

CITY OF ONALASKA MEETING NOTICE

COMMITTEE/BOARD: Plan Commission Sub-Committee
DATE OF MEETING: February 17, 2015 (Tuesday)
PLACE OF MEETING: City Hall – 415 Main Street (Common Council Chambers)
TIME OF MEETING: 4:30 P.M.

PURPOSE OF MEETING

1. Call to Order and roll call.
2. Approval of minutes from the previous meeting.
3. Public Input (limited to 3 minutes per individual)

Consideration and possible action on the following items:

4. Consideration of a rezoning request filed by Traditional Trades, 1853 Sand Lake Road, Onalaska, WI 54650, to rezone the properties at 1735 Pine Ridge Drive, 1150 Oak Timber Drive, and 1140 Oak Timber Drive, Onalaska, WI 54650 from Single Family Residential (R-1) District to Single Family and/or Duplex Residential (R-2) (Tax Parcels #18-6282-0, 18-6273-0, 18-6272-0).
5. Consideration of a request to extend the Final Plat submittal requirement for one year, as requested by Dr. Leo Bronston, on behalf of French Valley, LLC, 1202 County Rd PH, Suite 100, Onalaska for the French Valley Neighborhood Plat (Tax Parcels # 18-4480-0, 18-4481-0, 18-4482-1, 18-4485-0).
6. Discussion and consideration of an amendment to the Unified Development Code (UDC) regarding Telecommunication Structure and Towers.
7. Review and Discussion on Plan Commission Handbook

Adjournment

PLEASE TAKE FURTHER NOTICE that members of the Common Council of the City of Onalaska who do not serve on the committee may attend this meeting to gather information about a subject over which they have decision making responsibility. Therefore, further notice is hereby given that the above meeting may constitute a meeting of the Common Council and is hereby noticed as such, even though it is not contemplated that the Common Council will take any formal action at this meeting.

NOTICES MAILED TO:

Mayor Joe Chilsen
Ald. Erik Sjolander
Ald. Jim Olson
*Ald. Jim Bialecki - Chair
Ald. Bob Muth
Ald. Jack Pogreba
Ald. Harvey Bertrand
City Attorney Dept Heads
La Crosse Tribune Charter Com.
Onalaska Holmen Courier Life
WIZM WKTY WLXR WKBH
WLSU WKBW WXOW
*Committee Members

*Skip Temte
*Jarrod Holter, City Engineer
**Kevin Schubert
JD Manske Family Land Holdings Inc.
Traditional Trades
Dr. Bronston
Plan Comm. Members
Onalaska Public Library
** Alternate Member – for City Engineer

Date Notices Mailed and Posted: 2-12-15

In compliance with the Americans with Disabilities Act of 1990, the City of Onalaska will provide reasonable accommodations to qualified individuals with a disability to ensure equal access to public meetings provided notification is given to the City Clerk within seventy-two (72) hours prior to the public meeting and that the requested accommodation does not create an undue hardship for the City.



CITY OF ONALASKA

STAFF REPORT

Plan Commission Sub-Committee – February 17, 2015

- Agenda Item: Consideration of a rezoning request.
- Applicant: Traditional Trades, 1853 Sand Lake Road, Onalaska, WI 54650
- Property Owner: Elmwood Partners Limited Partnership, 1859 Sand Lake Road, Onalaska, WI 54650
- Parcel Numbers: 18-6282-0, 18-6273-0, and a portion of 18-9272-0
- Site Location: 1735 Pine Ridge Drive, 1150 Oak Timber Drive, and a portion of 1140 Oak Timber Drive, Onalaska, WI 54650
- Existing Zoning: Single Family Residential (R-1) District
- Neighborhood Characteristics: Properties within 250 feet of the property in question includes a combination of vacant land for single family residential, twindos, and two (2) triplexes.
- Conformance with Land Use Plan: The Comprehensive Plan identifies this area as *Mixed Density Residential or Traditional Neighborhood Residential*. This district is intended to accommodate primarily single family and duplex/two-flat residential development.
- Background: The applicant proposes to rezone Parcels 18-6282-0 & 18-6273-0 in entirety from Single Family Residential (R-1) to Single Family and/or Duplex Residential (R-2) District. The applicant proposes to rezone the eastern 16.5 feet of Parcel 18-6272-0 to R-2 District. This portion of the property is anticipated to be merged with Parcel 18-6273-0 to increase the rear yard. Properties adjacent to the Oak Timber Drive parcels are zoned R-2 and the properties across from the Pine Ridge Drive parcel contain 2 triplexes, a twindo, and vacant land.
- Action Requested: As a public hearing will be held at the Plan Commission meeting, testimony from the public should be listened to and considered before deciding on the requested rezoning application.

REQUEST FOR ACTION & POSSIBLE CONSIDERATION BY PLAN COMMISSION SUB-COMMITTEE:

February 17, 2015

Agenda Item 4:

Consideration of Rezoning request filed by Traditional Trades, 1853 Sand Lake Road, Onalaska, WI 54650, to rezone the properties at 1735 Pine Ridge Drive, 1150 Oak Timber Drive, and 1140 Oak Timber Drive from Single Family Residential (R-1) District to Single Family and/or Duplex Residential (R-2) (Tax Parcels #18-6282-0, 18-6273-0, & 18-6272-0).

1. Rezoning Fee of \$150.00 (PAID).
2. Obtain a Certified Survey Map to amend boundaries of Tax Parcels 18-6273-0 and 18-6272-0 to reflect rezoning request.
3. Park Fee of \$922.21 per residential unit prior to issuance of building permit.
4. All associated setbacks for a twindo dwelling to be followed according to Section 13-2-6 of the Zoning Ordinance.
5. Owner/developer shall pay all fees and have all plans reviewed and approved by the City prior to obtaining a building permit. Owner/developer must have all conditions satisfied and improvements installed per approved plans prior to issuance of occupancy permits.
6. All conditions run with the land and are binding upon the original developer and all heirs, successors and assigns. The sale or transfer of all or any portion of the property does not relieve the original developer from payment of any fees imposed or from meeting any other conditions.
7. Any omissions of any conditions not listed in the minutes shall not release the property owner/developer from abiding by the City's Unified Development Code requirements.



Traditional Trades

Design | Builder | Developer | Sales & Leasing

1853 Sand Lake Road | Onalaska, WI | (608) 783-4785

January 21, 2015

Planning Department
City of Onalaska
Brea Grace / Katie Meyer

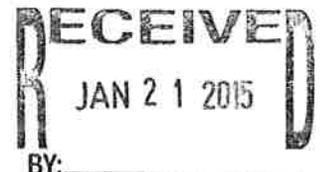
Brea & Katie,

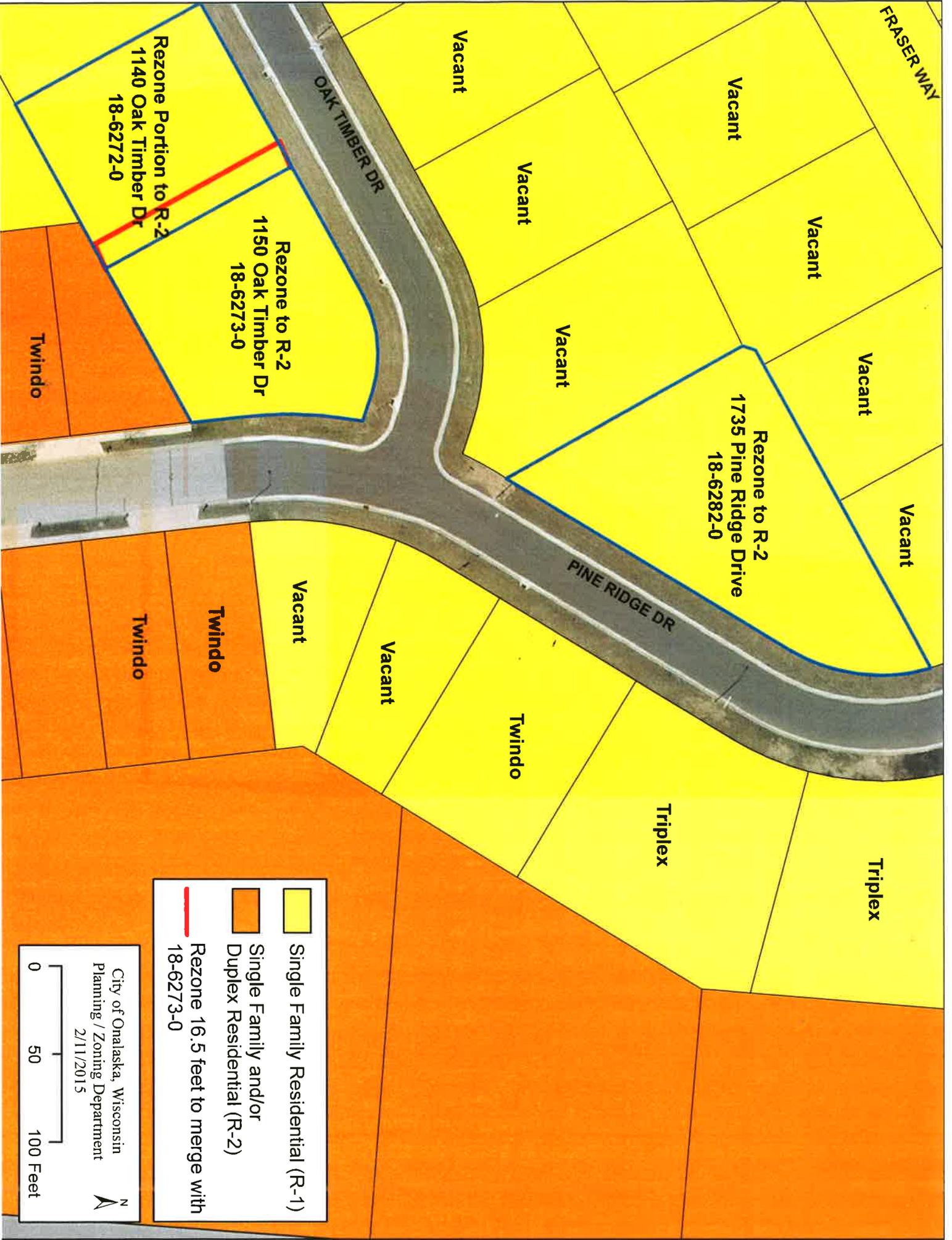
Attached is an application for re-zoning in Meier Farm Addition Five.

Traditional Trades is requesting that Lot 1, Block 15 and Lot 9 and a portion of Lot 8, Block 11 be re-zoned to R-2 zoning. At the present time all the lots from Rolling Oaks to Fraser Way are R-2 and TND except these two lots. This re-zoning would create a nice appealing flow into the R-1 zoning at the north end of Pine Ridge Drive and to the west on Oak Timber Drive. Traditional Trades has built and/or owns all the homes on Pine Ridge Drive between Rolling Oaks & Fraser Way. We are planning on building residences on these two lots that would match and blend with the other homes on Pine Ridge Drive. This re-zoning will fit into the comprehensive plans for the area. Your help and understanding with this re-zoning would be appreciated.

Sincerely,

Adam Aspenson
Traditional Trades





	Single Family Residential (R-1)
	Single Family and/or Duplex Residential (R-2)
	Rezoned 16.5 feet to merge with 18-6273-0

City of Onalaska, Wisconsin
 Planning / Zoning Department
 2/11/2015

0 50 100 Feet

N



City of Onalaska, Department of Planning & Zoning, 415 Main Street, Onalaska, WI 54650

REZONING OR TEXT AMENDMENT APPLICATION

The following checklist will ensure the timely processing of your application:

➔ Overview/ Cover Letter Describing the following:

- ▶ Detailed Description of Proposed Rezoning or Text Amendment
- ▶ Description of how Proposed Rezoning Meets Unified Development Code Standards
 - ▶ Compatibility with Surrounding Neighborhood (existing and anticipated development within 250 ft of proposed use and within 500 ft along the same street)
 - ▶ Consistency with the Comprehensive Plan (relationship of proposed use to the goals, objectives and policies)

➔ \$150 Permit Application Fee (Payable to the City of Onalaska)

If incomplete, no further processing of the application will occur until the deficiencies are corrected.

A Map or Text Amendment to the City of Onalaska Unified Development Code / Zoning Ordinance may be proposed at any time. Amendments to the Zoning District Map or Overlay District Map proposed by the public shall be initiated by submitting a completed application by owners of all parcels proposed to be rezoned. The application for amendments to the Text of the UDC / Zoning Ordinance shall include the text in question as well as proposed text.

Request for Amendment to:

- Zoning District Map (Rezoning) Zoning Ordinance (Text Amendment)
 Zoning Overlay District Map (Rezoning)

Description of Request to Amend the Unified Development Code - Zoning Ordinance: (Text and/or Map(s)):

Existing Zoning District: R-1 Proposed Zoning District: R-2

(SEE ATTACHED)

Per Wisconsin's Open Meeting Law, comments on this permit application, either by the applicant or concerned citizen, shall be raised in person at the scheduled meeting or brought up to City Staff (through conversation, written letter or email) for review at the scheduled meeting. Due to Wisconsin's Open Meeting Law, Plan Commissioners and Alderpersons are unable to discuss this matter outside of a scheduled public meeting. Thank you.

RECEIVED
JAN 21 2015
BY: _____



City of Onalaska, Department of Planning & Zoning, 415 Main Street, Onalaska, WI 54650

REZONING OR TEXT AMENDMENT APPLICATION

Property Address: PINE RIDGE DRIVE

Parcel Number: 18- (SEE ATTACHED)

Zoning District: R-1

Applicant: TRADITIONAL TRADES

Contact: ADAM ASPENSON

Mailing Address: 1853 SAND LAKE ROAD

City, State, Zip: ONALASKA, WI 54650

Phone Number: 608-783-4785

Email: Primary Contact

Business:

Owner/Contact:

Mailing Address:

City, State, Zip:

Phone Number:

Email: Primary Contact

Property Owner: ELMWOOD PARTNERS LIMITED PARTNERSHIP

Contact: KEVIN FRY

Mailing Address: 1859 SAND LAKE ROAD

City, State, Zip: ONALASKA, WI 54650

Phone Number: 608-781-4777

Email: KEVIN.FRY@ELMWOODPARTNERS.COM Primary Contact

The undersigned hereby makes application at the location stated herein. The undersigned agrees that all work shall be done in accordance with the requirements of the City of Onalaska Unified Development Code / Zoning Ordinance and with all other applicable City Ordinances and the laws and regulations of the State of Wisconsin.

Signature of Applicant: *Adam Aspenson* Date: 1-21-15

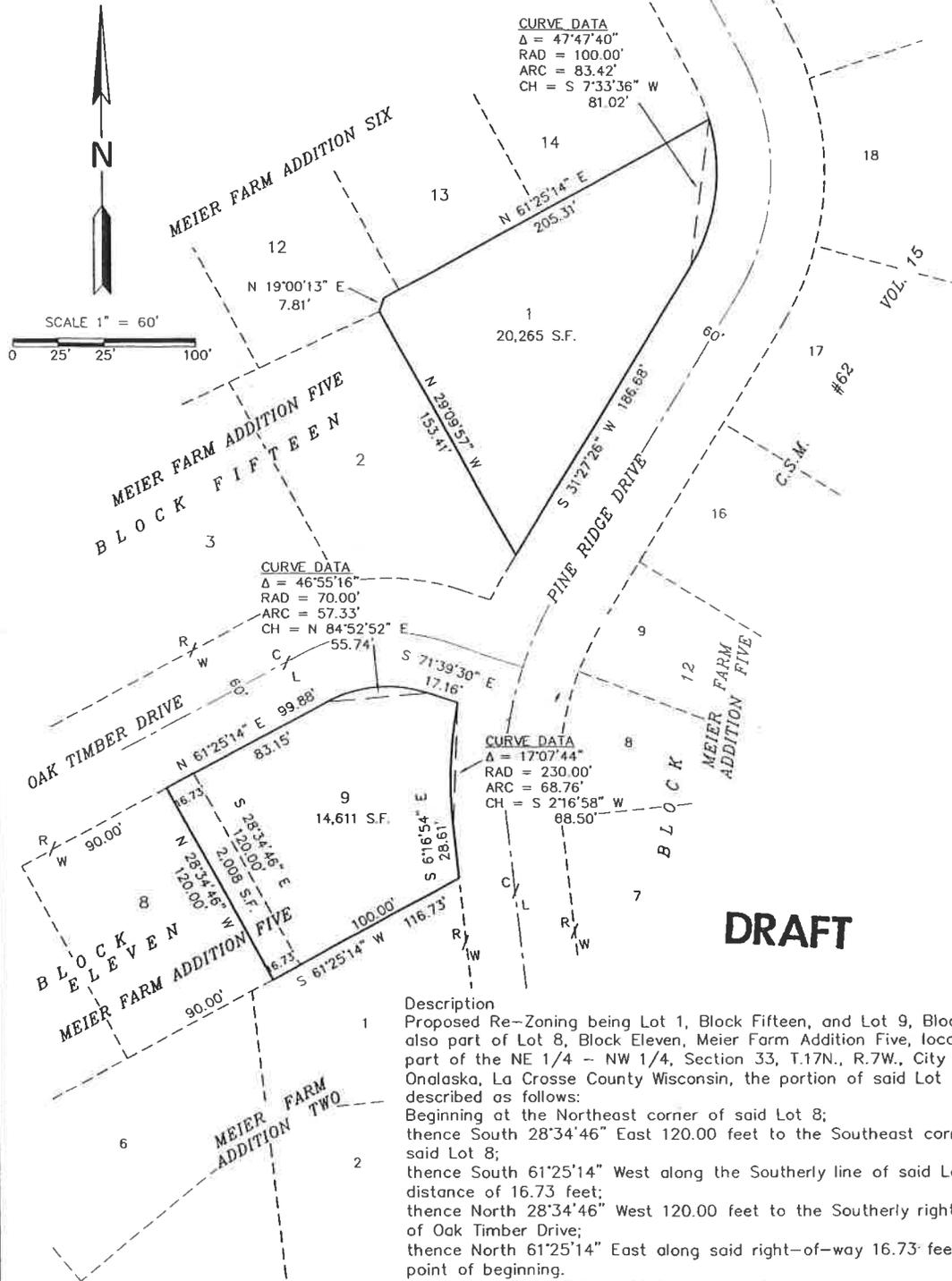
Signature of Property Owner: *Kevin Fry* Date: 1-21-15

OFFICE USE ONLY:	Date Submitted:	Permit Number:
Permit Fee:	<input type="checkbox"/> Cash <input type="checkbox"/> Check #	Application Received by:

CITY OF ONALASKA

RECH: 00120063 1/21/2015 2:19 PM
 TRAN: 450.0000 PLANNING & ZONING
 OPER: Cash/ TERM: 001
 REF#: SW - 12993
 PAID BY: TRADITIONAL TRADES
 18-6282-0 18-6272-0 18-6273-
 ZONING SIGN CUP FEE
 TENDERED: 150.00
 APPLIED: 150.00
 CHANGE: 0.00
 BY: [Signature] 150.00
 JAN 1 2015
 50.00R
 CHECK(\$)

PROPOSED RE-ZONING MAP
MEIER FARM
ADDITION FIVE
 TO THE CITY OF ONALASKA
 PART OF THE NE 1/4 - NW 1/4,
 SECTION 33, T. 17 N., R. 7 W., CITY OF ONALASKA,
 LA CROSSE COUNTY, WISCONSIN



DRAFT

1 Description
 Proposed Re-Zoning being Lot 1, Block Fifteen, and Lot 9, Block Eleven, also part of Lot 8, Block Eleven, Meier Farm Addition Five, located in part of the NE 1/4 - NW 1/4, Section 33, T.17N., R.7W., City of Onalaska, La Crosse County Wisconsin, the portion of said Lot 8 described as follows:
 Beginning at the Northeast corner of said Lot 8;
 thence South 28^{\circ}34'46'' East 120.00 feet to the Southeast corner of said Lot 8;
 thence South 61^{\circ}25'14'' West along the Southerly line of said Lot 8 a distance of 16.73 feet;
 thence North 28^{\circ}34'46'' West 120.00 feet to the Southerly right-of-way of Oak Timber Drive;
 thence North 61^{\circ}25'14'' East along said right-of-way 16.73 feet to the point of beginning.
 Said Lot 1, Block Fifteen 20,265 square feet.
 Said Lot 9, Block Eleven 14,611 square feet.
 Said portion of Lot 8, Block Eleven 2,008 square feet.

RECEIVED
 JAN 21 2015
 BY: _____

RE-ZONING MAP
MEIER FARM ADDITION FIVE
 PART OF THE NE 1/4 - NW 1/4
 SECTION 33, T.17 N., R. 7 W.,
 CITY OF ONALASKA, LA CROSSE COUNTY, WI
 DATE 1/7/15
 SCALE 1"=60'

**NOTICE OF PUBLIC HEARING
BEFORE THE CITY OF ONALASKA
PLAN COMMISSION**

Please take notice that the City Plan Commission for the City of Onalaska will hold a public hearing on

**TUESDAY, FEBRUARY 24, 2015
APPROX. 7:00 P.M.
(or immediately following public input)**

in Onalaska City Hall, 415 Main Street, Onalaska, Wisconsin 54650 at which time they will consider an application filed by Traditional Trades, 1853 Sand Lake Road, Onalaska, WI 54650, who is requesting rezoning from R-1 to R-2 for properties located at 1735 Pine Ridge Drive, 1140 Oak Timber Drive and 1150 Oak Timber Drive, Onalaska, WI 54650.

Property is more particularly described as:

Computer Number: 18-6282-0
Section 33, Township17, Range 7
MEIER FARM ADDITION FIVE LOT 1 BLOCK 15

Property is more particularly described as:

Computer Number: 18-6272-0
Section 33, Township17, Range 7
MEIER FARM ADDITION FIVE LOT 8 BLOCK 11

Property is more particularly described as:

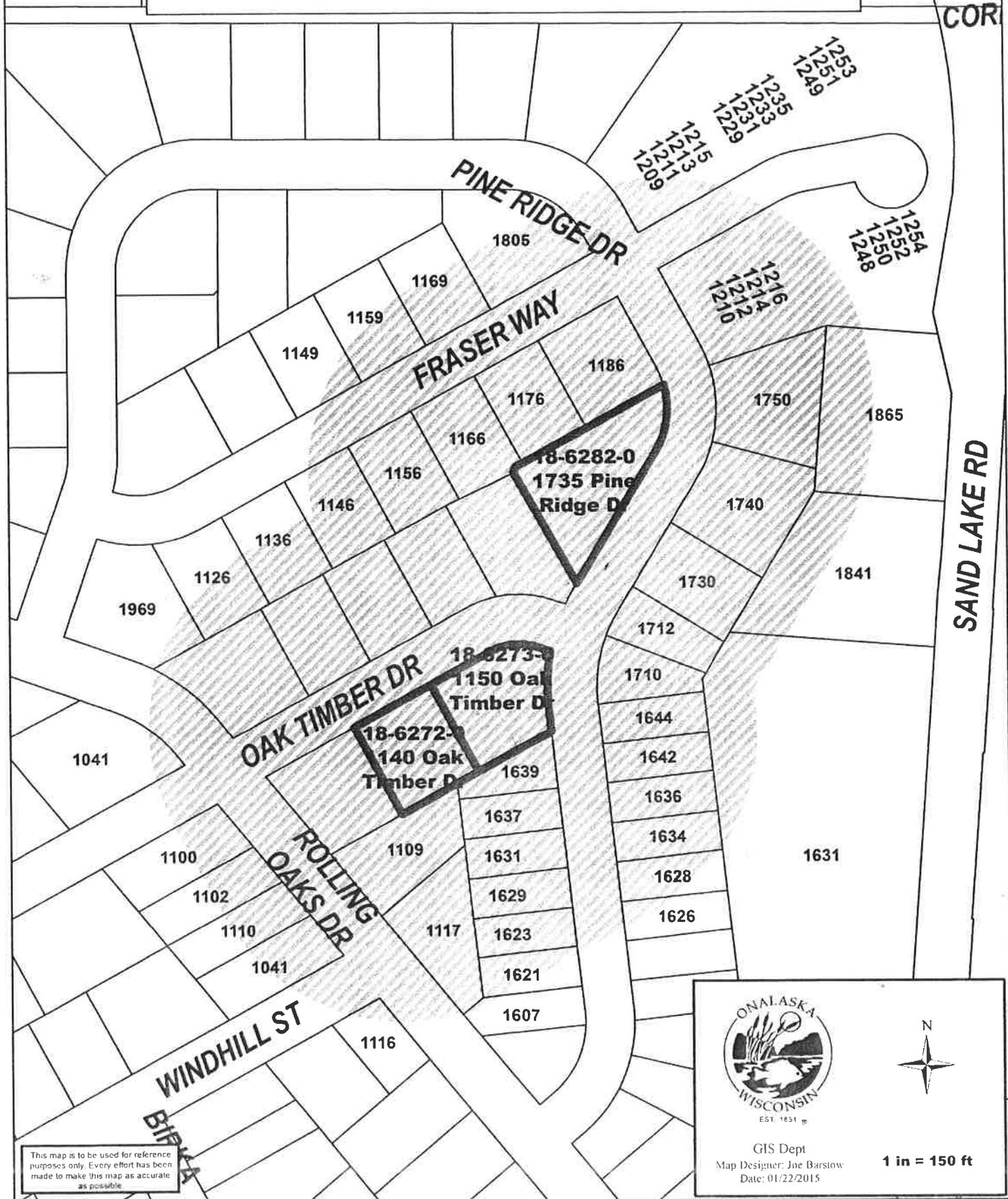
Computer Number: 18-6273-0
Section 33, Township17, Range 7
MEIER FARM ADDITION FIVE LOT 9 BLOCK 11

YOU ARE FURTHER NOTIFIED that the City of Onalaska Plan Commission will hear all persons interested, their agent or attorney concerning this matter.

Dated this 30th day of January, 2015.

Cari Burmaster
City Clerk

PROPERTIES WITHIN 250FT OF PARCELS: 18-6272-0, 18-6273-0, 18-6282-0



This map is to be used for reference purposes only. Every effort has been made to make this map as accurate as possible.

ALASKA
WISCONSIN
EST. 1851

GIS Dept
Map Designer: Joe Barstow
Date: 01/22/2015

1 in = 150 ft



CITY OF ONALASKA

STAFF REPORT

Plan Commission – February 17, 2015

Agenda Item:

5

Agenda Item: Consideration of a request to extend the Final Plat submittal requirement for one-year, as requested by Dr. Leo Bronston, on behalf of French Valley LLC, 1202 County Road PH, Suite 100, Onalaska, for the French Valley Neighborhood Plat (Parcel #s 18-4482-1, 18-4481-0, 18-4480-0 and 18-4485-0).

Applicant: Dr. Leo Bronston, on behalf of French Valley LLC, 1202 County Road PH, Suite 100, Onalaska

Property Owner: French Valley LLC, 1202 County Road PH, Suite 100, Onalaska

Parcel Number: 18-4482-1, 18-4481-0, 18-4480-0 and 18-4485-0

Site Location: North of French Road

Existing Zoning: Planned Unit Development

Neighborhood Characteristics: Residential

Conformance with Comprehensive Land Use Plan: The Comprehensive Plan's Future Land Use Plan designate this area as *Conservation / Cluster Residential*. The proposed development is consistent with the intent of this land use category.

Background: A general timeline on approvals of this development is as follows:

January 8, 2008 – Development Agreement was approved by the Common Council.

March 11, 2008 – Final Implementation Plan for PUD & Preliminary Plat was approved by the Common Council. (By a relatively recent amendment to the City's Zoning Ordinance, final plats were given 36-months to be submitted; this deadline would have been March 2011.)

September 9, 2008 – Common Council granted a 1-year extension for filing of the Final Plat.

July 14, 2009 – Common Council granted a 1-year extension for filing of the Final Plat.

November 9, 2010 – Common Council granted a 1-year extension for filing of the Final Plat.

January 10, 2012 – Common Council granted a 1-year extension for filing of the Final Plat.

February 12, 2013 – Common Council granted a 1-year extension for filing of the Final Plat.

February 11, 2014 – Common Council granted a 1-year extension for filing of the Final Plat.

Relevant sections from the Unified Development Ordinance:

Sec. 13-9-20 (b)(3) Final Plat Review and Approval – Plan Commission Review.

If the Final Plat is not submitted within thirty-six (36) months of the last required approval of the Preliminary Plat, the Plan Commission may refuse to approve the Final Plat. The City Plan Commission may consider requests to extend the thirty-six (36) month requirement, as set forth in 13-9-20(a)(1) above.

CITY OF ONALASKA

Sec. 13-9-20 (a)(1) Final Plat Review and Approval – Filing Requirements.

The owner or subdivider shall file thirty (30) copies of the Final Plat not later than thirty-six (36) months after the date of approval of the Preliminary Plat; otherwise, the Preliminary Plat and Final Plat will be considered void unless an extension is requested in writing by the subdivider and for good cause granted by the City.

Action Requested: Approval of a one-year extension (to March 11, 2016) allowing the French Valley Neighborhood Final Plat be submitted later than the 36-months filing requirement after the approval of the Preliminary Plat.

Recommended Conditions of Approval:

- a) Amendment of the March 2008 Development Agreement between French Valley, LLC and the City of Onalaska prior to the commencement of any construction activities, including public improvements. Developer is advised to schedule adequate time for the amended Development Agreement to be reviewed and approved by the City's Plan Commission and Common Council.
- b) All permits must be current prior to the start of any construction activities (i.e., sanitary sewer and water approvals from WDNR). All plans and specifications must be resubmitted to the City for review & approval (i.e., stormwater plan).

French Valley, LLC

1202 County Road PH | Ste 100 | Onalaska, WI 54650
608.781.2225 | drbronston@bronstonchiro.com

February 11, 2015

Planning and Zoning Department
City of Onalaska
415 Main Street
Onalaska, WI 54650

Re: French Valley Neighborhood
Final Plat Extension Request

Dear Planning and Zoning Department,

On behalf of French Valley, LLC, we are formally requesting an additional one year extension to allow for final plat to be submitted later than the 36 month filing requirement following approval of the preliminary plat.

The French Valley neighborhood is a unique project and a great deal of support for implementing the project has been offered. However, due to influx market conditions and high inventory, we feel that it is advantageous to delay construction for the initial development phases. This extension allows partners and lenders the time to better understand the changing market and project housing demands to ensure that our initial development will meet home buyer demands and expectations.

The French Valley neighborhood vision as defined by the Final Implementation Plan offers a variety of housing options and price points that provide us with the flexibility to meet challenging market demands. We do not intend to deviate from the approved vision as we feel it remains valid and will be a wonderful addition to the community.

We appreciate the consideration of our extension request. Please feel free to contact me should any additional information be needed or any questions arise. We look forward to continuing our partnership with the City as we progress toward realization of this unique neighborhood within the City of Onalaska.

Sincerely,



Dr. Leo Bronston
Managing Partner
French Valley, LLC

Cc: Deena Murphy
Brea Grace
Jason Stangland
Jeff Moorhouse
Duane Ring, Jr.
Steven Tanke



CITY OF ONALASKA

STAFF REPORT

Plan Commission Sub-Committee – February 17, 2015

Agenda Item:

6

Agenda Item: Discussion and consideration of an amendment to the Unified Development Code (UDC) regarding Telecommunication Structure and Towers.

Background: The 2013 state biennial budget bill (2013 Wisconsin Act 20) included significant changes to State Statutes limiting local regulation of communication towers (cellular and broadcast). This includes the following, that municipalities cannot:

- Limit cell phone towers to certain zoning districts.
- Require a minimum setback to a residential district.
- Impose a setback or fall zone requirement that is different from a requirement that is imposed on other types of commercial structures.
- Disapprove an application based on an assessment by the political subdivision of the suitability of other locations for conducting the activity.
- Require monopole design.
- Limit the height of a cell phone tower to under 200-feet.
- Require stealth towers / stealth applications.
- Disapprove an application based solely on aesthetic concerns.
- Disapprove an application based solely on the height of the tower or on whether the structure requires lighting.
- Limit the duration of any permit that is granted.
- Prohibit placement of emergency power systems.
- Require that a call phone tower be placed on property owned by the political subdivision.
- Impose environmental testing, sampling or monitoring requirements, or other compliance measures for radio frequency emissions.
- Enact an ordinance related to radio frequency signal strength or the adequacy of mobile service quality.
- Require an applicant to construct a distributed antenna system instead of either constructing a new tower or using collocation.
- Consider a project to be a substantial modification if the project adds more than 20-feet to the height of a tower that is not more than 200-feet tall but the greater height is necessary to avoid interference with an existing antenna.
- Consider a project to be a substantial modification if the project adds 20-feet or more to the diameter of the tower but the greater diameter is necessary to shelter the antenna from inclement weather or to connect the antenna to the existing structure by cable.

But, the City can charge a higher fee and require a bond.

CITY OF ONALASKA

Another change is the requirement that the municipal decision on an application has to be made within 45-days or 90-days, depending on the type proposal (e.g. Class 1 Collocation or Class 2 Collocation).

Some additional information/ frequently asked questions is attached to this packet.

Requested Action: Review and discussion of proposed ordinance amendment. If directed by Plan Commission, staff will schedule a public hearing for the March 24th Plan Commission meeting.



Overall, 2005 Wisconsin Act 81 represents a significant state decision to alter important local land use policy. Notably though, it does not replace local power with state authority.



Land-Use Policy from page 409

authority in the 2005 law by creating section 62.23, which provides that

[A]n ordinance enacted under this subsection [62.23(7)] may not require the removal of a nonconforming building, premises, structure, or fixture by an amortization ordinance.

Thus, Act 81 eliminated Wisconsin city and village authority to reduce nonconforming structures through amortization.

Overall, 2005 Wisconsin Act 81 represents a significant state decision to alter important local land use policy. Notably though, it does not replace local power with state authority. Thus, the legislation is not the type of state encroachment described by Bosselman and Callies and is not part of the quiet revolution they reported. Rather, Act 81 is quite different, characterized not by replacement of but elimination of local authority.

The Cell Tower Siting Law (2013)

Cellular tower construction can be a controversial issue in some communities. After all, cell towers are rarely lauded for their beauty or how well they fit with existing land uses, particularly in residential areas. Accordingly, many Wisconsin cities and villages exercised their zoning or police power authority and enacted ordinances that govern procedures for the construction and location of cellular towers. These ordinances have been an important

part of the land use policies in these communities.

The state legislature significantly altered local authority to regulate cell tower siting this year. As part of the biennial state budget bill, it created section 66.0404 of the Wisconsin Statutes, which proponents claimed “will continue to allow local municipal zoning control of new wireless facilities.”¹ However, the statute clearly imposes new and significant limits on the manner and extent to which a city, village, town or county may use its zoning authority to regulate the siting and modification of mobile service (cell phone) facilities.

Subsection (2)(a) of the new law provides:

Subject to the provisions and limitations of this section, a political subdivision may enact a zoning ordinance under s. 59.69, 60.61, or 62.23 to regulate any of the following activities: 1. The siting and construction of a new mobile service support structure and facilities. 2. With regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities.

However, subsection (2)(h) states that “A political subdivision may regulate the activities described in par. (a) only as provided in this section. And, the preemption clause set forth in subsection (2)(i) further provides:

1. July 9, 2013 Press Release, Wisconsin Wireless Association, Inc.

If a political subdivision has in effect on July 2, 2013, an ordinance that applies to the activities described under par. (a) and the ordinance is inconsistent with this section, the ordinance does not apply to, and may not be enforced against, the activity.

Thus, 66.0404 only allows cities and villages to use their zoning authority to regulate cell towers and only if the zoning regulations do not violate the parameters set forth in the law. Notably, there are significant restrictions in the law on traditional and well-established local zoning powers.

Regulations setting height limits on buildings and structures is a very common feature of city and village zoning codes. Such regulations are specifically authorized by section 62.23(7) of the Wisconsin statutes, the Wisconsin zoning enabling law, which grants cities and villages the power to control the "height . . . of buildings or other structures."

However, 66.0404 severely limits the ability of local governments to use height considerations to regulate cell towers. Respectively, subsections (4)(u) and (4)(L) of the new law specifically prohibit local governments from limiting "the height of a mobile service support structure [cell tower] to under 200 feet" or disapproving "an application based solely on the height of the mobile service support structure or on whether the structure requires lighting. Thus, the law virtually eliminates an important and longstanding local zoning power consideration, the height of structures.

Aesthetics of buildings and structures are also an important and historical consideration in local zoning decisions and the exercise of local zoning authority. However, the new law also limits this zoning consideration and municipal zoning control by making it impermissible under (4)(g) to "[d]is approve an application to conduct an activity described under sub. (2)(a) based solely on aesthetic concerns" and, under 4(gm), to "[d]isapprove an application to conduct a class 2 collocation on aesthetic concerns."

Lastly, the classic feature of zoning is a regulatory scheme that limits the land use activities in particular areas. Local zoning codes specify where residential, commercial and industrial uses and other activities may or may not be conducted. Separating land use activities to diminish the negative impacts of incompatible land uses in the same location or area is the essence of zoning and a primary focus of local zoning authority.

The new cell tower siting statute eliminates this essential feature of zoning. Section 66.0404(4)(c) of the law provides that a city or village may not "[e]nact an ordinance prohibiting the placement of a mobile service support structure in particular locations within the political subdivision." Accordingly, cell towers, unlike other land uses, and no matter how incompatible with any existing land uses, cannot be restricted to specific zoning districts. Accordingly, every city or village neighborhood is now subject to cell tower installation and local authority to truly "zone" cell towers is, at best, superficial.

Like the 2005 nonconforming structure legislation, the cell tower law does not seek to supplant local authority with

state authority. So, again, it is not similar to the 1966 shoreland zoning law or other quiet revolution legislation. Instead, the cell tower law represents another significant state encroachment upon local land use policy authority and simply eliminates local power.

CONCLUSION

Is Wisconsin undergoing a new quiet revolution in land use control? There is insufficient evidence to reach that conclusion yet. However, the nonconforming structure and cell tower siting laws represent a different relationship between the state and local governments on land use policy. Unlike the shoreland zoning and comprehensive planning laws of the last century, which maintained significant local authority despite state entry into important land use policy areas, the highlighted 2005 and 2013 laws are significant attempts to eliminate or restrict local land use power. This certainly makes them noteworthy to local officials who may find it useful to consider future legislation through this lens and contemplate the potential impacts on land use policies in their communities from such a change.

Zoning 516

This is the html version of the file http://www.wicounties.org/uploads/legislative_documents/final_mobile-cell-tower-q-a.pdf.
Google automatically generates html versions of documents as we crawl the web.

FAQ's From Wisconsin Counties Association

MOBILE TOWER SITING REGULATIONS AND RADIO BROADCAST SERVICE FACILITIES: FREQUENTLY ASKED QUESTIONS (FAQ'S)

Q: What is the effect on local control?

A: Ultimately, counties and municipalities will still have control over permit approval. A county or municipality may deny a permit application as long as the denial is not contrary to Wis. Stat. § 66.0404.

Q: What is the effect on local fees and revenue?

A: The new law creates a standard set of fees that are tied to the actual cost of the permit process. Costs are capped at \$3,000 for new tower requests and major modifications. Minor modification requests are subject to the standard building permit fee or \$500, whichever is less.

Q: Will the new law lead to new towers clouding the landscape?

A: Under the new law, counties and municipalities may deny an application for a new tower if the applicant refuses to evaluate using existing towers. Due to the shortened and standardized review process for carrier upgrade for existing towers, the bill provides an incentive for carriers to use existing towers.

Q: Will the new law have a negative impact on environmental enforcement?

A: The process still requires local assessment and approval. Further, radio frequency emissions are regulated by the federal government and will be applied across the

state.

Q: Can a county or municipality prohibit a cell tower from being placed on its property?

A: A county or municipality may not prohibit the use of its land for cell tower siting, but can deny a permit application as long as the denial is consistent with a regulation that complies with Wis. Stat. § 66.0404.

Q: Can a county or municipality charge a fee for use of their land for a cell phone tower?

A: Yes. Nothing has changed for counties or municipalities in this regard.

Q: What is the status of existing contracts to use public land under this the new law?

Page 2

A: Existing contracts agreed to before passage of the new law remain in effect for their duration.

Q: What happens once an existing contract to use public land expires?

A: A contract for use of public land may be renegotiated once an existing contract expires.

Q: Can a county or municipality require placement of a mobile tower facility on public land or deny the placement of a cell phone tower in a particular area for aesthetic reasons?

A: The new law prohibits counties and municipalities from requiring providers to use government owned facilities and for denying a new tower application based solely on aesthetic reasons.

Q: Under this new law, which unit of local government has jurisdiction in terms of its ordinances?

A: If a county enacts a zoning ordinance that pertains to tower siting only in the unincorporated parts of the county unless a town enacts an ordinance that regulates new structures or substantial modification of existing structures after the county has adopted its own ordinance. Under this circumstance, the county ordinance does not apply, and may not be enforced in the town. If the town later repeals its ordinance, the county ordinance then would be applied in that town.

Q: If a county or municipality denies a permit, what is the recourse that can be taken by the aggrieved party?

A: If a county or municipality denies a permit on either public or private property, that entity must include a written notification and provide substantial justification supporting its decision. The aggrieved party may bring action in the circuit court of the county where the proposed activity, which is the subject of the application, is to be located.

A: How long do counties and municipalities have to review for a new siting or substantial modification application?

Q: The new statute, codified at Wis. Stat. § 66.0404, limits the local government review period for new siting or substantial modification applications to 90 days and provides for a 45-day review period for collocation permits that do not require substantial modification.

For questions, contact WCA Legislative Associate Dan Bahr at 866.404.2700.



CITY OF ONALASKA

STAFF REPORT

Plan Commission Sub-Committee – February 17, 2015

Agenda Item: Review and discussion on Plan Commission Handbook

Background: The Center for Land Use Education (CLUE) provided the 2nd Edition of the Plan Commission Handbook (2012) online for downloading at no-cost. The handbook is meant to assist Plan Commissioners, local governmental officials, and citizens in understanding the role and responsibilities of the Plan Commission and provide a background on community planning, public participation strategies and plan implementation.

The handbook further provides information regarding ordinance administration (creation and enforcement), zoning regulations and subdivision regulations. A variety of samples of ordinance language, zoning applications and additional resources are provided within this document for use by Plan Commissioners.

Staff is presenting this item to the Plan Commission as an informational item.

The Handbook may be found here: <http://www.uwsp.edu/cnr-ap/clue/Pages/publications-resources/PlanCommissions.aspx>