town Attorney and the Town Engineer, as applicable, approval of a Developer's Agreement for the improvements (including all public, private, and site development improvements), prior to commencing construction of any improvement, whether public or private, or site development or approval of the Final CSM, whichever is earlier.
- C. Subject to the Developer submitting to the Town Clerk and receiving approval as to form from the Town Attorney and as to amount from the Town Engineer, as applicable, a letter of credit or cash for the improvements (including all public, private, and site development improvements), prior to commencing construction of any improvement, whether public or private, or site development or approval of the Final CSM, whichever is earlier.
- D. Subject to the Developer submitting to and receiving from the Town Attorney and the Town Engineer, as applicable, approval of the final draft of the deed restrictions prior to prior to commencing construction of any improvement, whether public or private, or site development, or approval of the Final CSM, whichever is earlier.
- E. The Petitioner shall, on demand, reimburse the Town for all costs and expenses of any type that the Town incurs in connection with this development, including the cost of professional services incurred by the Town (including engineering, legal, planning, and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions.
- F. Any unpaid bills owed to the Town by the subject property owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the subject property if not paid within thirty (30) days of billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills

also constitute a breach of the requirements of this conditional approval that is subject to all remedies

available to the Town, including possible cause for termination of the conditional approval.

- G. Subject to the Developer applying for and receiving from the Town Plan Commission, Town Board, and Waukesha County, all necessary variances and waivers (if any) to the Waukesha County Zoning Code, the Waukesha County Shoreland and Floodland Protection Ordinance, the Waukesha County Shoreland and Floodland Subdivision Control Ordinance, and the Town of Ottawa Land Division and Development Ordinance prior to commencing construction of any improvement, whether public or private, or site development or approval of the Final CSM, whichever is earlier. This conditional approval document shall not be read as providing any assurance or expectation that such variances or waivers will be granted, and shall not vest any right regarding the grant of such variances or waivers.

Based upon the above information, it is recommended the Town Plan Commission recommend **approval** of the **Preliminary** CSM and waivers requested herein to the Town Board **for consideration**.

PLEASE BE ADVISED THAT THE CSM MUST BE RECORDED WITH THE WAUKESHA COUNTY REGISTER OF DEEDS OFFICE WITHIN 90 DAYS OF THE FINAL APPROVAL BY THE TOWN BOARD OR IT IS REJECTED AND THE OWNER MUST RECOMMENCE THE ENTIRE CSM PROCEDURE, IN ACCORDANCE WITH THE TOWN'S LAND DIVISION AND DEVELOPMENT ORDINANCE.

Respectfully submitted,

*Sandra L. Scherer*

Sandy Scherer  
Town Planner

NOTE: Changes from the March 2, 2015 report are in **bold** font.

Chairman Arrowood stated that there appear to be 8 items of action. Planner Scherer stated that item #6 is an item for the Building Inspector. Supervisor Goodchild discussed item #11 for the Ice Age Trail, and stated this should not be a problem as that is quite a bit North of the property. Commissioner Kershek stated item #12 is at the County level for determination. Planner Scherer stated that since it's not a flag lot or under the shoreland protection ordinance, that this item is not necessary. Commissioner Kershek inquired if the Plan Commission needed to address the horse farm on the lot with no residence? Planner Scherer answered that, at this time, the discussion was only in regard to dividing the properties.

Commissioner Weber questioned the future development on Lot 2. Could we restrict it? Planner Scherer answered that the Plan Commission could add language stating that future land divisions are prohibited unless they are approved by the Town and the County in accordance with regulations in effect at that time.

Supervisor Goodchild stated that item #2 could be waived. The owners should seek out digger's hotline and check their deed to see if an easement is needed. Supervisor Goodchild also added that this information should be added to the CSM.

Commissioner Kershek made a motion to approve the Preliminary CSM changing item #9 to state "Final" instead of "Preliminary" and is subject to approval of accessory buildings, #13 to waive the width to depth ratio, and to remove items #11 and #12. Also adding a condition that future land divisions are prohibited unless they are approved by the Town and the County in accordance with regulations in effect at that time. This motion was seconded by Commissioner Weber and it carried.

The next item on the Agenda was for Discussion and Action – Jeff Foat – Approval of multiple accessory buildings. Planner Scherer stated that Lot 1 has 3 accessory buildings due to the proposed land division. Commissioner Goodchild made a motion to approve Lot 1 with all 3 existing accessory buildings. Commissioner Weber seconded the motion and the motion carried.

The next item on the Agenda was for Discussion and Action of the Land Division and Development Ordinance amendment referral from the Town Board.

## MEMORANDUM

To: Town of Ottawa Plan Commission

SENT VIA EMAIL

From: Sandy Scherer, Town Planner

Date: May 4, 2015

RE: Town of Ottawa Land Division and Development Ordinance amendments

The Town Board recently referred some Land Division and Development Ordinance amendments to the Plan Commission regarding surety bonds. My review of those amendments is attached. My changes basically include about a dozen minor technical or typographical edits to the original document prepared by Attorney Macy.

After the Plan Commission reviews the amendments, the Town Board can schedule a Public Hearing in accordance with State Statutes.

Planner Scherer shared her edits for approval:

STATE OF WISCONSIN TOWN OF OTTAWA WAUKESHA

COUNTY ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND SECTIONS  
2.04, 9.01 AND 9.07(C) OF THE TOWN OF  
OTTAWA  
LAND DIVISION AND DEVELOPMENT ORDINANCE  
REGARDING FINANCIAL GUARANTEES AND RELATED  
MATTERS

WHEREAS, the Town Board for the Town of Ottawa has adopted Land Division regulations for the Town of Ottawa and has amended such regulations from time to time; and

WHEREAS, the land division regulations, as amended, are codified as Chapter 18 of the Town of Ottawa Code of Ordinances, which is entitled "Land Division and Development Ordinance;" and

WHEREAS, the Wisconsin Legislature adopted and the Governor signed 2013 Wisconsin Act 280, which places limits on a municipality's authority to require security for the construction of necessary private and public improvements related to a proposed plat; and

WHEREAS, such limitations increases the chance that necessary private and public improvements are not properly secured and may become a financial burden to the Town to correct; and

WHEREAS, the Town of Ottawa Town Board therefore intends to require that all improvements must be completed before the final plat is recorded, unless the Developer chooses to provide a financial guarantee in the form of cash or a letter of credit; and

WHEREAS, upon the recommendation of the Town of Ottawa Planner this matter was submitted to the Town of Ottawa Plan Commission for its consideration at the **May 4**, 2015 Plan Commission meeting, pursuant to Wisconsin Statutes Section 236.45(4); and

WHEREAS, following publication of a Class 2 notice as required by Wisconsin Statute Section 236.45(4), a public hearing was held on\_\_\_\_, 2015 before the Town of Ottawa Town Board; and

NOW, THEREFORE, the Town Board of the Town of Ottawa, Waukesha County, Wisconsin DOES ORDAIN AS FOLLOWS:

SECTION 1: Chapter 18 of the Town of Ottawa Code of Ordinances entitled "Land Division and Development Ordinance," Section 2.00 entitled "General Provisions," subsection 2.04 entitled "Improvements," the introductory

paragraph only (with subsections remaining unchanged) is hereby repealed and recreated as follows:

2.04 IMPROVEMENTS. Before final approval of any land division or development located within the jurisdictional limits of this Ordinance, the owner shall install improvements as hereinafter provided or provide guarantees for said installation. The owner shall, before commencing with any improvements, enter into a Developer's Agreement with the Municipality agreeing to install the required improvements. Unless the improvements are fully complete at the time of filing the final plat, the owner ~~and~~ shall file with said agreement cash or a letter of credit meeting the approval of the Municipal Attorney in an amount equal to the estimated construction cost of the improvements and fees, plus an additional 15 percent of said cost and the fees, said estimate to be made by the Municipal Engineer, as a guarantee that such improvements will be completed by the owner or its subcontractors not later than the date or dates provided in the agreement and as a further guarantee that all obligations for work on the development are satisfied. If the improvements will be completed prior to the approval of the final plat, the financial guarantee may be in the form of a surety bond rather than cash or a letter of credit, if applicable laws give the owner that option, provided that the surety bond must be in a form approved by the Municipal Attorney and amount approved by the Municipal Engineer. In addition:

SECTION 2: Chapter 18 of the Town of Ottawa Code of Ordinances entitled "Land Division and Development Ordinance," Section 9.00 entitled "Construction," subsection 9.01 entitled "Commencement," is hereby repealed and recreated as follows:

9.01 COMMENCEMENT. No construction or installation of improvements shall commence in a proposed division or development until the Preliminary Plat or Certified Survey Map has been approved and the Municipal Engineer has given written authorization. All fees shall be required as specified in Section 10.00 of this Ordinance ~~and a Letter of Credit or cash deposit~~ along with all additional fees at Final

Plat approval. A financial guarantee for all improvements shall be provided prior to commencement as described in Sections 2.04 and 9.07(C) of this Ordinance.

SECTION 3: Chapter 18 of the Town of Ottawa Code of Ordinances entitled "Land Division and Development Ordinance," Section 9.00 entitled "Construction," subsection 9.07 entitled "Installation of Improvements ," subsection (C) is hereby repealed and recreated as follows:

(C) Unless the improvements are fully complete at the time of filing the Final Plat, the~~The~~ owner shall supply the Municipality with cash, or an irrevocable letter of credit approved by the Municipal Attorney and the Governing Body in the amount of estimated cost of improvements and other fees as approved by the Municipal Engineer. If the improvements will be completed prior to the approval of the Final Plat, the financial guarantee may be in the form of a surety bond rather than cash or a letter of credit, if applicable laws give the owner this option, provided that the surety bond must be in a form approved by the Municipal Attorney and amount approved by the Municipal Engineer. The Municipal Engineer may from time to time raise the amount of the estimated costs of said improvements. Within thirty (30) days of written notice of said change, the owner shall increase the financial security by that amount or any other amount acceptable to the Governing Body. Reduction of the financial security for any purpose shall be made only after written approval of the Municipal Engineer and the Governing Body. As the required improvements are installed and accepted, the Governing Body may authorize reduction of the financial security in the amount deemed appropriate. No surety bonds will be accepted as financial security unless all work will be completed prior to the time of filing the Final Plat.

**SECTION 4: SEVERABILITY.** The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

**SECTION 5: EFFECTIVE DATE.** This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Adopted by the Town Board of the Town of Ottawa on the  
\_\_\_\_\_ day of \_\_\_\_\_ 2015.

Commissioner Kershek made a motion to approve the revised language recommended by the Town Planner and to recommend the Town Board approve and adopt the changes. Commissioner Weber seconded the motion and it carried.

The list of zoning violations was reviewed.

There was no correspondence.

There was no public comment.

Commissioner Weber made a motion to approve the March 2, 2015 Plan Commission Meeting minutes. Supervisor Goodchild seconded the motion and it carried.

Chairman Arrowood made one revision to the minutes of the March 2, 2015 Joint Plan Commission/Town Board Meeting. Commissioner Hausser made a motion to approve the Joint Plan Commission/Town Board minutes. Commissioner Kershek seconded the motion and it carried.

Commissioner Hausser made a motion to adjourn. The motion was seconded by Supervisor Goodchild and carried.

Respectfully submitted,

Lori Geyman, Deputy Clerk, Town of Ottawa