

Town of Merton
Joint Public Hearing with the Town of Merton Plan Commission, Waukesha County & Town Board
To Consider the Rezoning Request of Tall Pines Conservancy, Inc
To amend the District Zoning Map of the Waukesha County Shoreland and Floodland Protection Ordinance to
Revise the Boundaries of the C-1 Conservancy Overlay District to Allow a 1,500 Foot Portion of Mason Creek
to be Realigned to Improve Water Quality in Accordance with the Recommendation in the Mason Creek
Watershed Protection Plan, Dated 2017.

April 6, 2022

Present: Chairman Klink, Commissioners Griffin, Queoff, Jensen, Morris, Siepmann & Good, Attorney Murn, Planner Haroldson, Deputy Clerk Claas, Ben Greenberg of Waukesha County Parks & Land Use, Supervisors Fleming, & Herrick, and Clerk Hann.

Absent: Supervisor Olson

Also Present: Zach Berghouse, Jim & Terri Blazek, Mark Windisch, Rick & Cindy Eastman, Sarah Majerus, David Van Slett, Rick Pollak, Josef & Karen Weber, Sandy Doyle, Chris Gutschenritter, Anton Weber, Jim Grothey, John Wachier, Jim & Dandy Weber, Susan Buchanan, Mark Theisen, Darrell Smith, Janet Solsrud, Peter & Karin Drescher, Mark Bell, Troy Giles and several others.

This Public Hearing was Called to Order by Chairman Klink at 5:30 p.m.

Greenberg read the public hearing notice. Greenberg summarized the property is bisected by Mason Creek on Pleasant View Road and is approximately 26.3 acres. The petitioners are proposing to realign the creek and associated floodplain in an attempt to restore the natural hydrology of the waterway and the floodplain. The project will require Chapter 30 permits from the DNR and a stormwater permits from the Waukesha County Land Resources Division. The rezone is required from County ordinance because the shape of the floodplain boundary will be changing post project. County zoning requires them to go through the formal rezone process. According to the project engineers, base flood elevations will not increase across the impacted flood area and according to their analysis at some of the floodplain cross sections there will actually be a slight reduction of floodplain elevations along some of the stretches of the creek. The petitioners must submit a letter of map revision to FEMA and it must be approved. Once it is adopted the letter of map revision will formally revise the FEMA floodplain maps. Minor adjustments to the County and Town jurisdictional boundary will occur with the realignment of the waterway.

Chris Gutschenritter is the Director of Land Protection and Stewardship with Tall Pines Conservancy and he stated that he is acknowledging Susan, the Executive Director of Tall Pines Conservancy and Darrell Smith of the City of Oconomowoc who are working on this project with Sarah Majerus of Stantec. Majerus said the goal of the project is water quality improvement down the stream of Mason Creek, North Lake and ultimately the Oconomowoc River through reduced nutrient and sediment loads. The project involves a ¼ mile stretch of Mason creek and involves removing one culvert and improving another culvert. There will be some riparian habitat restoration elements in the project, including wetland scrapes and restored sedge meadow. Some shrub and tree plantings will occur in the floodplain, but not a lot, only what's required.

Chairman Klink opened the public hearing to public comments and concerns.

Mark Windisch – W334N8969 Pleasant View Road – stated he is just south of the proposed area. He had questions about start and finish dates, equipment, traffic, and public access after the project is completed. Majerus stated the main construction access will be along Pleasant View Road. There is a current access on Tall Pines property off of Pleasant View Road and has been improved. There won't be a lot of hauling on the property because they aren't bringing in a lot of materials. Pending permits they anticipate construction will begin in late June. Majerus stated they hope to start in June or July and they are anticipating that it will take eleven weeks.

Windisch asked about the transition of the channels. Majerus stated they will construct most of the new channel offline and they will keep the existing channel online until the end of construction. At the very end of construction, they will tie in the elements. Gutschenritter noted that any public access would be limited to occasional organized groups visiting the site and would not be open to the public. They are not building a parking lot and they are not shuttling buses in. Windisch stated the road is not in a condition to support excessive traffic. Gutschenritter said they don't have a public access policy written up for that property. They may have limited public access based on funding requirements to get this project done. Klink verified that it is not their intention to have a public parking lot.

Windisch questioned what happens if their analysis is wrong. How does that get resolved? Klink stated the project is designed to improve water quality. It's going to improve the downward stream simply because it will meander rather than a straight shot. This is intended to put it back to the way mother nature made it. Greenberg stated in respect to the floodplain, the project analysis has been reviewed by the DNR and they concur with the assumptions in their flood model. The flood model needs to be submitted to FEMA and FEMA needs to approve the floodplain analysis.

Joe Weber – W331N9297 West Shore Drive – asked how deep the new channel will be? He said in the springtime it goes over the top. Is there going to be a problem when it floods over the top or is it going to be deep enough to take of all of that water? Majerus stated the idea is that they're taking it out of the deep channel and it won't be nearly as deep. It will be flooded all over within the floodplain and that's the idea. They will take the channel out of the straight, narrow line and will meander it through a very shallow profile with the intent that if there is a flood, that the overbank flows distribute on this property within the existing floodplain, fill in the wetland pockets they will create, and the water infiltrates into the ground rather than rushing down the stream.

Windisch said he's concerned that his property will turn into a swamp and how it's going to affect all the landowners further downstream. Majerus said the goal is to improve water quality and to reduce flooding downstream. Weber questioned if trees will be planted in the swamp. Majerus answered yes, with native species.

Sandra Doyle – W288N8031 Park Drive – her concern is when the conservancy gets a piece of land, they start a project and then who maintains it. She has seen so many places that are owned by conservancies and are just left. She questioned who is going to maintain this property and who's the watchdog. Gutschenritter stated Tall Pines are currently the owners of the land and they develop management plans to maintain the land. They have line items in the budget to manage the land. Eleven acres off this is still farm land which continues to be farmed by a local farmer.

Zach Berghouse – W329N9390 West Shore Drive – asked Greenberg about the changes to the floodplain and the impact of the properties. Greenberg explained the map that was provided. The blue outline is the existing "A" Zone – it's an unstudied approximate zone. FEMA has not established base flood elevations nor have they established the regulatory floodway on this floodplain. Stantec first did an assessment to better model that existing floodplain. The red line is the proposed boundary of the new floodplain. The floodplain map is a good estimate of the zone, but once it established the base flood elevations, the surveyor goes out and identifies the elevations, that is the floodplain boundary. At each of these cross sections, when it's analyzed on what's the current floodplain based on the model and what's the post project floodplain, the elevation stays the same or it drops.

Darrell Smith of the City of Oconomowoc stated they're not going to be touching the topography on adjacent properties. He also stated relating to the question of maintaining it, the City and Tall Pines are heavily involved in projects in this area that are looking to control invasives and root cover particularly in areas prone

to erosion. Both organizations have invested a lot of money to get it to this state, there's not an incentive to let it go in the opposite direction.

Haroldson questioned if they are only working on 1,500 feet of Mason Creek. Majerus answered correct, they are working entirely on Tall Pines Conservancy.

Windisch asked if small sections like this actually have a viable impact to downstream water areas? Majerus said they did do some preliminary modeling and they're hoping for at least 100 pounds of phosphorus reduction annually. SEWRPC published a water quality improvement plan for the Mason Creek watershed specifically and this was a recommendation of the plan.

Jensen stated this is a part of a bigger attempt to clean up the Oconomowoc River watershed and that's being going on for a long time because there are impaired streams, and Mason Creek is one of the impaired streams. This is just a little piece of a much bigger picture to try to improve the water quality in that watershed.

Siepmann said permits like these are rare and there are more regulators looking at this permit than probably any other permit. He thinks there are no other permits that get as much scrutiny as this.

Doyle asked what their budget is and what kind of people are doing the work. Majerus said the design was probably close to \$50,000.00 and the construction is around \$250,000.00. Wondra Construction will be constructing the project.

Windisch asked if the road for the equipment would be removed. Smith said it's just a simple gravel road and it will probably be left to give them access if they need to get in there for mowing or other types of work.

The public hearing closed at 6:08 p.m.

Respectfully submitted,

Holly R Claas
Deputy Clerk