MINUTES OF THE SPRINGDALE PLAN COMMISSION MEETING, April 27, 2015

IN ATTENDANCE: Mike Fagan, Jim Hanson, David Heisch, John Rosenbaum and Jeff Smith. (A quorum is present.) Clerk Vicki Anderson as the recording secretary.

CALL TO ORDER: by Rosenbaum at 7 p.m.

NOTICE OF THE MEETING: pursuant to Wisconsin Open Meeting Law was confirmed. The final agenda was posted on 4/23/15 in the three customary locations in the Town of Springdale as required by law, and as a courtesy to the citizens, published in the *Mt. Horeb Mail* on 4/23/15*.*

MINUTES: MOTION by Fagan/Hanson to approve the minutes of 3/30/15 as distributed. MOTION carried 5-0.

R. AND S. NEERLAND/REZONING FROM A-1 TO A-2 WITH CUP TO BRING EXISTING BUSINESS IN ACCESSORY BUILDING INTO COMPLIANCE WITH DANE COUNTY ZONING AND CUP FOR STORAGE OF RECREATIONAL VEHICLES AND CSM – LOT LINE ADJUSTMENT/CTH G/SEC. 25: NO ACTION. The PC will conduct a site visit at 7993 CTH G on Monday, 5/4/15, 6:30 p.m.

Background: Dane County Zoning issued a violation letter to the Neerlands on 2/24/15 because inspection by the Dane County Zoning Inspector determined that the Neerlands have been operating a pest control business out of an accessory building which was permitted as an agricultural building. This is in violation of Dane County Code of Ordinances Chapter 10 – Zoning, DCCO. DC Zoning requires the Neerlands to either discontinue running their business on this property or to rezone the parcel to the district which allows for a pest control business. The rezone shall be consistent with the DCCO and the Town of Springdale Land Use Plan and ordinances.

Business Description: More information will be available after the PC site visit but the information available at the PC meeting on 4/27/15 includes, but may not be limited to the following:

\*The Neerlands have operated their business from their home for several years.

\*On 11/13/12, a new accessory building was built and is used for the business. The accessory building was built on the footprint of a barn which was razed. According to the DC Zoning Inspector’s site visit and Neerlands’ comments:

\*The building and area contain a designated gravel parking area for employees who drop off their vehicles and pick up a company vehicle and equipment for off-site jobs. In the heated building, there are two office areas, storage space, parking for company vehicles and a water line and sink for washing off equipment/vehicles. The building does not contain any sanitary bathroom fixtures.

\*Employees are: Robert and Sandra Neerland who live in the residence on the property, son Ryan who resides elsewhere and daughter Briana who resides elsewhere. Two non-related employees spend little time at this site, rather they work at the pest control jobs off site. A part-time office worker works in the building.

\*Activity at the site: The inspector described the property as low traffic volume and as a small, service-oriented business with no retail sales.

\*Neerland CUP application form contains the following information in addition to items listed above.

Hours of operation: Monday through Friday, 7 a.m. to 6 p.m. with most activity between 8 a.m. and 4 p.m. There may be an occasional Saturday but no Sundays, no evening or night hours.

Number of employees: 40 employee hours per week on site. (This is assumed to be non-family members residing on the premises.)

Customers: No customers to this site.

Outside storage: No outside storage of materials and equipment. A few employee vehicles are parked in the gravel parking area behind the building.

Outdoor activities: None

Outdoor Lighting: One 100 watt light is positioned over the back door with a deflector directing the light downward.

Outdoor loudspeakers: None

Proposed signs: None

Trash removal: Little trash is generated. Most is recyclable.

Request:

Part 1. Rezone: The Neerlands submitted a rezoning application for A-2 zoning with a CUP, 2015-10836, for limited family business. At the 4/27/15 PC meeting, Dane County Zoning Administrator Roger Lane explained that the application should be amended to retain the A-1 zoning because rezoning to A-2 zoning was not necessary; the error was made at Dane County. It was stated that a water line could be in the building in A-1 zoning, thus, no rezoning is necessary.

Part 2. CUP for limited family business: DC Zoning Inspector Roger Lane stated that he believed a limited family business CUP that would expire when Neerlands ceased to own the property or the business was appropriate for the property, rather than a rezoning to LC-1 that stays with the land regardless of the owner. He stated that it is the Town’s decision whether the activity level at the site constitutes a limited family business or a full-blown commercial activity. As Dane County Zoning Department reviews applications around the county, it looks at the neighborhood and in this case considered the Cleary building as a typical accessory building, with vehicles that don’t stand out, no retail services on the property, no lights, no loudspeakers, and ingress and egress on the county road is controlled by the owners since there are no customers at the site. In evaluating conformance with Dane County Code of Ordinances 10.192(3) “All employees, except one or one full-time equivalent, shall be a member of the family residing on the premises.” Lane takes into consideration the number of employees that stay on the property to work versus employees who pick up equipment/vehicles and drive to the work sites. He estimated that the employees ( using two employees for the calculation) who drive to the site to park their private vehicles and pick up equipment and business vehicles, spend at most 4 hours a day at the site X 5 days a week = 20 hours, which does not constitute full-time status.

This calculation of full-time equivalent is frequently used with a landscape limited family business. Lane reiterated that it is the Town’s decision to limit the number of employees who can come and park and work off site.

Neighbors’ Comments: Two neighbors attended the meeting. One neighbor appreciated the opportunity to understand the difference between A-2 and A-1 zoning. The other neighbor expressed support of the business and commented that she is supportive of farming and this business activity is quieter than a farm.

Plan Commission Comments: Comments include but may not be limited to the following: \*The review process is complicated when a landowner puts a business together without following procedure and asks for forgiveness later. \*If this is a commercial grade accessory building allowed as part of a limited family business, the Plan Commission has to be very careful in setting a precedent. The Town has to be consistent in applying the Plan and Ordinances. \*The Town Plan lists lawn care business as a type of limited family business that is supported. The Plan does not list pest control or photo studio in the list of supported limited family businesses. The town has not received a previous application for a CUP for a pest control business. The Town has approved an application for a CUP for a photo studio. In all cases, the specifics of the proposed business would have to meet Town standards. Each application is unique. \*It is recommended that the Town Building Inspector revisit the Neerland accessory building to determine whether any changes have been made since the building was constructed in 2012 to require commercial building code. \*If the business is deemed to meet limited family business standards at this time, it was suggested that conditions of a CUP be included to make sure the business would not morph into something more than a limited family business or a use unacceptable under the Plan.

Next step: PC site visit scheduled for 5/4/15, 6:30 p.m. at the CTH G property.

B. GARFOOT AND J. NICHOLSON 3 LOT CSM/LOT LINE ADJUSTMENT AND A REZONING FROM R3-A TO R-3 FOR SINGLE FAMILY RESIDENCE ON ONE LOT (GARFOOT’S) AND A-1 WITH CUP FOR LIMITED FAMILY BUSINESS TO BRING EXISTING USE INTO COMPLIANCE FOR NICHOLSON’S LANDSCAPE BUSINESS (NICHOLSON)/SEC. 34/DAVIS STREET:

Background: B.Garfoot requested a lot line adjustment for a Lot comprised of smaller lots in the Plat of Byam’s Addition – Part of Lot 4 and Lot 8 of Block 5 and part of Lot 2 of CSM 10662. In reviewing this request, Dane County Zoning Administrator Roger Lane identified several irregularities to correct.

\* A three-lot CSM will be used to add land to Part of Lot 4 and Lot 8 of Block 5, identified as Lot 2 on the new CSM.

\*An illegal land transaction will be corrected by putting two parcels into the lot identified as Lot 3 on the new CSM.

\* The remaining land which was Lot 2 of CSM 10662 will now be identified as Lot 1 of the new CSM.

\*The new Lot 2 will be rezoned from R-3A to R-3 to accurately reflect the permitted use of a single family residence on the property. With the original R-3A zoning, the lot was restricted to a single family residence even though a duplex is a permitted use in R-3A zoning.

\* The new Lot 3 will be rezoned from R-2 to A-1 so that the entire lot is in a single zoning district.

\* The new Lot 1 will remain zoned A-1.

\* J. Nicholson, the owner of the new Lot 3, has been operating a landscape and snow removal business from the accessory building on his property. He has applied for CUP #2312 for a limited family business for a landscape and snow removal business.

PC Action on new CSM for lot line adjustments and rezonings:

MOTION Hanson/Fagan to rezone Lot 2 on the new CSM from R-3A to R-3 and its lot line adjustment. Discussion: It was questioned whether the rezoning complied with the rules/Plan. Since the Plan supports single family residences and this rezoning limits the lot to a single family residence, it was generally agreed it did comply with the Plan. Motion to rezone carried 5-0.

MOTION Fagan/Heisch to rezone Lot 3 on the new CSM from R-2 to A-1 for the lot line adjustment, which reduces the acreage in Lot 1 of the new CSM. Motion to rezone carried 5-0.

PC Action on the CUP for Nicholson’s request for a limited family business for landscaping and snow removal.

\*Nicholson’s description of the business:

Hours of operation: Monday through Friday, 7:30 a.m. to 4 p.m.

Number of employees: J. Nicholson lives on the site and is co-owner. His brother lives off-site and is co-owner. His brother comes to the site approximately 3 hrs./week. One non-family member lives off-site and comes to the site approximately 2 hrs./week.

Customers: No customers to this site.

Outside storage: Piles of mulch, rock, etc. along the driveway. Three trucks and trailers are parked outside.

Outdoor activities: Only loading to depart and return for the work day. All work is completed at customers’ property.

Outdoor Lighting: One outdoor light used only as needed.

Outdoor loudspeakers: None

Proposed signs: None

Trash removal: A 2 yd. dumpster is picked up bi-monthly on Wednesdays.

Accessory Building: Half of the residential garage is used to store equipment and supplies for the business. The building has electricity,no plumbing.

\*PC and Roger Lane comments: It was reiterated that each CUP is an individual case; there are no boiler plates. Within each zoning district there are land uses by right - permitted uses. There is a subset of uses – conditional uses, which could be a nuisance or very nice for the community. The impact of each of the CUP requests has to be evaluated in its specific location.

Next step: The PC will conduct a site visit at 8623 Davis St. on 5/4/15 after the Neerland site visit.

K. AND A. ZWEIFEL/CSM – COMPLIANCE WITH CONCEPT PLAN/CTH J/SEC. 2: MOTION by Fagan/Hanson to approve the submitted preliminary CSM as consistent with the change in the concept plan to the current location as drawn on the map on 4/27/15. There shall be no building south of the current field road on the property. Discussion: Ken Zweifel, owner of the property, chose Option 1 with up to 8 lots. This CSM will reduce the future lots to 7. Motion to approve carried 5-0.

K. LAMBERTY/CUP-PHOTO STUDIO IN EXISTING RESIDENTIAL ACCESSORY BUILDING/LUNDE LANE/SEC. 8:

The PC originally met with K. Lamberty on 11/24/14 during a pre-application meeting. Now, she has submitted the CUP application to Dane County and is seeking approval for a limited family business, Silver Tree Photography. She reiterated that the business would be conducted in the existing accessory building on the property, the old garage. No water, no sanitary facilities would be installed in the old garage.

Standard considerations for all CUP applications: The Plan Commission after consideration of the conditional use permit made the following findings of fact. Dane County Code of Ordinances 10.255(2)(b):

1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare; Agreed 5-0.

2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use. Agreed 5-0.

3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. Agreed 5-0.

4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made; Agreed 5-0.

5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; Agreed 5-0.

6. That the conditional use shall conform to all applicable regulations of the district in which it is located. Agreed 5-0. The use is consistent with the land use plan goals.

In conclusion, the six standards have been met with the following conditions of the CUP:

1. The business activity is limited to a photo studio.

1. Hours of Operation shall be limited to 8 a.m. – 8 p.m. daily, by appointment only.

2. Number of Employees: The CUP shall conform to the limited family business requirement by which all employees, except one or one full-time equivalent, shall be a member of the family residing on the premises.

3. Number of customers shall be limited to no more than 40 individuals a week. (Because the business may involve a photo shoot for a family of 10 individuals, this would be one (1) ‘order’ but involve 10 individuals.)

4. Outside storage shall not be permitted.

5. Outdoor lighting shall be dark-sky compliant.

6. Outside loudspeakers shall not be permitted.

7. Signage at the roadside shall not be permitted.

8. Sanitary fixtures shall not be permitted in the photo studio/existing accessory building.

MOTION Fagan/Heisch to approve the CUP with conditions discussed and agreed to tonight, carried 5-0.

K. PRADHAN/CONCEPT PLAN/MESSERSCHMIDT/SEC. 27: DISCUSSION ONLY/NO ACTION: K. Pradhan attended the meeting to request four (4) potential house sites for his property rather than the three (3) available per the Town of Springdale Land Use Plan. Pradhan owns Lot 1, CSM 8666 of 29.910 acres – eligible for two (2) house sites and Lot 2, CSM 8666 of 10.05 acres eligible for one (1) house site.

ZAHLER TRUST/CONCEPT PLAN/ZAHLER RD./SEC. 22 AND 27: DISCUSSION ONLY/NO ACTION: Nancy Riemenapp, the representative for the Zahler Trust requests approval of a concept plan for the family’s land since there is an interested buyer. The interested buyer does not want to purchase the land unless he can be assured that his proposed house site is consistent with the Plan.

Next steps: Since the previous site visits for the property were a while ago, 1/12/08 and 12/11/10, a site visit was scheduled for 5/13/15, 6:30 p.m. No approved concept plan was on file since the landowners discontinued the process in 2008 and 2010 before finalizing a concept plan.

FINAL PLAT-BELLA VISTA PLAT/N. AND B. HURLEY/GRIMSTAD RD./SEC. 10: MOTION by Fagan/Hanson to approve subject to the conditions in the Resolution:

RESOLUTION BY THE PLAN COMMISSION OF THE TOWN OF SPRINGDALE CONDITIONALLY APPROVING THE FINAL PLAT OF BELLA VISTA, TOWN OF SPRINGDALE, DANE COUNTY, WISCONSIN

WHEREAS, a final plat entitled “Bella Vista” (the “Plat”) was submitted on April 10, 2015, by Bella Vista LLC. (the “Developer”) to the Town of Springdale for review and action; and

WHEREAS, the Plan Commission has examined the Plat as to its conformance with the Preliminary Plat and recommended to the Town Board that the Plat be conditionally approved; and

WHEREAS, the Plan Commission has determined that the Plat will be consistent with the Town of Springdale Ordinances, the Town of Springdale Land Use Plan, and Wis. Stat. Ch. 236 only if all the conditions set forth below are met.

NOW, THEREFORE, the Plan Commission recommends to the Town Board that the Plat be approved subject to the following conditions:

1. The Developer shall comply with all applicable town, county, and state regulations.

2. The Developer shall comply with all conditions imposed by Dane County Zoning, Land Division Review, Highway and Land and Water Resources departments as part of the Plat approval process. If a state or county reviewing entity requires changes to the Plat as part of their approval process, the Town Board reserves the right to review the changes for conformance with all applicable Town regulations.

3. Pursuant to § 3.34 of the Town’s Land Division and Subdivision Code, a development agreement between the Developer and the Town, in a form and substance acceptable to the Town Chair and Town Attorney, shall be entered into prior to the installation of required improvements requiring the Developer to furnish and construct public improvements at the Developer’s sole cost and in accordance with approved plans and specifications. The required improvements include Bella Vista Ridge and the storm water management and erosion control facilities with the easement within the Plat to access and maintain the facilities.

4. Pursuant to § 3.34 of the Town’s Land Division and Subdivision Code, a development agreement between the Developer and the Town, in a form and substance acceptable to the Town Chair and Town Attorney, shall be entered into prior to the installation of required improvements requiring the Developer to furnish and construct public improvements on a portion of Grimstad Road from the intersection with County Road PD to Bella Vista Ridge in accordance with approved plans and specifications. The costs shall be apportioned between the Developer and adjacent property Owners.

5. The granting of easements, in a form and substance acceptable to the Town Chair and the Town Attorney, by Developer and

the Bella Vista Homeowner’s Association, Inc. (the “Association”) authorizing the placement of and access to the storm water

management facilities in the Plat. This is in addition to the agreement for maintenance of stormwater management facilities as

required by Dane County Land and Water Resources Department.

6. The granting of a deed restriction, in a form and substance acceptable to the Town Chair and the Town Attorney, which restricts the remaining property owned by the Developer to allow only agricultural and/or open space use.

7. The adoption of articles of incorporation for the Association in a form and substance acceptable to the Town Chair and the Town Attorney.

8. The adoption of bylaws for the Association in a form and substance acceptable to the Town Chair and the Town Attorney

9. Payment of outstanding and billed fees and expenses of the Town incurred as of the date of the recording of the Plat.

10. List of items for the Developer to include on the Plat and in the required agreements shall include:

a. In addition to the protection of major trees, trees with a diameter of 24 inches or more measured 12 inches above ground level, a buffer of vegetation shall be required between the Lots 7, 8, and 9 and County Road PD and between Lot 1 and Grimstad Road and between Lots 1 and 2 and the private property to the north of the Plat.

b. All of the final plat requirements as listed in Section 3.33 of the Town’s Land Division and Subdivision Code.

c. The areas for protection of major trees, building height restrictions and vegetative buffers shall be delineated on the Plat.

d. In Section 5.4 Maximum Building Height in the “Agreement and Declaration of Covenants, Deed Restrictions and Conditions For Bella Vista” (the “Covenants”), the language shall be clarified so that all buildings on a lot comply with the height restriction to minimize visibility from County Road PD.

e. Access easements for the maintenance of the two storm water ponds could be located on the lot line between Lots 6/7 and Lots 3/4. These are to be separate from the drainage easements shown at Lot 5/6 and Lot 2/3 because these are unsuitable for driving equipment on, especially during/after heavy rains.

f. To comply with the requirement that lots within a conservation subdivision shall abut open space on at least one side, or a local street may separate lots from the open space, an access strip via easement of 15 – 20 ft. wide could be located between Lots 6 and 7 to connect Bella Vista Ridge to Outlot 1.

g. The lots and Outlot 1 shall be laid out to meet the calculation of the 50% - 50% distribution of lots and open space for an Option 3 plat.

h. Bella Vista Ridge street grades shall maintain the 10% maximum slope.

i. Dimensions for the Bella Vista Ridge and the portion of Grimstad Road to be improved are: Right-of-way -66’, Roadway base width – 24’, Road surface with – 20’, Shoulders – 3’, Pavement thickness – 4”, One-way loop road width – 18’,

j. Sizing of the culverts and ditches shall be required prior to final approval.

k. The Covenants or Development Agreement shall include language to allow the Town to maintain the infrastructure needs with the authority to specially assess the property owners for the maintenance costs if the Association were to dissolve. This does not pertain to maintenance of the open space in Outlot 1.

l. The Covenants shall include language to acknowledge the areas in which compliance with the Town ordinances, as well as the Covenants is required. That is, the Association shall comply with Town and County

ordinances and the Association does not have the authority to override Town and County ordinances.

11. Agreement between the Developer and the Town for 33’ or 66’ strip of discontinued Grimstad Road to be deeded from the Developer to neighboring property owner to the north for use as a private driveway.

Section 4.4 Easement of the Covenants should be changed to provide for access for the Plat to Outlot 1, walking trails in Outlot 2 and storm water management facilities from Bella Vista Ridge, not the north section of Grimstad Road.

12. In the Development Agreement prepared by the Town Attorney, Article I, G., the language as written should be retained.

13. In the Development Agreement prepared by the Town Attorney, Article III, F., the language as written should be retained.

14. In the Development Agreement prepared by the Town Attorney, Article I, B., given that this is a residential subdivision, the language deleted for prevailing wages should be replaced with:

“The Developer shall at all times observe and comply with all federal, state and local laws, regulations and ordinances which are in effect or which may be placed in effect which may affect the construction of the public improvements to be accomplished under this Agreement, including, but not limited to, prevailing wage rate requirements set forth in Wis. Stat. § 66.0903.  The Developer further agrees to indemnify and hold harmless the Town, its officers, agents and employees from and against all claims, damages, losses and expenses, including attorney’s fees, arising out of or resulting from the Developer’s failure to comply with any applicable federal, state or local law, regulation or ordinance.”

15. Documents received to date include:

a. The Development Agreement reviewed and approved by Chris Hughes and verbally okayed by Attorney Ron Trachtenberg for Bella Vista.

b. Declaration of Covenants, Restrictions and Conditions for Bella Vista Plat as prepared by Developers.

c. Articles of Incorporation and Bylaws of the Bella Vista Homeowners’Association. Two separate documents prepared by the Developers.

d. Partial Vacation of Grimstad Rd. Draft document prepared by Developers.

e. Joint Driveway Agreement for Grimstad Rd. Draft document prepared by Developers.

f. Final Plat Application dated April 10, 2015 from Vierbicher, Timothy Schleeper, P.E. with the following documents:

i. Project Manual (Specifications) for Bella Vista Development

ii. Supporting Documents – Dane County Title Company

iii. Bella Vista Development, date: 3/30/2015, 29 page submittal which includes: Title sheet, General Notes and Legends, Existing Conditions Plan, Overall Grading Plan, Grimstad Rd/CTH PD Intersection Grading, Grimstad Rd Grading Plan, Bella Vista Ridge Grading Plans, Stormwater Basin Grading Plan, Grimstad Rd. Plan and Profile, Bella Vista Ridge Plan and Profiles, Grimstad Rd Cross Sections, Bella Vista Ridge Cross Sections, Construction Details

iv. Bella Vista Plat Map, date 03/25/2015, 6 page submittal.

g. Calculation of Land in Lots and Open Space for requirement of rural cluster subdivision, 4/20/15 email from Tim Schleeper.

h. Overview of status of other approvals of Plat, 4/20/15 email from Schleeper

i. Email from Dane County Highway Pam Dunphy stating the review of the intersection details from the engineering plan meet the DC Hwy. requirements. Dated 4/23/15

j. Letter from Dan Everson, Land Division Review Office, 3/28/15, with list of conditions on the final plat for the Zoning and Land Regulation committee meeting scheduled for 4/28/15.

k. Letter from Brian Berquist, P.E., Town and Country Engineering, Inc., engineer for the Town of Springdale, with comments regarding the plans and project manual for the Plat. Dated 4/21/15.

Discussion: The comments and questions by PC members and others included, but may not be limited to, the following:

\*The remaining technical review to be completed for the Plat will be done by the Town Attorney, Town Engineer and Town Board.

\*The vehicle to hold the common land for the use of the Plat shall be owned by the Homeowners’ Association, HOA, per the Declaration of Covenants and Restrictions. If the HOA were to dissolve, the Town would retain the easements for maintenance of storm water drainage ponds and the use restriction of the 25% common area would be retained.

\*The value of the 25% common area/the open space/recreational area is ‘given’ to the 9 lots of the Plat and taxed accordingly.

\*The 75% area is restricted for agricultural use only by the Declaration of Covenants and Restrictions and a Deed Restriction and will contain no development.

\*The construction plans for Grimstad Rd. and Bella Vista Ridge may be subject to some tweaking that would be reviewed by the Town Engineer.

\*It is proposed that the northern section of Grimstad Rd. be discontinued as a town road and returned to a shared private driveway.

\*The height restriction for buildings in the Plat will be identified by elevations so that the visibility from CTH PD is minimized. Motion to recommend approval to the TB/adoption of the resolution carried 5-0.

PLAN COMMISSION PROCEDURES: The next meeting of the PC will be Monday, June 1, 2015. Applications for the meeting should be submitted by Monday, May 18, 2015. If a site visit is requested, the PC prefers a week night after 5:30 p.m.

ADJOURN: MOTION by unanimous consent. Respectfully submitted, Vicki Anderson, Recording Secretary