

Town of Russell

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Paul "Rocky" Tribovich
Chair

Judy Meierotto
Deputy Clerk/Treasurer

Dave Good
Clerk/Treasurer

PLAN COMMISSION MEETING **6:00 p.m. – Tuesday, July 7, 2015** **Town Garage – 35900 State Highway 13**

Any person wishing to attend who, because of a disability, requires special accommodations, should contact the Town Clerk at 715 779-5338, at least 24 hours before the scheduled meeting time, so appropriate arrangements can be made.

1. Call to order and roll call.
2. Pledge of Allegiance.
3. Set Agenda for Public Input now or at the end of the agenda (3 minute limit per person-15 minutes maximum).
4. Approval of the Plan Commission meeting minutes of June 2, 2015****.

NEW BUSINESS

OLD BUSINESS

5. Review language changes to Town of Russell Zoning Overlay District; Alternative Developments****.
6. Items for next meeting.
7. Next meeting date, time and location – 1st Tuesday is August 4, 2015.
8. Adjourn.

The Commission reserves the right to take action on any agenda item. **** indicates items attached. A quorum of the Town Board may be present but no business will be conducted.

Posted Tuesday, June 30, 2015 at 4:00 p.m.

Dave Good–Clerk/Treasurer

Sec. 13-1-63 Town of Russell Overlay District (©8/30/2005)

- (a) **Applicability.** The Town of Russell Overlay District shall apply to and include all lands within the Town of Russell. (©8/30/2005)
- (b) **Intent of Town of Russell Overlay District.** The intent of this overlay district is to promote the public health, safety, convenience and general welfare; to encourage planned and orderly land use development; to protect property values and the property tax base; to permit the careful planning and efficient maintenance of roadways; to ensure adequate highway, utility, health, educational and recreational facilities; to recognize the needs of agriculture, forestry, industry and business in future growth; to encourage uses of land and other natural resources which are in accordance with their character and adaptability; to encourage the protection of old-growth forests; to preserve wetlands; to conserve soil, water and forest resources; to protect the beauty and amenities of landscape and man-made developments; to provide healthy surroundings for family life; and to promote the efficient and economical use of public funds. (©8/30/2005)
- (c) **Definitions.** All terms contained herein shall be as defined in Sec. 13-1-4 unless otherwise defined within this section. (©8/30/2005)
- (1) **Alternative Development.** A development or land division in which dwellings and other buildings are located on only a portion of a development, in contrast to conventional practice, which distributes development evenly across the entirety of a parcel, in order to accomplish either of the following: (©8/30/2005)
- a. Preserve by deed restriction, including conservation easement, restrictive covenant and development rights transfers, the majority of the land division parcel for present or future agricultural use or conservation; (©8/30/2005)
- b. Create, maintain or expand protective barriers contiguous with roadways, lakes, wetlands and other natural resources in the Town of Russell. (©8/30/2005)
- (2) **Certified Forester.** A person meeting the requirements of Section NR 1.21(2)(e) of the Wisconsin Administrative Code. (©8/30/2005)
- (3) **Conservation Easement.** As provided in §700.40, Wis. Stats., a holder's non-possessory interest in real property imposing any limitation or affirmative obligation, the purpose of which includes retaining or protecting natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, preserving a burial site, as defined in §157.70(1)(b), Wis. Stats. or preserving the historical, architectural, archaeological or cultural aspects of real property. (©8/30/2005)
- (4) **Deed restriction.** A restriction on the use of a property set forth in a deed or other instrument of conveyance, including, but not limited to, a

restrictive covenant, conservation easement, transfer of development rights or any restriction placed on undeveloped land as a condition for the division or development of the undeveloped land. (©8/30/2005)

- (5) **Historic Site Overlay.** An area designated by the Bayfield County Board that possesses a contiguous or nearly contiguous historic site(s), building(s), structure(s) or objects united historically and/or aesthetically by a common theme or a set of common characteristics that are historically or architecturally significant to the Town of Russell, the state or the nation. (©8/30/2005)
- (6) **Historic Site.** Any parcel of land whose historic significance is due to a substantial value in tracing the history or prehistory of, humanity, or upon which a historic event has occurred and which has been designated as a historic site under this section, or an improvement parcel, or part thereof, on which is situated a historic structure and any abutting improvement parcel, or part thereof, used as, and constituting part of, the premises on which the historic structure is situated. (©8/30/2005)
- (7) **Historic Structure/Building.** Any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the Town of Russell, the state or the nation and which has been designated as a historic structure pursuant to the provisions of this section. (©8/30/2005)
- (8) **Old-Growth Forest.** A forest that includes at least eight 100-year old trees per acre; is at least five acres in size. (©8/30/2005)
- (d) **Zoning District Dimensional Requirements and Classification.** Except as provided in subsections (e) and (f) below, the following dimensional requirements shall apply to all parcels located within the Town of Russell Overlay District: (©8/30/2005)

Zoning District	Minimum Area	Minimum Frontage	Minimum Average Width	Minimum Side and Rear Yard	
				Principal Building	Accessory Building
R-RB, R-1	9.5 acres	150'	150'	10'	10'
F-1, R-2, A-1	9.5 acres	300'	300'	75'	30'
R-3	9.5 acres	200'	200'	20'	20'
F-2, A-2	35 acres	1,200'	1,200'	75'	75'
I, C	5 acres	300'	300'	75'	75'
R-4					
(a) Sewer/Water	9.5 acres	75'	75'	10'	10'
(b) Sewer Only	9.5 acres	75'	75'	10'	10'
(c) Water Only	9.5 acres	100'	100'	10'	10'
W	5 acres	N/A	N/A	N/A	N/A

(©8/30/2005)

* Or the equivalent of 1/2 of a 1/4 — 1/4 section. (©8/30/2005)

** Or the equivalent of 1/8 of a 1/4 — 1/4 section. (©8/30/2005)

The classification of uses stated in Section 13-1-62 of the Bayfield County ordinances as of the date of the adoption of this section shall apply to the Town of Russell Overlay District. (©8/30/2005)

(e) **Alternative Developments.** In order to further the goals and policies of the Town of Russell Land Use Plan, the ~~Bayfield County Planning and Zoning Committee~~ **Town of Russell Board** will favor plans for land divisions that provide for an alternative development. At the discretion of the ~~Bayfield County Planning and Zoning Committee~~ **Town of Russell Board**, deed restrictions, including restrictive covenants, or conservation easements, or both, may be required for such plans. (©8/30/2005); (A)7/30/2013)

(1) **Minimal Lot Area.** The minimal lot area as stated in subsection (d) above shall apply unless the developer submits an application and plan for an alternative development that includes a plan as to how the minimal open space will be maintained. Upon consideration of the recommendation ~~and approval~~ by the Town of Russell ~~and the approval by the Bayfield County Planning and Zoning Committee~~ of a plan for an alternative development, the minimal lot requirements of Section 13-1-60 of the Bayfield County Zoning Ordinance shall apply to that portion of the development not required to meet the open space requirements. (©8/30/2005); (A)7/30/2013)

(2) **Minimal Open Space.** A plan for an alternative development shall include minimal open space as set forth in the table below. (©8/30/2005)

Zoning District	Percent of acreage required to remain open space	Percentage of acreage dividable under section 13-1-60
R-RB, R-1, R-4, I, C	35%	65%
F-1, R-2, R-3, A-1	45%	55%
F-2, A-2	50%	50%

(©8/30/2005)

(3) **Ownership of Minimal Open Space.** Ownership of the open space shall as follows: (©8/30/2005); (A)12/15/2009)

a. Each unit created under this section may own an equal amount of the required minimum open space, or an unequal amount of open space ~~or none of the required open space~~ if that was the wishes of the owner as long as the minimum requirement was met. ~~(e.g. If there is 18 acres of open space required, for four units, each unit must have at least 4.5 acres of the open space.)~~ A deed restriction shall be recorded describing the open space and buildable space, restricting the entire lot from being subdivided and prohibiting any structure; any change in the use of the land requiring a permit within the open space or

(©12/15/2009)

b. ~~An~~ **Any** individual or entity may own the entire open space. A deed restriction shall be recorded describing the open space, prohibiting the open space from being subdivided and prohibiting any

structure; any change in the use of the land requiring a permit within the open space. (©12/15/2009)

- c. The creation of any lots and open space shall be by a Certified Survey Map. (©12/15/2009)
 - d. A Class **B A** Special Use permit shall be required prior to any subdivision under this section. **The Town of Russell shall notify adjacent property owners by issuing notice by certified mail at least 10 days prior to the Town Plan Commission and Town Board acting upon such permit.** (©12/15/2009)
- (4) **Uses of Open Space.** Space that is dedicated to be open shall be maintained in a natural, undisturbed condition, which shall include the farming of crops, **and keeping of animals.** Limited access may be allowed for passive or active recreation. (©8/30/2005)
- (5) **Additional Plan Requirements.** A plan for an alternative development shall meet all of the requirements of the Bayfield County Zoning Ordinance and shall include the following: (©8/30/2005)
- a. The location of all improvements and minimal open space and a plan as to how the minimal open space will be maintained. (©8/30/2005)
 - b. A plan that as to how the minimal open space will be used and maintained; (©8/30/2005)
 - c. Existing zoning on and adjacent to the proposed development; (©8/30/2005)
 - d. Any proposed lake and stream access with a small drawing clearly indicating the location for the proposed development in relation to the access; (©8/30/2005)
 - e. Any proposed lake and stream improvements or relocation; (©8/30/2005)
 - f. All Department of Natural Resources designated wetlands, and any field verified wetlands designated by a public agency. (©8/30/2005)
 - g. The **Town of Russell Board County Planning and Zoning Committee** shall require submission of a draft of protective covenants, where a covenant is proposed and whereby the land divider intends to regulate land use in the proposed development. The covenants may be subject to the review and approval of the **Town's Bayfield County** Corporation Counsel as to form; (©8/30/2005); (A)7/30/2013)
 - h. Easements shall be shown and shall be limited to utility easements, drainage easements, conservation easements, access easements and service easements; (©8/30/2005)

- i. A detailed statement as to whether and how the proposed development is consistent with the Town of Russell Land Use Plan; (©8/30/2005)
- j. Characteristics of vegetation; (©8/30/2005)
- k. Historic and cultural features; (©8/30/2005)
- l. Scenic vistas. (©8/30/2005)
- m. A plan for an alternative development shall and shall assure proper use, construction and maintenance of open space facilities and shall result in a development superior to conventional development in terms of its benefits to future owners of the development, surrounding residents and the general public. The **Town of Russell Board County Planning and Zoning Committee** may place whatever additional conditions or restrictions it may deem necessary to insure development and maintenance of the desired character, including plans for disposition or re-use of property if the open space use is not maintained in the manner agreed upon or is abandoned by the owners. (©8/30/2005); (A)7/30/2013)

(f) **Nonconforming Parcels...**Notwithstanding Sec. 13-1-26(d), any parcel of land with dimensions not conforming to the zoning district dimensions of this section that was created by a county-approved certified survey map or plat prior to the adoption of this section on the 30th day of August 2005, shall not be subject to the dimensional requirements of this section. Further subdivision of such parcels and all other parcels shall be governed by this section. (©8/30/2005)

(g) **Historic Site Overlay District.** It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements or sites of special character or special architectural, archeological or historic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. (©8/30/2005)

(1) The purpose of this section is to: (©8/30/2005)

- a. Effect and accomplish the protection, enhancement and preservation of such improvements, sites and districts which represent or reflect elements of the Town of Russell's cultural, social, economic, political, artistic and architectural history; (©8/30/2005)
- b. Safeguard the Town of Russell's historic, prehistoric and cultural heritage, as embodied and reflected in such historic structures, sites and districts; (©8/30/2005)
- c. Foster civic pride in the notable accomplishments of the past; (©8/30/2005)
- d. Stabilize and improve property values and enhance the visual and aesthetic character of the Town of Russell; (©8/30/2005)

- e. Protect and enhance the Town of Russell's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry. (©8/30/2005)
- (2) **Applicability.** The Historic Site Overlay District shall apply to and include historic sites and/or historic structures placed therein pursuant to the provisions of paragraph (3) below. (©8/30/2005)
- (3) **Classification Procedure and Criteria** (©8/30/2005)
- a. **Addition and Removal of Historic sites – Procedure** (©8/30/2005)
 - 1. Historic sites and historic structures may be added to, or removed from, the Historic Site Overlay District upon a petition by either the landowner or Town of Russell Board. (©8/30/2005)
 - 2. Before adding or removing any site or structure to or from the Historic Site Overlay District, the Bayfield County Planning and Zoning Committee shall review the recommendation of the Town of Russell. (©8/30/2005); (A)7/30/2013)
 - 3. The committee shall then vote to add or remove the site or structure to or from the Historic Site Overlay District based upon the recommendation of the Town of Russell and the criteria in paragraph b. below. The final decision shall be made by the Bayfield County Board. (©8/30/2005);
 - b. **Criteria for Addition and Removal of Historic sites** – For purposes of this section, a locally designated historic structure, historic site or historic district designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural, archeological or cultural significance to the Town of Russell, the state or the nation, which: (©8/30/2005)
 - 1. Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state or community; or (©8/30/2005)
 - 2. Is identified with historic personages or with important events in national, state or local history; or (©8/30/2005)
 - 3. Embodies the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship, or that represents a significant and distinguishable entity whose components lack individual distinction; or (©8/30/2005)

4. Is representative of the notable work of a master builder, designer or architect who influenced his age; or (©8/30/2005)
 5. Has yielded, or may be likely to yield, information important to prehistory or history. (©8/30/2005)
- (4) **Management and Maintenance** – Ordinary maintenance and repairs may be undertaken, provided that the work involves repairs to existing features of a historic structure or site, or the replacement of elements of a structure with pieces identical in appearance, and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit. (©8/30/2005)
- (5) **Permitted Uses** – All uses permitted within the underlying zoning district, by right or by special exception, shall be permitted unless specifically prohibited below. In all cases, the more restrictive requirement(s) shall apply. (©8/30/2005)
- (6) **Prohibited Uses** – The following shall not be permitted within a historic district prior to the issuance of a special use permit. (©8/30/2005)
- a. The construction or reconstruction, alteration or demolition of all of or any part of the property. (©8/30/2005)
 - b. Improvements made to any site or structure beyond the typical maintenance that will not change the appearance or character of the site or structure. (©8/30/2005)
 - c. The construction, building or maintenance of any road path or thoroughfare for the passage of motor vehicles. (©8/30/2005)
- (7) The Town Board shall recommend and the county shall issue a special use or permit unless: (©8/30/2005)
- a. In the case of a historic structure or historic site, the proposed work would detrimentally change, destroy or adversely affect any exterior feature of the improvement or site upon which said work is to be done; (©8/30/2005)
 - b. In the case of the construction of a new improvement upon a historic site, or within a historic district, the exterior of such improvement would adversely affect, or not be compatible with, the external appearance of other neighboring improvements on such site or within the district; (©8/30/2005)
 - c. In the case of any property located in a historic district, the proposed construction, reconstruction, exterior alteration or demolition does not conform to the purpose and intent of this section and to the objectives and design criteria of the historic preservation plan for said district; (©8/30/2005)

- d. In the case of a request for the demolition of a deteriorated building or structure, any economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair; (©8/30/2005)
- e. The building or structure is of such local architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the city and state; (©8/30/2005)
- f. In the case of a request for a demolition permit, the denial of the demolition permit would result in the loss of reasonable and beneficial use of, or return from, the property. (©8/30/2005)

(h) **Old-Growth Overlay District** (©8/30/2005)

(1) **Purpose.** The purpose of the Old-Growth Overlay District is to: (©8/30/2005)

- a. Discourage development and disturbance to the natural environment in areas with old-growth/virgin timber. (©8/30/2005)
- b. Provide areas where native flora and fauna may prosper in a natural habitat. (©8/30/2005)

(2) **Applicability.** The Old-Growth Overlay District shall apply to Old-Growth Forests placed therein pursuant to paragraph (3) below. (©8/30/2005)

(3) **Classification procedure** (©8/30/2005)

- a. Old-growth forests may be added to, or removed from, the Old-Growth Overlay District upon a petition by either the landowner or the Town of Russell Board. (©8/30/2005)

Plan Commission Meeting – June 2, 2015

Posted May 26 2015 at 4:00 p.m. at the Town Garage, Buffalo Bay Store, Peterson's Foods and Red Cliff Tribal Administration Center and the Town website. Notices sent to the Ashland Daily Press and the Bayfield County Journal.

The meeting was called to order at 6:03 p.m. by Commission Chairman Larry Meierotto at the Town of Russell Garage. Plan Commission members present were Jeff Benton, Ann Bowker, Tessa Levens and Kathy Wendling. Clerk/Treasurer David L. Good was also present.

No members of the public were present.

Pledge of Allegiance was recited.

Set agenda for Public Input (3 minute limit per person - 15 minutes maximum) at the beginning or at the end of the meeting. No public were present or input offered.

Approval of the meeting minutes – A motion was made by Wendling and seconded by Levens to approve the minutes of the meeting of May 5, 2015. The motion carried.

NEW BUSINESS

Recommendation to Town Board regarding request by Dave Kositzke to construct a residence on 11- acres of land zoned AG-1 located at 34810 Old County K – Wendling stated she contacted the Bayfield County Zoning Administrator regarding the status of the lot and if it was created prior to the Alternative Development in 2005. She question whether or not this parcel is land locked. Meierotto stated this lot is in an approved Alternative Development Plan implemented by Paul Tribovich. Discussion followed about the preserved lands along the Raspberry River. Wendling questioned the status of the lot since it appeared it was a portion of a 40-acre parcel in 2007. Wendling discussed the status of the lot since the parent to this lot was 40-acres in 2007 according to Bayfield County records. Clerk Good explained that the rules when this was created did not require that the lots in an Alternative Development be recorded. Bowker thought this should not be a problem if this was part of an approved Alternative Development. Wendling and Bowker had visited the site. Discussion followed about the existing structure on the site and what was proposed to be built. Clerk Good read the following: Regular Town Board Meeting – January 9, 2007 - NEW BUSINESS - Paul Tribovich Request for the Approval of the Number and Location of Homes on a 160-acre Parcel located NW of the intersection of Rowley Road with Old County K NE ¼ Section 10 T 52N R4W – Chairman Tribovich removed himself from the Chair position at this time. A motion was made by Basina and seconded by Sullivan to appoint Larry Meierotto as Acting Chair. The motion carried. Tribovich presented a map of the 160-acre plot showing a 10-acre parcel and an 11-acre parcel. The home sites were pointed out. A total of 99-acres will be placed into an open space easement and owned by Tribovich. The other 20-acre or greater parcels do not require a variance to build a home under the Town of Russell Zoning Overlay District. Discussion followed regarding how the no build open space easement will be recorded. Tribovich stated it will be recorded as a portion of each parcels deed. A motion was made by Basina and seconded by Gordon to approve the variance to allow a home to be constructed on the 10-acre parcel and home built on the 11-acre parcel and that the remaining acreage, 99-acres, will be placed into an open space – non buildable easement into perpetuity. The motion carried. It was agreed that this lot was covered by the Alternative Development. Existing homes in the vicinity were discussed. A motion was made by Wendling and seconded by Bowker to recommend the Town Board recommend the County approve the request since it meets our Comprehensive Plan and our Overlay. The motion carried.

Recommendation to Town Board regarding amendments proposed by Bayfield County Planning and Zoning to Ordinance Sections 13-1-4, 21, 22, 24, and 62 – Good apologize for not getting this

information to the Commissioners sooner and explained this was not received by the Town until Monday, June 1, 2015. Wending didn't see any issues with this. She discussed the microbrewery permissible use based on the Curt Basina's proposed development. Discussion followed. The change in Shore Land Grading from a Class B Special Use to a Class A Special Use was discussed. The height restriction language was discussed and the change in building over hangs from 24 feet to 24 inches. Cu du sac setbacks changes were discussed. A motion was made by Wendling and seconded by Levens to recommend the Town Board recommend to the County that the Ordinance as proposed be approved. The motion carried.

OLD BUSINESS

Develop proposed language changes to Town of Russell Zoning Overlay District; Alternative Developments – Clerk Good stated he has not received any recommendations on the wording from the County Zoning Department. Copies of an e-mail summarizing what Chairman Tribovich recently discussed with Zoning Administrator Schierman were reviewed. Good stated Tribovich said Schierman was going to continue reviewing the language and would get back to the Town with any additional suggestions before the Town Board meeting on June 9, 2015. Wending stated she had listened to the portion of the recording of the Town Board Meeting on May 12, 2015 at which Schierman discussed the Overlay District with the Town Board. She stated she called Schierman about splitting Industrial and Commercial zoning districts at different acreages. He said they could be different. Discussion followed about 5-acres for Commercial being possibly too large. A-2 and F-2 must stay at 35-acres because that is the minimum the County requires. Discussion followed about the Buffalo Bay Store need for an Alternative Development. After much discussion it was determined that people that want to re-zone for a small commercial operation like a store, gas station, etc. would probably re-zone to RRB instead of Commercial. Discussion followed about adding the zoning district Municipal to the Town Alternative Development Overlay. Allowable uses in Municipal were reviewed. Changing the Alternative Development be a Class A permit verses a Class B permit were discussed. This would basically make the Town the decision maker and proposed Alternative Developments would not go before the Zoning Committee for final approval. Much discussion was held. The elimination of mailing certified letters to adjacent property owners was discussed under the Class A permit. Consensus was that this notification is important. Certified mail verses just mailing a notice was discussed. The Commission felt this notification was important. Timing for mailing notices if the town mails those verses Zoning doing it was discussed. This could delay the approval process. The permit process was discussed in detail. Consensus was to recommend that this stay as a Class B permit process and the Town not take on more responsibility. A motion was made by Wendling and seconded by Benton to recommend the Town Board petition to change the Alternative Development Zoning Over Lay District language as follows; change all 20-acre minimum acreages to 9.5-acres and eliminates references to the 1/2 qtr/qtr and 1/8 qtr/qtr and not change from a Class B to Class A Permit, not change references to Bayfield County Zoning to Town of Russell, not add Municipal to chart of districts and not change to acreages for Commercial and Industrial Zoning Districts. Wending withdrew the motion and Benton withdrew the second. A motion was made by Wendling and seconded by Benton to recommend the Town Board petition to change the Alternative Development Zoning Over Lay District language as follows; change all 20-acre minimum acreages to 9.5-acres and eliminates references to the 1/2 qtr/qtr and 1/8 qtr/qtr. The motion carried with one opposed. A motion was made by Wendling and seconded by Levens to recommend the Town Board not petition to change the Alternative Development Zoning Over Lay District language from a Class B Permit to a Class A Permit because it needs further discussion. The motion carried. The Commission felt no change to add Municipal to the Alternative Development Zoning Districts and to modify acreages with Commercial or Industrial Zoning Districts was necessary.

Comprehensive Plan proposed revisions – A brief discussion was held. What rural character was or was not, sense of place, the 67% of land in the Town currently not taxed, WI DNR PILT payments were discussed. No action was taken.

Items for next meeting – Nothing was identified at this time.

Next Meeting Date –The Commissioners agreed to meet again at 6:00 p.m. on July 7, 2015 at the Town Garage.

A motion to adjourn at 7:26 p.m. was made by Levens and seconded by Bowker. The motion carried.

Minutes Respectfully Submitted by:

David L. Good – Clerk/Treasurer

DRAFT