

Minutes of Plan Commission Meeting October 20, 2015

Call to Order – Phil Wedekind called the meeting of the Commission to order at 5:15 PM.

Roll Call – Present were Phil Wedekind, Dennis Thurow, Roy Franzen, Tom Kolb, Pat Liston and Jim O'Neill. Kate Fitzwilliams was absent.

Also in attendance were Administrator Geick, Tom Pinion, Mark Reitz, Dave Leatherberry, David and Diana Allaby, Brandon Dittberner, Todd Halvensleben, Richard Cross, and Jerome Mercer.

Call to Order

- a. Note compliance with the Open Meeting Law. Wedekind noted compliance with the Open Meeting Law.
- b. Agenda Approval: It was moved by Kolb, seconded by Liston to approve the agenda as posted. Motion carried unanimously.
- c. Minutes Approval: It was moved by Franzen, seconded by Kolb to approve the minutes of the September 15, 2015 meeting. Motion carried unanimously.

Public Invited to Speak (*Any citizen has the right to speak on any item of business that is on the agenda for Commission action if recognized by the presiding officer.*) – There were no speakers.

New Business

- a. Review and approve a two-lot Certified Survey Map for the David A. and Deloris E. Leatherberry Living Trust for land in the City's Extraterritorial Plat Approval Jurisdiction, located on the west side of CTH A approximately ½ mile north of Crawford Street, in the NE¼ of the NE¼ and the NW¼ of the NE¼, Section 23, T12N, R6E in the Town of Baraboo, Sauk County, Wisconsin – Engineer Pinion said this is a 38-acre (±) that Mr. Leatherberry would like to subdivide a home site on that property, which the City's ET allows that to occur as part of the County's clustering program. They allow a 2-5 acre size, but the City has a maximum 2-acre size, so Leatherberry is proposing a 2-acre lot and then the Preservation Area Easement would be applied to a minimum of 33-acres or the balance of the property to conform to the County's regulations. Richard Cross stated that the CSM has been presented to the Town of Baraboo and County and both have approved it. He said that the County's approval is based upon setting aside 30 acres either on the adjoining Lot 1 shown on the CSM or on property which is a little bit south of that. He said that within one year Leatherberry will have to have approvals with jurisdictions and the selection of the easement with that. It was moved by List, seconded by Kolb with approve the CSM. Franzen questioned the placement of the easement. Cross said that the County's approval is conditioned upon one or the other position for the easement. Pinion said that although that is the County's position, the City's position is that it has to be contiguous to the lot being divided. Cross asked what the authority for that was. Attorney Reitz said that it is part of the same land division; therefore, it has to be a part of it. Cross said that in July the Commission granted Pierce an exception for a different parcel that was not contiguous. Pinion said for that it was contiguous, it is separated by a railroad right-of-way, and the County's ordinance does not recognize that as breaking contiguity. Cross said that they are separate parcels. Pinion said that County's definition is a parcel is all land under common ownership, regardless of the parcel numbers assigned to it. Cross asked Pinion if the City was adopting the County's definition. Pinion answered for the sake of contiguity, the City's conflicts with theirs; therefore, the City refers to the County's definition for contiguity. Cross said that if the County is okay with Leatherberry having an option for the easement, then apparently it doesn't conflict with their definition of contiguity. Pinion said that it does conflict with their definition of contiguity. Cross didn't agree. Pinion said that the County doesn't have a requirement of where the PRD goes; however, the City has a requirement that the CSM and the remnant from which it is carved be part of that CSM, so it would be very hard to connect a 2-acre lot with a remote 30 or 35-acre parcel that isn't part of the same CSM. Cross asked Pinion to define remote and he said not contiguous. Cross asked if this was Pinion's position with regard to the enforceability of the Extraterritorial Plat Review. Attorney Reitz answered that this is the way the City has to do it. Cross said that he knows that Reitz is familiar with the case out in Delevan. Reitz said that is the new one and didn't feel it was applicable here; however, if Cross wanted to kick this down and he could sit down with him and talk about it. Cross said that he would rather get the approval along the line of what the County has approved to get the choice so that they don't have to get involved in legal niceties; he asked what the difference is to the City whether or not it is 30 acres closer to the City or 30-acres farther away. Reitz said because the City does not want that type of cluster developments suddenly spring up that out of that same 40 acres there are 19 buildable lots, all on 2-acre parcels because separate lands were set up. Cross said that his understanding of the Delevan case, the City doesn't have the legal authority to do that, Reitz said that it could certainly be litigated. Cross said that it may have to be. Cross said that he would like the Commission to conditionally approve it with the selection of Lot 1, and give his client the opportunity to review his options and see whether or not he wanted to press forward with it. Reitz said that the motion that is on the table is that it has to be part of this same CSM, Lot 1. Liston said that he would like to withdraw his motion until Cross and Reitz could settle it. Kolb then withdrew his second.
- b. Review and approve a two-lot Certified Survey for David J. Allaby's property, located at 404 10th venue, located on the northeast corner of the intersection of Crawford Street & 10th Avenue, in the SW¼ of the NE¼, Section 35, T12N, E6E in the City of Baraboo, Sauk County, Wisconsin – David Allaby, 1505 Parkside Drive, Prairie du Sac introduced himself to the Commission. Pinion said that Allaby owns the property on the NE corner of Crawford and 10th Avenue and he is proposing to separate the existing home from the balance of the vacant property. He said the home is reported to be on a ¼-acre lot

and there would be a balance of 1.2 net acres to sell as vacant land. Pinion said the legal description for this property now, the property goes to the center of the road, so rather than a road by easement, it now will be a road by dedication. So, as a formality he is formally dedicating the 33-feet of right-of-way that is occupied by the roadway right now. Franzen asked Allaby why the west property line wasn't run all the way back to give that homeowner a slightly bigger backyard. Allaby stated he was hopefully going to use it for a garden. Franzen moved, Thurow seconded to approve the CSM as presented. On roll call for the motion, Ayes – Thurow, Franzen, Liston, O'Neill, Kolb, Wedekind. Nay – 0, and the motion carried.

- c. Review and approve a two-lot Certified Survey for the Baraboo National Bank's property, located on the southeast corner of the intersection of CHT T (Taft Avenue) and Tillberry Drive, being a Replat of Pleasant View Condominium on Lot 53 of the First Addition to Pleasant View subdivision, in the SW¼ of the SW¼, Section 30, T12N, R7E, in the City of Baraboo, Sauk County, Wisconsin– Jerome Mercer appeared on behalf of the Baraboo National Bank. He said that this CSM involves the condominium plat from ten years ago had a number of units and there are ten that are just vacant land. He said that these are duplex type condominiums and the property owners of the condominium units want to get rid of the undeveloped units because it creates problems when trying to finance what to sell because there is a difficulty in financing when there is a condominium that is almost half undeveloped. He said that the Baraboo National Bank owns the undeveloped land, so they want it separated so that they can dispose of it. Pinion said that it meets the City's land division regulations. It was moved by Liston, seconded by O'Neill to approve the CSM as presented. On roll call vote for the motion, Ayes – Franzen, Liston, O'Neill, Kolb, Wedekind, Thurow. Nay – 0, and the motion carried unanimously.
- d. Review a concept plan for a proposed residential subdivision plat on the vacant land north and east of the Rolling Meadows Subdivision for Quality Construction – Brandon Dittberner and Todd Halvensleben introduced themselves to the Commission. Pinion presented the existing plat of Rolling Meadows to the Commission. He said that Dittberner and Halvensleben are looking to expand this subdivision. He said that the City's Land Division Regulations, like most, if a developer owns more land than they intend to develop, they have to show what is intended for the balance of the land. This is a conceptual review to make sure the Commission is comfortable with the original layout before they invest in the time and dollars to take it to a formal Preliminary Plat, and ultimately a Final Plat for Phase II. Liston said that he was Mayor for part of this and he said that it seems fairly consistent with the original plat; therefore, he sees no problem with it and he feels that it is a good concept.

Adjournment - It was moved by Franzen and seconded Liston to adjourn at 5:34 p.m. The motion carried unanimously.

Phil Wedekind,
Mayor Designee