

## OCTOBER 26, 2015 Plan Commission Meeting

The Plan Commission met Monday, October 26, 2015 at the Town Hall in New Munster. Chairman William Glembocki opened with the *Pledge of Allegiance* at 7:30 p.m.

Present for the Plan Commission: Clayton Wagner, Randy Schulz, Dennis Robers, Paul DeLuisa, Vince Mosca and Mary Ochoa Petersen. Susan Riley was excused. Also present: Town Supervisors Andrew Lois and Kelly Wilson, Town Clerk Sheila Siegler, Town Attorney Jeff Davison, Town Planner Pat Meehan, Art Naber, Paul Naber, Tim Lynch, Phillip Kirsch, Doreen Bratt, Jeff Butler and Mark Robers.

Minutes of the August 10, 2015 Plan Commission were moved for approval by Clayton Wagner and seconded by Vince Mosca. Motion carried.

### **Public comments -**

Phillip Kirsch, 33130 73rd St. asked if this was the correct time to comment on the agenda item for "The Hills of Lilly Lake" subdivision. He said the proposed road runs along an existing building (concrete building in good shape) on his property. The building will be less than 11 ft. from a public road. This is a concern. Children run out from a garage. If the weather is snowy, or icy, it could cause cars to slide. Has this been accounted for? Will a steel barrier be erected to protect? There is potential injury or accident here.

Chairman thanked Phillip Kirsch and asked for any other public comments. There being none, he closed the public comment section of the meeting.

Chairman introduced "**The Hills of Lilly Lake**" - a proposed subdivision to be located on a 29.3 A. parcel north of 75th St. - Tax Parcel #95-4-119-024-0300, farmhouse address 33202 73rd St. Applicant: Arthur A. Naber & Paul J. Naber, 29124 Plank Rd., Burlington, WI 53105 (owners) and Tim Lynch, Lynch & Associates (agent), 5482 S. Westridge Dr., New Berlin, WI 53151 (agent)

A. Review and possible recommendation to the town board for the rezoning application for a part of Tax Parcel #95-4-119-024-0300 from A-2 General Agricultural to R-2 Suburban Single Family Residential. Farmhouse including 10 acres will remain A-2. Areas of C-1 Lowland Conservancy and C-2 Upland Conservancy on this parcel will continue as C-1 & C-2 districts.

B. Review and possible recommendation to the town board for the Preliminary Plat of "The Hills of Lilly Lake" (14 lots and 1 outlot) - Tax Parcel #95-4-119-024-0300.

C. Review and possible recommendation to the town board for Subdivision Covenants and Restrictions - "The Hills of Lilly Lake"

D. Developer's Agreement - discussion of proposed agreement and items to be included. Possible recommendation to the town board for action.

Town Attorney said town engineer and town planner have comments that need to be addressed. Chairman asked Planner Pat Meehan to report his comments. (Copy attached.) Applicants have received copies of the planner's report. Meehan said 10 vehicular trips per day could be typical; so, there will be low volume on the cul-de-sac.

Commissioner Mary Ochoa Petersen asked if there is a park or recreation area planned. Tim Lynch said there was none. This is a small subdivision with rural lots.

Responding to Commissioner Petersen, Meehan said it is not typical to have a garage 11 ft. from a road but it does happen. You could require a guard rail if you wanted to. Tim Lynch said this road cul-de-sac with two lots will have a low volume of traffic until the road is extended to the north at a future date. Since that property owner is Mr. Kirsch, he has full control over when that happens.

Town Engineer Len Roecker was unable to be present. A copy of his review letter is attached. Tim Lynch said they have no issues with any of the comments but are waiting to respond to Roecker's report until they have the county's comments and don't have those yet..

Town Attorney Jeff Davison said his recommendation is and has been, that until such time as the town board is in a position to approve rezoning, preliminary plat and developer's agreement it should be tabled or a recommendation be made that no approval is given until all can be approved at the same time.

Given the length of the Town Engineer Len Roecker's comments, Town Planner Meehan's comments, no response from Lynch to Roecker's comments, no comments from the county, it would be premature at this time. Conditional approval only puts the municipality in perilous territory.

Tim Lynch said they are hoping to start marketing lots in early 2016. Davison said the developer's agreement says you can't market until you have all approvals.

Commissioner Dennis Robers - what kind of time frame are we looking at? Davison said the ball is in their court. There are 35 items on the engineering report that need to be addressed as well as the planner's comments.

Commissioner Clayton Wagner - lots perced? Lynch said they had all passed perc tests.

Commissioner Vince Mosca said as a point of comment - the soil borings weren't included, same issues we faced in the Hwy 50 project. There is no gravity outlet, it is an internally drained puddle. Lynch said Ruckert & Mielke wanted it modeled on back to back 25 year storms and they still have plenty of capacity. 100 year storms Mosca is concerned about. Roecker has addressed that in his report in more technical terms but he wanted to highlight it. Mosca said all the land drains to one spot.

Chairman said it sounds like we can't go forward with this today. Attorney Davison has advised against a conditional approval.

Proposed developer's agreement was given to Lynch and Naber. Lynch said gravel in phase 1 but we're asking to sell Lot 14 and 1-5 in phase 1 and not build the road until phase 2. Meehan said 6 & 13 restricted access to 75th St. was addressed in his review. Davison said he didn't understand the phasing and that can be revised. Money to back up the road construction @ 120% of cost must be upfront for the first phase approval in a "letter of credit" or some type of financial instrument. Developers indicated they understood.

Mosca - who is responsible for maintaining storm water agreement? Davison said that is addressed in developer's agreement. It would be the developer and then later the homeowners association; not the town.

Commissioner Wagner asked who is the architectural committee? Art Naber said he is the architectural control committee until all the lots are sold. He said there are not a lot of things in their restrictions. They used town and county requirements for size.

Commissioner Petersen asked who would be responsible for the street repair if someone building a house damages the road. Naber said it would be their responsibility until the town took over the road.

Art Naber said they are marketing to "empty nesters." There is a lot of activity in that housing market.

Commissioner Petersen expressed concern about saving trees where possible and situating houses in the least intrusive spot. Lynch said they haven't studied the lots but trees are important to the sale of lots and they view them in that respect.

Vince Mosca moved to table until consultants review is satisfied and then come back for a meeting. Paul DeLuisa seconded. Carried.

Clerk reported Mark Merkling called and he is holding until he gets his storm water issues with the DNR and the town engineer satisfied. There is no time indicated on when that will be but likely spring.

Mary Ochoa Petersen moved to adjourn at 8:10 p.m. Randy Schulz second. Carried.

Respectfully submitted,

Sheila M. Siegler, Town Clerk