

APPROVED

**PLAN COMMISSION MEETING
Town of Troy
June 7, 2018
Hudson Wisconsin 54016**

Members Present: Dan Pearson, Jan Cuccia, Paul Mahler, Jennie Boeder, David Wolf

Members Absent: Dean Albert, Joe Radlinger

Staff Present: Wendy Sander, Rob Jones, Ron Siler

Recording Secretary: Amanda Randall

Others present: Matt Hieb, Jill Berke, Suzanne Van Mele, Jim Johnson, Donna Burger, Pat Burns, Jim Burns, John Cernohous, Jim Johnson, John Sias, Sharon Sias, John Moe, Ashley Wire, Scott Braden, Kimberly Braden, Sean Coffey, Bob Supers, Adam Nigon, Beth Nigon, Kent Mitchell, Anjanette Conway, Jason Gallagher, Beth Gallagher, Karen Nelson, Ashley Norman, Mary Jo Veenendall, Rose Hand, Nanci Sambolt, Gretchen Pederson, Dan Solberg, Karla Solberg, David Solberg, Mary Ellner, Rod Ellner, Jodee Schaben, Jeff Nelson, Susan Mitchell, David Brummel, Pat Cernohous, Greg Veenendall, Nick Iverson, Hitomi Iverson, others were present who did not sign in.

AGENDA:

1. Call to order;
2. Pledge of Allegiance
3. Approve minutes;
4. Acknowledgement of applications for action as regulated by SDO;
5. Meadow Ridge-Discuss and recommend developers request for extension of 2005 Developer's Agreement and Preliminary Plat approval;
6. Public Hearing/Discuss and Recommend-Conditional Use Permit
 - Applicants: John P. Cernohous
 - Address: 488 Coulee Trail
 - Request: Conditional Use Permit to construct a building to host weddings and events
7. Discuss and consider process for future planning of the Commercial Zoning District;
8. Building Permits;
9. Utility Permits;

10. Committee Reports & Correspondence
11. Adjourn.

AGENDA:

1. Call to order;

Dan Pearson called the meeting of the Troy Plan Commission to order at 7:00 p.m. followed by the Pledge of Allegiance.

2. Approve minutes;

The minutes of the April 5, 2018 Plan Commission were previously distributed.

Paul Mahler moved to approve the minutes of the April 5, 2018 Plan Commission. David Wolf seconded. Motion carried.

3. Acknowledgement of applications for action as regulated by SDO;

Jan Cuccia moved that the Plan Commission acknowledge the preliminary plat extension request of Meadow Ridge of Troy for DCCI Investments. David Wolf seconded. Motion carried.

4. Meadow Ridge-Discuss and recommend developers request for extension of 2005 Developer's Agreement and Preliminary Plat approval;

Matt Hieb appeared on behalf of DCCI Investments. The Meadow Ridge Subdivision obtained preliminary plat approval in 2005 for the whole subdivision to be done in two phases. The housing market then substantially slowed. The first phase was constructed and the second phase was split into two construction phases via a 2007 Addendum to the Developer's Agreement. The remaining work was designated as Phase II and Phase III with a total planned construction period lasting from spring 2008 to spring 2010. That work was never completed. They want to now complete the remaining work to construct the Town roads and plat the final 39 lots beginning in spring of 2019 but the preliminary plat approval has legally expired. They are requesting a renewal of the original, approved preliminary plat to be valid for five years instead of the normal three years. They would like more time to complete the subdivision and believe they would probably be back in three years to request another extension anyway, thus the request for five years. They have not decided in what order the next three phases will be built but they will construct all roads and stormwater and will dedicate roads as they final plat them. Rob Jones explained that Town Attorney Ron Siler will draft the addendum and DCCI will reimburse the Town for that work. The Letter of Credit will be updated in the addendum.

Jennie Boeder moved that the Plan Commission recommend to the Town Board to extend the time for submission of final plat of Meadow Ridge of Troy for DCCI Investments until June 7, 2023 provided that the second addendum to the 2005 Meadow Ridge Developer's Agreement be drafted by the Town Attorney to detail that extension as well as the revised phasing plan in a manner consistent with the original agreement, also providing that the developer shall not commence any construction activity without first obtaining this approved second addendum to the Agreement. Jan Cuccia seconded. Motion carried.

5. Public Hearing/Discuss and Recommend-Conditional Use Permit

Applicants: John P. Cernohous

Address: 488 Coulee Trail

Request: Conditional Use Permit to construct a building to host weddings and events

Dan Pearson called the public meeting to order at 7:24 p.m.

John Cernohous presented his application to construct an event venue on his 16.68 acre parcel at 488 Coulee Trail where he lives and operates Cedar Valley Nursery. The proposed building would be 9,170 square feet with a capacity of 296 people. There would be 103 parking spots and no road parking. Wedding ceremonies would be held outside weather permitting, and the receptions would be inside the building. The venue would be accessed off Orchard Drive instead of their existing driveway off Coulee Trail; he feels this is safer. He plans on hiring off-duty police to provide security for all events at the clients' expense. Excessive drunkenness would not be tolerated and live music will not be allowed. The building will be insulated so neighbors should not hear any music; interior decibel levels will be controlled. The building itself will be pole-style but will have shingles, steel siding, and stone wainscoting. He believes the proposal follows the Town's ordinance on Ag-Tourism. He does not believe this will decrease anyone's property values as other area event facilities such as the YMCA Camp and Cracked Barrel Winery have not seemed to have an effect. He believes the venue will not affect anyone's quality of life and that the area will remain quiet and serene. He researched nuisance activity from six area venues and in the past five years there has only been one noise complaint, which was in Beldenville in an uninsulated barn. He also noted that you can hear Highway 35 from this location. He pointed out that many surrounding facilities cause traffic, such as the YMCA camp, Cracked Barrel Winery, Rivercrest Elementary, Glover Park, and the upcoming development of the old dog track site in the City of Hudson. He would like to extend the allowed hours and believes that traffic leaving later will be safer. He plans on being a good neighbor.

Wendy Sander further explained that there will be no on-site food preparation. The outdoor ceremony site will have a speaker system limited to 70 decibels. They are proposing to be open year round with hours from 9:00 a.m. to midnight (Friday and Saturday) and 9:00 a.m. to 10:00 p.m. (Sunday through Thursday). In order to recommend granting a Condition Use Permit, the Plan Commission should be first generally comfortable with the following categorizations: 1) the proposed use is a farm-based activity eligible to use the Ag Tourism provisions and 2) the proposed use is subsidiary to the principal residential activity to use the home occupation provisions.

Rob Jones gave a brief overview of the Conditional Use Permit process. There have been two site visits and this is the first public hearing. The Town Board meeting is next Thursday and this could be on the agenda for final action. The Plan Commission has sixty days following this hearing to make a recommendation to the Town Board to approve, deny, or approve with conditions. Cedar Corp. suggests to add conditions if approval is recommended.

Dan Pearson asked if anyone wanted to speak in favor of the application.

Jim Johnson of 490 Coulee Trail spoke in favor. He lives directly in front of the Cernohous' and has known John a long time. He stated that John Cernohous does what he says he will do.

Donna Burger of 483 Virgil Road spoke in favor. Her house is the closest house to the west. She has known John Cernohous her entire life and knows how thorough, careful, and law-abiding he is. She knows that a lot of police officers do this type of off-duty work as is being proposed. She has no concerns.

No one else spoke in favor so Dan Pearson asked for anyone to speak against the proposal.

John Sias of 510 Coulee Trail spoke against it. His son owns 509 Orchard Drive and is also against the proposal. He is concerned about the noise, traffic, safety, and does not believe this fits as Ag Tourism due to being in a neighborhood. He disagreed with the dog track development being used as an example as it's in the City of Hudson. He read a letter into the record from David Schmidt of Keller Williams Realty stating that, in his professional opinion, property values will drop an estimated 10-15% if this venue is allowed.

John Moe of 529 Orchard Drive also spoke and is opposed to the proposal. He is concerned with the potential noise, issues with alcohol, traffic, garbage, and potential decreases in property values. He feels that this is not a good fit for the residential neighborhood and that there are no benefits.

Ashley Wire of 538 Orchard Drive spoke against the proposal. They bought their house in September of 2017 because there's no outlet and she has 6 kids. This is the first summer her kids have been able to bike in their own neighborhood. She believes this venue would make the street unsafe for the neighborhood children.

Scott and Kimberly Braden of 495 Apple Pine Circle spoke against the proposal; they feel it is a bad fit for the neighborhood. They are concerned with noise, lights, and safety. They will probably move if this is approved. They also read a letter into the record from their new neighbors at 494 Apple Pine Circle, Dan and Crystal Braley, as they could not attend this hearing. They are concerned with traffic safety, noise, and alcohol.

Sean Coffey of 510 Orchard Drive spoke against the proposal. He is the direct neighbor to the east. He likes the Cernohous' and does not want them to take his objection personally. He is concerned with traffic, noise, and safety. He believes the neighborhood is not designed to handle this level of traffic. There are also no street lights and he is concerned about lights in the parking lot as well as all the headlights when people are leaving. He has been a police officer for 19 years and knows there will be issues; off-duty cops will not monitor the parking lot or anything outside. He has talked to area realtors and an attorney and was told he would lose an estimated 20% in property value. He will take legal action if the venue is allowed.

Bob Supers of 535 Orchard Drive spoke against the proposal. He is concerned with traffic, especially since the shoulders are not wide and the road is already cracked. He feels this is not a good fit for the neighborhood.

Adam and Beth Nigon of 487 Bauer Road spoke against the venue. They moved out here with their two kids for peace and quiet. They are concerned with traffic and safety. They estimate that the neighborhood has 34 kids middle school age and younger. They have the winery in their backyard and noted how good the communication is with the owners but they cannot say the same for this proposal.

Kent Mitchell of 514 Orchard spoke against the proposal and wants to keep the residential area residential. He thanked his neighbors for attending the hearing.

Anjanette Conway lives at 523 Orchard Drive and spoke against the venue. She is concerned with safety. She talked about the nature of the neighborhood and is worried about strangers. She asked if Orchard Drive is going to be extended out to Coulee at some point and Rob Jones explained that it's standard planning practice for right-of-ways to extend to the boundaries of the original farmstead property. The road would only go through if there was an adjacent residential subdivision being built. She also asked if there are any plans for sidewalks; there are not.

Jason Gallagher of 509 Orchard Drive spoke against the proposal, as he's concerned with noise, traffic, and safety.

Karen Nelson of 435 Sunset Drive questioned how the Commission determines what the primary use of a property is. That will be addressed after public comment.

Pat Burns of 541 Orchard Drive spoke against the planned venue. Living on a corner lot on Coulee, they have had people knock on their door in the middle of night and their yard gets ripped up from vehicles driving in it. There are alcohol bottles in their ditch right now. They have had these issues without a wedding venue in the neighborhood and feel it would get worse if this event center is allowed.

Ashley Norman of 489 Apple Pine Circle spoke against the proposal. They bought their home in January of 2018 for the land and peace and quiet; had they known an event venue was going to be built they would not have purchased their home. She is worried about traffic, safety, and quality of life in the neighborhood.

Tom Burns of 541 Orchard Drive spoke against the application. He knows Jenny Cernohous and stated that it's not personal. He is concerned with safety and property values and feels the venue will harm everyone but especially homes with little kids. He believes traffic will be more than what has been stated and the road isn't equipped to handle it.

Mary Jo Veenendall of 222 Walnut Hill Way spoke against the proposal. While she does not live in The Orchard, she feels this is not just a one neighborhood issue. She would like to see neighborhoods preserved and believes this is a wonderful idea if located elsewhere.

Rose Hand of 491 Bauer Road spoke against the application. She likes their peaceful, dark neighborhood and is concerned with noise and traffic. She also believes it is a great idea if located elsewhere. She noted that you can't control all bad behavior. She also questioned why the property would be accessed off Orchard Drive and not Coulee Trail.

Nanci Sambolt of 493 Apple Pine Circle spoke and while she appreciated the presentation as it answered a lot of her questions, she is against the plan. The neighborhood has enjoyed the reduced traffic ever since the Highway 35 access from Coulee Trail was removed. Her grandkids like to play in the neighborhood and she feels this would be dangerous. She is concerned with traffic and the potential negative impacts. She noted that no one has to drive through a neighborhood to get to the other event venues that have been mentioned.

Letters of opposition were entered into the record from the following residents: Dennis and Marlene Hewitt of 439 Sunset Drive; Joe and Kim Behnke of 453 Jordyn Lane; Melissa Burgraff of 480 East Cove Road; Darren and Shera Duket of 427 Jordyn Lane; Daniel and Kimberly Wiseman of 525 Olivia Court; Dan Braley of 494 Apple Pine Circle; John Sias of 510 Coulee Trail; Jason Gallagher of 509 Orchard Drive; Ron and Jan Tollackson of 530 Orchard Drive; Scott and Angela Ziegler of 439 Horizon Court; Marissa Vang of 513 Little Orchard Drive; Tom and Dorothy Marty of 483 Bauer Road; Mary Prince of 446 Sunrise Circle; Kyle Norman of 489 Apple Pine Circle; Charles Jerrick of 425 Jordyn Lane; David Schmidt of Keller Williams Realty; and Sean Coffey of 510 Orchard Drive.

The public hearing closed at 8:47 p.m. There was a short break and the meeting resumed at 8:55 p.m.

Wendy Sander referenced page two of the Cedar memo, which gives code background information. Cedar Corp. believes the Plan Commission should specifically consider the following core criteria of the Town Zoning Code when evaluating the proposal, along with the public comments:

- 1) Ag-Tourism (170-A), which provides an opportunity for residents to utilize their farm for limited business or enterprise. Farm-related weddings are explicitly listed in the definitions and year-round activities require a Conditional Use Permit.
- 2) Major Home Occupations (170-R), which allow residents to conduct limited business activities from their home. This section contains numerous requirements to mitigate the impact of a business use on the neighborhood. The proposed use needs to be clearly secondary and incidental to the principal use of the property and should be generally compatible with residential or agricultural uses. No use of the property shall create any nuisances such as light, dust, noise, or any other nuisance observable beyond the property boundary. The required setback for the use is 300' from neighboring residences.
- 3) Traffic/Parking (170-Q) contains specific dimensional requirements and design criteria. The parking stalls as shown on the site plan for this proposal are smaller than the minimum requirement. Screening would be required. If the parking lot is considered part of the event, a 300' setback from the property line would be required.
- 4) Performance Standards (170-W) which apply in all districts throughout the Town. The section requires the use to comply with noise, lighting, and garbage rules.

(5) Conditional Uses (170-V) which summarizes reasonable conditions to place on proposed uses to limit neighborhood impact.

There was discussion on whether or not building a new structure for a major home occupation is allowed; the ordinance states the structure is to be existing for Ag Tourism activities. Rob Jones explained that while building a new building isn't explicitly prohibited by the ordinance, the ordinance read as a whole assumes that the structure is existing. There was general recollection that the intent of the ordinance was to allow barn weddings a few times a year. David Wolf recalled that Ag Tourism was supposed to provide a supplemental income and that existing buildings were to be used. Home occupations are also to be compatible with the neighborhood. Wendy Sander noted that home occupation permits are not transferable and business hours cannot go later than 7:00 p.m. Ag Tourism activities are allowable home occupations and provide an exception on "outdoor areas" as stated in the ordinance; home occupations are required to be inside except for Ag Tourism activities.

Jennie Boeder noted that home occupations must be compatible with the neighborhood per Town Ordinance. She does not feel that the proposal fits the purpose of Ag Tourism or the Ag Res district either, which per Chapter 170-E is "to provide for the maintenance, preservation, and enhancement of agricultural and rural residential lands." There was discussion on reasonable conditions if the Commission were to recommend approval, such as access being off Coulee Trail. It was noted that while weddings are explicitly mentioned in the code, other events-such as birthday parties, business retreats, etc.-are not. There was discussion on whether to first examine the proposal under Ag Tourism or under Ag-Res. Dan Pearson stated concerns with the location, how it's accessed, and how often events would occur. Paul Mahler suggested tabling the request and giving the applicant a chance to redesign the layout, such as moving the parking lot, accessing off Coulee Trail, limiting the hours, and finding ways to minimize the impact on surrounding homes. He is also concerned with building a new building. There was discussion on if the property is considered a "farm" as defined in the Ordinance or a commercial enterprise; the applicant confirmed that the tree farm is a nursey in that they grow trees to sell, which is an Agricultural activity. There was discussion on if this proposal qualifies as Ag Tourism. There was additional discussion on typical Ag Tourism events throughout the Town, which are typically one day only events.

Jennie Boeder moved that the Plan Commission recommend to the Town Board that the Conditional Use Permit application of Jon Cernohous at 488 Coulee Trail be denied because the proposed use does not meet the purpose of the Ag-Res district in that it does not maintain, preserve, or enhance the rural and residential lands and because of overwhelming objection of the public residing adjacent to the property as it reduces property values, creates a safety hazard and disturbs the quiet nature of the area. Jan Cuccia seconded. Discussion. Jennie Boeder withdrew her motion. Jan Cuccia withdrew her second.

Jennie Boeder moved that the Plan Commission recommend to the Town Board that the Conditional Use Permit application of John Cernohous at 488 Coulee Trail be denied because the proposed use does not meet the purpose of the Ag-Res district in that it does not maintain, preserve, and enhance the rural and residential lands, and because it is

unacceptable for traffic to go through this residential area, it is likely to reduce property value, likely to create a safety hazard, and disrupt the quiet nature of the area. Jan Cuccia seconded. Motion carried unanimously.

6. Discuss and consider process for future planning of the Commercial Zoning District;
There was no discussion.

7. Building Permits;
Building permits were reviewed.

8. Utility Permits;
Rob Jones presented the quarterly report; there was one gas permit at 245 Plainview Drive.

9. Committee Reports & Correspondence

The Hartung riverway project was briefly discussed. The Ganz Conditional Use Permit application hasn't been accepted as complete since they are missing the site plan. There is an intergovernmental workshop coming up. Please let Dan Pearson know if we need to move the July meeting due to the July 4th holiday. The Town of Troy agriculture enterprise Area application for farmland preservation needs Town endorsement. The Commission should discuss in the future potential zoning code changes.

10. Adjourn

Paul Mahler moved to adjourn the meeting of the June 7, 2018 Plan Commission at 10:06 p.m. Jan Cuccia seconded. Motion carried.