

**OTTAWA PLAN COMMISSION**  
**Meeting Minutes – September 14, 2015**

Chairman Arrowood called the meeting of the Ottawa Plan Commission to order. Present were Commissioners Hanson, Mundschau, Weber, Hausser and Town Board Supervisor Goodchild. Commissioner Kershek was absent.

The first item on the agenda was the annual Conditional Use Review for the Clarkson Commercial Horse Boarding Operation on Waterville Road. This item has been continuously tabled since June. Town Planner Sandy Scherer explained that Ms. Clarkson has applied for an amended Conditional Use Permit and her request will be heard at the October meeting. At that time, Planner Scherer will be able to provide a conclusion to her annual inspection report for 2015. Commissioner Hanson made a motion to table this item to October 5, 2015. The motion was seconded by Commissioner Weber and carried.

Dave Klein, a representative from Payne and Dolan (P&D), presented their Annual Report. Chairman Arrowood noted that not much had occurred at the pit in the past year. Supervisor Goodchild asked him what their plans were at the gravel pit next year? Mr. Klein said that they have no definite plans and will remain idle for now, and that they will continue to monitor the wells that were installed. Planner Scherer noted she had received one non-operator specific complaint at the beginning of the summer about dust and tracking in the Genesee-Ottawa quarry area for which P&D immediately addressed their part and tightened up their procedures in that regard. Planner Scherer indicated the previous owner, Vulcan Materials, had continually sought Wildlife Habitat Certification for the northern 20 acres of the site, and asked if P&D was going to continue that certification process as she had not received the request, as Town Planner, to comment this year. Mr. Klein indicated that P&D had no intention of seeking re-certification at this time, although they will retain the area for wildlife habitat preservation purposes. Commissioner Hausser made a motion to accept the Payne and Dolan Annual Report as presented. The motion was seconded by Commissioner Hanson and carried.

A Preliminary CSM was received for Randy and Susan Walters who reside at S36W37980 Dolmar Park Road. They requested approval of their Preliminary CSM and necessary waivers. Planner Scherer reminded the Commissioners that the Walters' had previously asked for and received approval to waive the requirement of a Conceptual submittal of their CSM.

Planner Scherer read through her Report and Recommendations as follows:

**TOWN OF OTTAWA**  
**PLANNER REPORT AND RECOMMENDATION**  
**PRELIMINARY CSM**

**DATE:**

September 14, 2015

SENT VIA EMAIL

**OWNERS/PETITIONERS:**

Randy and Sue Walters  
S36 W37980 and W37990 Dolmar Park Road  
Dousman, WI 53118

**SURVEYOR:** John Jahnke  
**DATE OF CSM:** April 17, 2015  
**DATE RECEIVED:** August 11, 2015  
**TAX KEY NOS.:** OTWT 1652.999.001 and .002

**LOCATION:**

Lots 2 and 3, CSM No. 5584, Volume, 45, Page 187, located in part of the SW ¼ of Section 16 and the SE ¼ of Section 17, T6N, R17E, Town of Ottawa. More specifically, the properties are located at the addresses cited above.

**LOT SIZE:**

Current: Lot 2 is 4.5 acres and Lot 3 is 5 acres in size to the meander line and utilizing a 50 foot road ROW.

Proposed Lots 1 and 2 are 5.75 acres and 3.5 acres respectively as measured to the meander line per the CSM, and excluding the lands dedicated to the public for ROW purposes of the 66' wide established road ROW.

**EXISTING USE(S):**

Proposed Lot 1: Accessory building containing a large workshop and small detached garage on a parcel without a principal residence.

Proposed Lot 2: A single family residence with an attached garage, and a boardwalk/pier to the shore of School Section Lake.

**REQUESTED USE(S):**

To construct a residential structure attached to the larger accessory building on proposed Lot 1, and sell Lot 2 (their current residence) to others. This will require the petitioners to adjust the common lot line between proposed Lots 1 and 2 as required by the Waukesha County Board of Adjustment (WCBOA) in their Decision Sheet dated March 17, 2015 (BA15:004, Condition No. 7) which granted the petitioners several variances to construct the residential addition attached to the large accessory building on their property.

**ZONING CLASSIFICATIONS:**

R-3 Residential (20,000 square feet, minimum average width 120 feet) and C-1 Conservancy

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

The Town of Ottawa Comprehensive Development Plan is incorporated into the WCCDP. The WCCDP designates the property as Suburban Density II Residential (3.0 to 4.9 acres per dwelling unit density) and PEC. The proposal conforms to both plans.

**SOIL TYPES:**

The property contains well drained soils in the southwestern one third of the combined lots; the central one third is very poorly drained hydric soils subject to ponding; and the remaining one third of the soils closest to the shoreline are also very poorly drained hydric soils subject to flooding.

**SUBMITTAL OF SOIL TESTS:**

Although no soil tests are necessary for this CSM as there is a septic system on both proposed lots, soil tests were done due to the presence of high groundwater relative to the proposed location (elevation) of the bottom of the basement floor. Water was observed at 16 inches below the ground surface, and since the basement floor is proposed below that depth, a variance was required from the WCBOA. An elevation of 857' was established for the bottom of the basement floor and that elevation shall be noted on the CSM. In addition, since there are existing sanitary facilities on both of the lots, the County EHD must approve the functionality of the existing septic systems as part of the CSM approval process (refer to Item No. 3 below).

The proposed lots are also part of the Dousman Sewer Service Area.

**PLANNER ANALYSIS:**

The petitioners would like to construct a residential structure attached to the larger accessory building on proposed Lot 1, and sell Lot 2 to others. This will require the petitioners to adjust the common lot line between proposed Lots 1 and 2 as required by the Waukesha County Board of Adjustment in their Decision Sheet dated March 17, 2015 (BA15:004, Condition No. 7) which granted the petitioners several variances to construct the residential addition attached to the large accessory building on their property.

As mentioned above, the parcels are not only zoned R-3 Residential, but also C-1 Conservancy and contain part of the School Section Lake Critical Species Habitat (CSH) which provides habitat for an endangered species; ADID wetlands (higher quality wetlands); 100 year floodplain; hydric soils; and Primary Environmental Corridor. A 20' wide easement for ingress-egress for Lakeview Lands Ltd. is shown along the west lot line of Proposed Lot 1. As also previously mentioned, both lots are served by a septic system and both have frontage on School

Section Lake. A total of 7 to 8 feet has been dedicated for road ROW purposes along Dolmar Park Road.

The CSH Protection and Management Plan recommends acquisition of CSH lands by a private conservancy organization for protection and management, if the property owners are willing. I had an extensive conversation with the property owners about this opportunity when I met with them in August and have since provided them with contact information for the WCLC as requested.

Relative to the Town's adopted Land Division Review Checklist and review of the Preliminary CSM, the following is a list of comments/questions/concerns that need to be addressed and/or submitted in conjunction with the submittal of the Final CSM to the Town Planner and the Town Engineer.

*Items 2-5 are Plan Commission action items.*

1. Since this appears to be a relatively minor CSM (lot line adjustment), the petitioners requested that the Conceptual review of their CSM be waived. This item was waived by the Town at their August set of meetings. The petitioners were not in attendance. However, the petitioners were advised that the waiver of the Conceptual review thus does not provide them with the Town's initial guidance at this review stage and prior to petitioner's seeking the preparation of an official CSM which may end up costing them more time and money in the long term. The petitioner's still elected to forego the Conceptual review in an effort to save a step in the process.
2. Utility easements, as required by the Town of Ottawa Land Division and Development Ordinance and the Town Engineer, shall be shown on the CSM unless waived by the Town.
3. Fifty percent of the lots may not be 2 feet above the 100 year floodplain elevation and therefore a waiver would be required. As this is an existing situation for both lots, it is recommended this item be waived.
4. The lots may not meet the lot width to depth ratio and therefore a waiver would be required.
5. Fifty percent of the lots may not be in the zoning district the building site is in. As this is an existing situation for both lots, it is recommended this item be waived.
6. No soil tests for a septic system are necessary for this proposed CSM as the petitioners are planning to hook up to the existing conventional septic system installed in 2001 on Proposed Lot 1, and there is a septic system serving the existing residence on Proposed Lot 2. The Waukesha County Environmental Health Division (EHD) has approved of the petitioner's request in their letter dated 6-4-15 (town building inspector was copied).

However, the EHD notes in their letter that the petitioners are required to have their septic tank pumped (mandatory maintenance) and a report submitted to the EHD. As of the date of their letter, this had not been done and therefore the system cannot be considered to be operating in a code compliant manner. This can subject the owners to fines. If this maintenance has not yet been done, it is recommended the Town not sign the CSM until the owners have done so and provided the requested documentation to the EHD so that the Town can be assured Proposed Lot 1 has a code compliant septic system as required by the Town's Land Division and Development Ordinance. It should be further noted that the EHD did a PSE of the system on Proposed Lot 1 only. The approval of a CSM requires the owner demonstrate any existing septic system is properly functioning, and therefore a PSE must also be conducted and approved on Proposed Lot 2 prior to the Town signing the CSM.

7. The Ordinance requires the CSM show an elevation line 2 feet above the 100 year floodplain.
8. The Waukesha County Dept. of Parks and Land Use - Planning and Zoning Division must also review the CSM as it is within the Waukesha County Shoreland and Floodland Protection Ordinance Jurisdictional Limits. The County has 90 days to conduct their review and is in the process of reviewing the CSM. Refer to No. 1 under the Town's Standard CSM Conditions below.
9. In the first line of the Preservation Area Restrictions shown on Sheet 8, the words "on Page 4" should be changed to "on Pages 3 and 4" as the wetland line is also shown on Page 3 of the CSM.
10. The note on Sheet 4 should end with the phrase "on Sheet 8".
11. The use of Dolmar Park Road and Dolmar Park Drive are used interchangeably throughout the CSM in the name of the road on Sheets 1-5, and also in the address of the owners on Sheets 1-5. The name of the road should be clarified and the same name used in all instances throughout the CSM.
12. Similarly, the last name of Mrs. Walters is listed as "Abrahamson" on the CSM. The tax roll for one of the Walters lots lists her as "Walters" while the tax roll for the other lot lists her as "Abrahamson". These discrepancies should be cleaned up with the Register of Deeds/Town Clerk/Assessor, and the official last name used on Sheets 1-9 of the CSM (appearing three times on Sheet 7 and twice on Sheet 9).
13. The unplatted lands noted to the south and south west of the CSM should list the owners' names on Sheets 1, 3, 4, and 5.
14. In Note No. 1 on Sheet 1, the word "Shoreline" should be "Shoreland".

15. On Sheets 4 and 5, under the Note, the word “Others” should be “Other”.
16. On Sheet 5, the dimension is missing between the workshop and the east lot line.
17. On Sheet 6, if Mr. Muehl intends to notarize the Surveyor’s Certificate, he will have to renew his Notary Public as the commission listed on the CSM has expired and therefore he can no longer notarize the document.
18. On Sheet 7, the Town of Ottawa Plan Commission shall be noted as such in both instances in their approval.
19. On Sheet 9, after both instances where the date March 17, 2015 is listed, in parentheses the file number BA15:004 (BA15:004) should be added.
20. After the final note on Sheet 9, there should be a period at the end of the sentence.
21. Anywhere Registered Land Surveyor may be referenced in the CSM, it shall be replaced with Professional Land Surveyor.
22. The final revision of the CSM shall be signed, dated, and sealed, with the same revision date on all pages of the CSM.
23. The following technical items must be shown on the CSM: soil types, the OHWM of any navigable body of water, all access drives, the most restrictive setback from the nearest environmental feature, the proposed elevation of basement floor, and list the existing zoning of the subject parcels (adjacent zoning is not necessary) and the required offsets and setbacks.
24. A deed restriction should be recorded restricting the use of workshop, detached garage and the proposed attached garage to personal use and storage only, and no commercial or business operations are permitted.
25. SEWRPC requires the owners to delineate their wetland and PEC delineations on a plat of survey and submit the same to SEWRPC. It is recommended this be done. SEWRPC also notes in their review that a 75’ setback from all impervious surfaces is required by the WDNR so that setback should be shown on the CSM (keeping in mind No. 23 above).
26. The owners should be advised they are limited to two accessory buildings on proposed Lot 1 unless they obtain special Town approval.
27. Due to the fact that there will still be an accessory structure without a principal structure on Proposed Lot 1 for a period of time, the existing deed restriction should be modified to state the two lots cannot be sold separately until and unless a residence is constructed on Proposed Lot 1. The County may also require a Letter of Credit to be able to enforce this

deed restriction in the event a residence is not constructed.

28. If the County LRD requires a Storm Water Permit, that approval shall be obtained prior to the issuance of any permits for the construction of the residence.
29. The owners should discuss the possibilities/opportunities with the WCLC of acquiring a portion of their land for preservation and management purposes if they are interested.
30. A basement statement similar to the sample below should be added to the CSM.
31. Who is Lakeview Lands Ltd. and why do they need to retain a 20 wide easement over Proposed Lot 1 particularly when it does not appear the easement has been used in nearly 50 years and the majority of the easement is PEC, floodplain and wetland which in general terms cannot be disturbed in accordance with the preservation restrictions on Sheet 8 of the CSM?

#### **PLANNER RECOMMENDATION:**

Based upon the above analysis and information, it is recommended the Town Plan Commission recommend approval of the Preliminary CSM and any requested waivers, as deemed necessary, to the Town Board subject to the Planner Comments listed in the Analysis Section above, any Town Engineer Comments, and the Town's Standard CSM Conditions listed below. These Standard CSM Conditions are *in addition to* any Planner or Engineer Comments.

#### **Town of Ottawa Standard CSM Conditions:**

1. 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 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.
2. 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.

3. 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.
4. 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 commencing construction of any improvement, whether public or private, or site development, or approval of the Final CSM, whichever is earlier.
5. 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.
6. 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.
7. 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*.

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 process.

Respectfully submitted,

*Sandra L. Scherer*

Sandy Scherer  
Town Planner

### **BASEMENT RESTRICTION – GROUNDWATER**

Although all lots in the Subdivision/Certified Survey Map have been reviewed and approved for development with single-family residential use in accordance with Section 236 Wisconsin Statutes, some lots contain soil conditions which, due to the possible presence of groundwater near the surface, may require additional soil engineering and foundation design with regard to basement construction. It is recommended that either a licensed professional engineer or other soils expert design a basement and foundation which will be suitable to withstand the various problems associated with saturated soil conditions on basement walls or floors or that special measures be taken. Soil conditions should be subject to each owner's special investigation prior to construction and no specific representation is made herein.

Supervisor Goodchild commented that it was disappointing that a professional surveyor completed the CSM with so many errors. There are 31 items that still need to be addressed, in addition to the seven standard CSM conditions. A lot of what is missing are very basic items.

Planner Scherer suggested that the Plan Commissioners could request that the Walters' have a revised Preliminary CSM prepared, instead of proceeding to the Final CSM submittal. She said that the Town Engineer's report contained nine items that also need attention.

Commissioner Weber asked the other Commissioners if they should request a revised Preliminary CSM. Planner Scherer reminded the Plan Commission that the reason the Walters sought the waiver of the Conceptual was that they are in a hurry, so it would not be a popular decision to require a revised Preliminary CSM as it would put them behind schedule. Another option, if all of the items herein are not addressed on a Final CSM submittal is the Plan Commission could request a revised Final CSM. She also reminded the Commissioners that Waukesha County had not reviewed the Preliminary CSM yet. The County is waiting for the Town to at least review the preliminary submittal before they take action on the Walters CSM, in accordance with the Town's standing request in regard to the CSM process. After the County reviews the Preliminary CSM, the Walters could take everything from the Town and the County to their surveyor to make all of the additions and corrections at one time.

Supervisor Goodchild made a motion to waive items 2, 3, 4, and 5 from the Town Planner's report in accordance with the Planners recommendation:

2. Utility easements, as required by the Town of Ottawa Land Division and Development Ordinance and the Town Engineer, shall be shown on the CSM unless waived by the Town.
3. Fifty percent of the lots may not be 2 feet above the 100 year floodplain elevation and therefore a waiver would be required. As this is an existing situation for both lots, it is recommended this item be waived.
4. The lots may not meet the lot width to depth ratio and therefore a waiver would be required.
5. Fifty percent of the lots may not be in the zoning district the building site is in. As this is an existing situation for both lots, it is recommended this item be waived.

The motion was seconded by Commissioner Mundschau and carried.

Commissioner Weber made a motion to approve the Preliminary CSM for Randy and Sue Walters contingent upon all conditions of approval as listed in the Town Planner's and Town Engineer's reports, and the four waivers from the Town Planner's report and as previously approved. The Walters still need to submit a Final CSM in accordance with the Town's Land Division and Development Ordinance.

The motion was seconded by Commissioner Hausser and carried.

A request for approval of a Preliminary CSM and necessary waivers for William Schultheis was the next item on the agenda.

Planner Scherer included in her report, and reminded the Plan Commissioners, that the property owner had been discussing a number of conveyance submittals (6) with the Town since the fall of 2014. At that time, it was mentioned that, if a CSM were eventually required by the Town, the petitioner would be allowed to utilize the conveyance process as the conceptual submittal for the CSM and would not have to submit a Conceptual CSM since the issues surrounding the request had been discussed quite thoroughly. However, Planner Scherer proposed that this item (submittal of a Conceptual CSM) be formally waived for the record.

Planner Scherer then read through her Report and Recommendations as follows:

**TOWN OF OTTAWA**  
**PLANNER REPORT AND RECOMMENDATION**  
**PRELIMINARY CSM**

SENT VIA EMAIL
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**DATE:** September 14, 2015

**OWNERS/SELLER:** William and Ann Schultheis

W391 S4560 CTH ZC  
Dousman, WI 53118

**OWNERS/BUYERS:**

David Ashley  
PO Box 79  
S46 W39084 CTH ZC  
Dousman, WI 53118

Dean and Kristen Havnen  
S43 W39105 CTH D  
Dousman, WI 53118

**SURVEYOR:**

Keith Kindred, PLS, SHE, Inc.

**DATE OF CSM:**

August 6, 2015

**DATE CSM RECEIVED:**

August 6, 2015

**TAX KEY NO(S):**

OTWT 1660.999.002 (*Schultheis*), 1660.999.007 (*Havnen*), and 1660.998.008 (*Ashley*)

**LOCATION:**

The land to be divided includes a 20 acre parcel (*Schultheis*), and also a 66' wide easement strip that runs from the 20 acre parcel north to CTH D through Lot 2, CSM No. 5710, Volume 46, Page 217, (*Havnen*), all located in the SE ¼ of Section 19, T6N, R17E, Town of Ottawa. Lot 7, CSM No. 2895, Volume 21, Page 222 (*Ashley*), also located in the SE ¼ of Section 19, and Havnen are proposing to split the 20 acre parcel between them. The 20 acre parcel is located at S46 W39028 CTH ZC, and the Havnen and Ashley parcels are located at their respective addresses cited above.

**LOT SIZES:**

The *Schultheis* parcel is 20 acres (not including the use of the 66' wide access strip), the *Ashley* parcel is 7.8 acres in size, and the *Havnen* parcel is 10.8 acres in size (formerly 8.3 acres in size).

**EXISTING USE(S):**

Undeveloped and agricultural (*Schultheis*), residential and agricultural (*Havnen*), and residential (*Ashley*).

**REQUESTED USE(S):**

A Preliminary CSM to divide the *Schultheis*' 20 acre parcel previously discussed as a

conveyance submittal, and provide a portion to the Havnen's and the other portion to Mr. Ashely. Proposed Lot 1 (*Ashley*) will contain at 17.91 acres, and proposed Lot 2 (*Havnen*) will contain 19.34 acres.

**ZONING CLASSIFICATION(S):**

*Schultheis/Havnen*: AD-10 Agricultural Density-10 (minimum lot size one acre, density 10 acres per dwelling unit, minimum average width 150 feet).

*Ashley*: A-5 Mini-Farm (minimum five acre lot size, 300 feet minimum average width).

The property is under the jurisdiction of the Waukesha County Zoning Code.

**SOIL TEST SUBMITTED:** No.

**SOIL TYPES:**

The soils types on the *Schultheis* 20 acre parcel and the *Havnen* are well drained (MvB and MxB) with slopes between 2-6 %. The soils types on the *Ashley* parcel are also well drained (including MvB and MxB), but contain MvC2 and MxD2 soils as well with slopes between 6-12% and 12-20% respectively.

**WAUKESHA COUNTY COMPREHENSIVE DEVELOPMENT PLAN (WCCDP) AND THE TOWN OF OTTAWA COMPREHENSIVE DEVELOPMENT PLAN (CDP) DESIGNATIONS:**

The Town of Ottawa's Comprehensive Development Plan is incorporated into the WCCDP. The WCCDP designates the *Schultheis/Havnen* properties as Rural Density Residential and Other Open Lands (5-34.9 acres per dwelling unit density). The Town's Plan designates the *Schultheis/Havnen* properties as Agricultural 10 acre density (10 acres per dwelling unit density). Both plans designate the *Ashley* parcel as Suburban II Density Residential (3.0-4.9 acres per dwelling unit density). The proposal conforms with both plans.

**PLANNER ANALYSIS:**

The property owner has been discussing a number of conveyance submittals (6) with the Town since the fall of 2014. At that time it was mentioned that if a CSM were required, the petitioner would be allowed to utilize the conveyance process as the conceptual submittal for the CSM and would not have to submit a Conceptual CSM. Therefore, what you have before you is a Preliminary CSM to divide the Schultheis' 20 acre parcel previously discussed as a conveyance and provide a portion to the Havnen's and another portion to Mr. Ashely.

The Havnen's eight acre parcel is accessed from CTH D via a 66' wide "easement", although they could have direct access to CTH D if the property owner requested and received an Access Permit from the County DPW. Instead their driveway is constructed within the 66' wide

“easement”. It should be noted that, with the recording of this CSM, this access easement is to be released. It is unknown at this time what affect this, or any previous actions, may have on the Havnen’s access to CTH D and so it is recommended the Havnen’s consult with the County DPW to ensure they retain a legal access to the CTH through this process.

The Havnen parcel contains a single family residence and has Class I and II prime ag soils. Since both the Schultheis and Havnen lots were created prior to AD-10 zoning, and the entire lots are zoned AD-10, there is no possible building site outside of the Class I and II soils. Therefore, a determination was made previously that because these lots were created prior to the AD-10 zoning, they do not have to meet that particular Class I/II requirement of the Zoning Code, if they are otherwise (legal) buildable lots. When the County does a comprehensive rezoning to “zoned as used”, these properties will be rezoned to a more appropriate zoning category.

The Ashley’s seven acre parcel contains a single family residence and two outbuildings, and is accessed from CTH ZC via a 33 foot wide ownership strip (i.e., it’s a flag lot) that runs through a 66’ x 40’ common driveway easement adjacent to CTH ZC which is shared with Lot 6 (see CSM enlargement attached).

The Schultheis 20 acre parcel is also accessed from CTH D via a 66’ wide strip of land, however the Plan Commission may recall, and can review the history in Exhibit 1 attached, that the 20 acre parcel *may* currently be landlocked, (as the 66’ wide strip was somehow “*absorbed*” into the Havnen parcel to the east of the 66’ wide strip as an “*easement*”, and it is unknown if this was a legal transaction). That is one of the reasons why the Plan Commission continued to recommend that a CSM be prepared vs. a conveyance recorded in order to resolve some of the past issues with this 20 acre parcel.

Relative to the Town’s adopted Land Division Review Checklist and review of the Preliminary CSM, the following list of items need to be addressed upon the next submittal of a CSM to the Town Planner and the Town Engineer:

Items 1, 2, 3, 7, 8, 9, 10, 11, 13, 14, and 15 are Town Plan Commission action items.

1. The Town should formally waive the conceptual review of the CSM.
2. The design and lot configuration of this proposal is somewhat irregular, especially that of proposed Lot 1 and the Town Plan Commission should determine if this is acceptable in accordance with the Town’s Land Division and Development Ordinance.
3. The Town should consider a waiver of the soil tests since no development is taking place in conjunction with this CSM and both lots are currently served by private septic systems.
4. An Access Permit may be required from the County DPW for the Havnen parcel as the access easement is proposed to be eliminated by the recordation of this CSM. The County

DPW shall be contacted and a decision rendered and transmitted to the Town Planner on this matter prior to the Town signing the CSM.

5. The following technical items should be shown on the next submittal of the CSM: soil types, correct zoning of all parcels (change A-6 to A-5 in all seven instances), the address of Mr. Ashley, drain tile location, and a list of the required setbacks/offsets.
6. The petitioners shall contact the County EHD to have a PSE conducted of all existing septic systems and the results provided to the Town Planner prior to the Town signing the CSM.
7. Contiguous lands owned are required to be shown on the CSM. The 38 acre contiguous Schultheis parcel is not shown on the CSM and therefore a waiver would be required.
8. Proposed Lot 1 does not contain the required 40' of road frontage, even though this is an existing situation, the lot is changing, and a wavier is required.
9. Proposed Lot 1 is not 60' in width at the base setback line (33' from the centerline of CTH ZC), even though it is an existing situation, the lot is changing, and a waiver is required.
10. The Town should approve of the Ashley flag lot since the configuration of the lot is changing.
11. Proposed Lot 1 does not meet the width to depth ratio and requires a waiver.
12. A note shall be placed on the CSM that Lot 1 shall not be further divided.
13. The Town should consider whether they would like to see any trail easements provided along the CTHs in this CSM.
14. A portion of proposed Lot 1 contains slopes in excess of 12%, but since this areas is already developed with a driveway, the requirement to preserve the slopes in this case should be waived.
15. The Town should determine if utility easements should be shown on the CSM, and if not, a waiver is required.
16. Sheet 3 has an unidentified symbol in the lower right that should be removed.
17. On Sheet 4, the owner information (“survey for”) can be removed as it is not complete and it is shown on Sheet 1.
18. On the certificate pages: Sheet 6: in the Witness line “owner” should be “owners”; add the year (2015). In the Notary statement line and the word “and” as two names will be written in

that blank as there are two owners. Same comments for Sheet 8. Sheet 10: “owners” should be “owner” and the three instances of “we” should be “I” in the first paragraph of the Owner’s Certificate; add the year (2015); “persons” should “person” in the Notary statement line. Sheet 12: add the Haven’s and Mr. Ashley to the Town Board and Plan Commission certificates; under the Town Board, change “Village” to “Town”; make “Chairperson/Chairman” consistent in the Town Board and Plan Commission certificates; change “Planning” to “Plan” in three instances under the Plan Commission certificate.

### **PLANNER RECOMMENDATION:**

Based upon the above information and analysis, it is recommended the Town Plan Commission recommend approval of the Preliminary CSM and any waivers to the Town Board subject to the Planner Comments listed in the Analysis Section above and any Town Engineer Comments received.

In addition, the Town’s Standard CSM Conditions listed below are also made part of the Town’s approval, and are in addition to any Planner Comments or Engineer Comments.

### **Town of Ottawa Standard CSM Conditions:**

1. 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.
2. 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.
3. 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.

4. 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 commencing construction of any improvement, whether public or private, or site development, or approval of the Final CSM, whichever is earlier.
5. 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.
7. 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.
8. 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.

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

Supervisor Goodchild made a motion to approve the following waivers as noted in the Planners' report: 1, 3, 7, 8, 9, 11, 14, and 15. Commissioner Hausser seconded the motion and it carried. Discussion followed regarding the remaining action items that Planner Scherer listed in her report:

Item #2 – Although somewhat irregular, especially proposed Lot 1, the design and lot configuration are acceptable in accordance with the Town's Land Division and Development Ordinance.

Item #13 – There is no need for a trail easement along CTH ZC or CTH D.

Item #10 – Approval of a flag lot. Commissioner Weber made a motion to approve the Ashley flag lot since the configuration of the lot is changing with this CSM submittal. Her motion was seconded by Commissioner Hausser and carried.

Item #12 - Mr. Ashley's attorney was present, and asked that item #12 from the Planner's report be removed. The note is as follows: "A note shall be placed on the CSM that Lot 1 shall not be further divided." He said that they might like to sell in the future to a neighbor with access. He said that it would preclude Mr. Ashley from ever selling his property. Planner Scherer disagreed with that statement. She said Mr. Ashley is still able to sell his property even with that note on the CSM. She did state that if Mr. Ashley wanted to divide his property in order to sell part of it, the note would preclude that from happening. The reason for the note in the first place was due to the fact that the Ashley property is only accessed via a 33' ownership strip (i.e., it is a flag lot) and in its current state – upon approval of the CSM – no further division would be allowed if the expectation was to have another lot accessing that 33' strip. Planner Scherer offered some revised language for Condition No. 12.

Supervisor Goodchild said that he was in favor of Planner Scherer's verbiage. He said that we have used it before and we should leave it in place. Chairman Arrowood agreed and said that it is how we've handled these types of situations in the past. Supervisor Goodchild said that he did not see it as a detriment to selling the lot. Commissioner Weber said that it serves as a warning for future buyers, and asked to keep item #12. She asked why the Ashley's were so opposed to the statement, and asked if there was a reason that the Ashley's were opposed to it?

Commissioner Weber added that the Ashley's already have a flag lot, which the Town doesn't really care for in the first place. The Town wants to be cautious moving forward with this CSM, so as to avoid additional problems in the future. Planner Scherer offered to provide the Ashley's attorney with revised language for item 12.

Commissioner Weber made a motion to approve the Preliminary CSM for Bill Schultheis.

Discussion followed.

Commissioner Weber rescinded her motion as she wanted to start over.

Commissioner Weber made a motion to approve the Preliminary CSM for Bill Schultheis, as recommended and conditioned by the Town Planner and the Town Engineer, and waive item 3 from the Town Engineer's report, which is as follows:

3. Per the Town of Ottawa Code of Ordinances Chapter 18 sec. 4.02(D) - that the 100 year flood contour and the contour 2 feet above the 100 year flood be shown. It appears from the County GIS maps that the property is above those contours, so a note stating as much should suffice.

In addition, the following language shall be substituted for item 12 of Planner Scherer's report:

12. A note shall be placed on the CSM stating that "Lot 1 of this CSM shall not be divided without approval from the Town of Ottawa, and any future land division shall meet all ordinance requirements in effect at the time of the proposed land division unless otherwise waived by the Town of Ottawa."

And although the design and lot configuration of this proposal is somewhat irregular, especially that of proposed Lot 1, it is acceptable at this time, and no trail easements are necessary along the CTHs in this CSM.

Commissioner Hanson seconded the motion and it carried.

A list of zoning violations as submitted by the Town Planner was reviewed and accepted.

There was no correspondence.

There was no public comment.

Commissioner Weber made a motion to approve the minutes from the August 3, 2015 Plan Commission meeting, with the three edits as amended. The motion was seconded by Commissioner Hausser and carried.

Commissioner Hausser made a motion to adjourn at 7:30 p.m. His motion was seconded by Commissioner Weber and carried.

Respectfully submitted, Melissa M. Klein, WCMC, Clerk/Treasurer, Town of Ottawa