

Lincoln County Planning and Zoning Committee
Thursday, July 13, 2006 at 8:30 a.m.
Land Resource Center Meeting Room

1. Call Meeting to Order - Meeting was called to order by Chairman Saal at 8:30 a.m. in the Land Resource Center Meeting Room. Members present: Saal, Mittelsteadt, Meyer, G. Rusch, and Short along with Dan Miller; Zoning Administrator and Dan Bowers; Zoning Specialist.
2. 8:30 a.m. Public Hearings (See public hearing notice) Hearings were held on the item listed in the notice. Saal, Mittelsteadt, Meyer, G. Rusch and Short along with Dan Miller; Zoning Administrator, Dan Bowers; Zoning Specialist, June Winters; Program Assistant, Patricia Higgins - Court Reporter and approximately 19 others were present.
3. Discussion by the Planning and Zoning Committee and Decision on the Conditional Use requests and Rezones which were the subject of the Public Hearing

CONDITIONAL USE REQUESTS

1. The request of Benno Fischer to allow for the use of a camper on a vacant lot in a Rural Residential 3 district. The property is described as part of Section 25, T35N, R07E, in the Town of King; having a tax parcel number 12.273507.008.001.00.01 off of Eagle Bay Road. The request is being heard under section 17.3.03 (9) of the zoning ordinance.

The Committee was given the Approval Form from the Town of King. Benno Fischer was present to support his request. He explained that he purchased the lot with the intention of building a retirement home. They wish to use the lot and place an RV on it until the time they build the home. They have made some improvements and will be installing the septic. They hope to build in 5 years or less. They discussed the Staff Report and conditions and The Town Approval with conditions. Dan Bowers asked if he was flexible on the 5 year time limit request and he stated due to his age he would like the flexibility of up to 5 years.

Meyer asked for clarification on the wording of the Town Conditions. Short asked if he had a problem with the 2 year limitation. Fischer said that he did. The covenants of the sub-division say that you may keep a camper there for the summer months but cannot leave it there year round. He has complied with that for the 4 years that he has had the property. Now that they have an RV they plan on traveling but wish to have it there more until they finally build.

Mittelsteadt asked if he would agree to park it there only seasonally if they would extend the length (years) of the CUP. Fischer stated that he would not have a problem with that.

Chairman Saal closed the public hearing for Benno Fischer

Motion by Meyer, seconded by Rusch to APPROVE ON CONDITIONS THE REQUEST OF Benno Fischer.
CONDITIONS: 1. There shall be not more than one (1) occupied camping unit on the property. 2. Adequate sanitation meeting all applicable state and county regulations be utilized while the camping unit is occupied on the property. 3. This conditional use permit for the camping unit as the principal structure for the property expires 5 years from date of approval.

Saal pointed out the fact that Mr. Fischer did not attend the town meeting had he done so the conditions in question may not be an issue. He suggested laying over the request so he may go back to the town to discuss his request. Short agreed with Saal in order to maintain the relationship with the town that it would possibly be a good idea also. Meyer said that because it is a private area and he has not abused the privilege to date that it is not necessary to extend the process. Mittelsteadt asked if they could just put a "seasonal" time limit condition on the decision instead. Miller said that they could put that condition on it.

Amended Motion by Meyer, seconded by Rusch to APPROVE ON CONDITIONS THE REQUEST OF Benno Fischer. CONDITIONS: 1. There shall be not more than one (1) occupied camping unit on the property. 2. Adequate sanitation meeting all applicable state and county regulations be utilized while the camping unit is occupied on the property. 3. This conditional use permit for the camping unit as the seasonal principal structure (May - Sept) for the property expires 5 years from date of approval with the understanding that he will need to come back to the committee for review of the Conditional Use Permit in 2 years under Old Business (at no cost to Mr. Fischer) for an extension to the remainder of the 5 years.

Committee voted to amend the original motion, carried all ayes.

Amended Motion carried all ayes.

Saal again expressed concerns for ramifications from the township on overriding their conditions but hopes that this is a compromise that they can live with; not knowing the reasons for the conditions they imposed.

2. The request of Snow Hill Cemetery Association and Mark Schulz to expand an existing 2 acre cemetery to 5 acres in a Rural Lands 2 district. The property is described as part of Section 17, T31N, R06E, in the Town of Scott; having a tax parcel number 24.173106.012.001.00.00 off of Joe Snow Road. The request is being heard under section 17.3.05 (6) of the zoning ordinance.

Gary Voigt was present to represent Snow Hill Cemetery Association and support their request. He was worried about the time limit to exercise the CUP as they do not know exactly when the land will be used. They are looking at maybe a 10 year period before they may need to utilize the new area. Saal asked about a pumping station that was close to the property. Miller explained the setbacks required and that they were met. Saal asked about the requirement for combining by deed or creating a separate parcel.

Chairman Saal closed the public hearing for Snow Hill Cemetery Association.

Motion by Mittelsteadt, seconded by Rusch to APPROVE ON CONDITION THE REQUEST OF Snow Hill Cemetery Association. CONDITION: Join the 3 acre outlot parcel as proposed to the existing cemetery parcel by deed. There will be no limit on the duration of the Conditional Use Permit before they exercise it.

Motion carried all ayes.

PETITION FOR REZONING

3. A request by John Skaar to rezone 21 acres from a Rural Lands 4 district to a Rural Residential 5 district to allow for a condominium development. The property is described as part of the NE ¼ of the SW ¼ of Section 23, T32N, R07E, in the Town of Schley; having a tax parcel number 22.233207.009.002.00.00 off of Hwy 17. The request is being heard under section 17.8.25 of the zoning ordinance.

Saal stated that the town of Schley has approved Mr. Skaar's request as it is consistent with the town of Schley plan along the Hwy 17 corridor.

John Skaar was present to support his request. He is a builder and has had several requests for this type of development. He will comply with the town's requirements. He explained that he has been to the town and would like to proceed with a condominium plan. He is looking at possibly 4 duplexes. Approximately 2/3 of the parcel is highland and 1/3 wetlands. He is aware of the setbacks to wetland and would stay well away from them. Soil maps indicate possibly mound systems required. There is about a 300 foot plus stretch along State Rd 17 that would be favorable for building the duplexes & installing septic systems that is well away from the wetlands and on high ground.

Mittelsteadt asked if he had to come back to the committee before he actually does the development. Miller stated it depends on whether the county's condominium review amendments are approved by that time. The rezone is a completely separate issue than the development though.

Dan Miller, Zoning Administrator was present to explain the fact that he handed out the Ordinance resolution at this time was not being presumptuous just that due to timing of the CB meeting it was necessary. It is on the County Board agenda both ways with either an opportunity as just a report to confirm a recommendation to deny or as an ordinance. He also stated that he would like to see it come back to the committee for approval of the Condominium Plat.

Chairman Saal closed the public hearing for the Skaar rezone.

Motion by Meyer, seconded by Saal, to APPROVE ON CONDITION the request of John Skaar to rezone from RL4 to RR5. CONDITION: The owner returns to committee and provide the Planning & Zoning a copy of the preliminary Condominium Plat for review and approval. Motion carried all ayes.

4. A request by Rudy Johnas to rezone 9 acres from a Rural Lands 4 district to a Planned Industrial district to allow for a trucking terminal. The property is described as lot 2 of CSM 1395 located in part of the NW ¼ of the NE ¼ of Section 25, T31N, R04E, in the Town of Corning; having a tax parcel number 06.253104.002.003.00.00 and an address of W9867 Hwy 64. The request is being heard under section 17.8.25 of the zoning ordinance.

Rudy Johnas was present to support his request. He purchased the property several years ago with no specific plans for it. He then gave some background on his business, RDT Transportation. He has been operating his business out of his home and wanted to expand his business. Dan informed him that he needed to have it rezoned commercially to accommodate his growing business. He would like to have the land rezoned to have an office building and shop. The company is not paying for the building he is paying for it personally and RDT will be renting it from him. Johnas presented the board with drawings of what the building would look like and where other structures are situated in relationship to the proposed building and which building would be removed after completion of the new shop/office. He said there were concerns regarding the road and access (pulling in and out of the driveway) and he tried to dispel those concerns. He gave pictures showing that the driveway would not be a problem. He said the neighbors have concerns about lights shining in their windows. He stated he has also read the petition that the Kaminskis have submitted and letters from their son and daughter. He stated that the opposition was directed at him personally and didn't feel that any of that was relevant. He stated that several statements are false. He said that their concerns should have been limited to the business issues. He pointed out the neighbors that are favor of his request or want to stay neutral. He referenced a letter from Randy Barkley who wishes to remain neutral. Johnas stated that he has 3 trucks and just wants to have his business here. He has 6 trailers and 2 other leased trucks haul for him that would be coming and going. He currently services his trucks at a different location and would like to be able to do that at his location for convenience. He did not agree that his business should be listed as a "trucking terminal" as it is a small operation. He presented the committee with minutes from the township that does show the support of the Town of Corning for the rezone and the CUP request that he will have to also apply for to have the truck terminal there.

Saal asked that it be noted on 7/10/06 town of corning voted to approve 2-0 (with 1 abstention) with 5 trucks max. The minutes listed safety and noise issues that were being addressed.

Johnas went on to explain more about the size and operations of his business. He stated that he has told his neighbors that if they have any problems with the truck traffic and noise to come to him and he will take care of the problems. He again reiterated the fact that the proposed building will be a shop – not cold storage.

Dan Miller, Zoning Administrator was present to clarify that he does have to come back before the committee to apply for a Conditional Use Permit even if the rezone is granted. He also reminded the committee that they had

received ordinance paperwork on this rezone as it is on the County Board agenda listed as either a report or an ordinance.

Heidi Schulz, secretary for RDT Transportation was also present to support the request. She stated that it would be more convenient to have everything in one location and to keep the employees at this location instead of out of the Green Bay office.

Ben Thompson, was present to support the request. He stated that he is a driver for Mr. Johnas and would like to be able to park the truck at Johnas' instead of where he lives in the City of Merrill.

David Kaminski was present to oppose the request of Rudy Johnas. He said that Johnas told him last year he wanted to expand his business and add cold storage. He stated that he moved to the area to have peace and quiet in a rural setting. He said that Mr. Johnas had said that the only noise would be from the construction of the cold storage building and that the hours of operation would be Monday-Friday, 7:00 a.m. -5:00 p.m. He said that in the past year there have been people making a racket at hours outside of the time and days that Johnas had stated. Mr. Kaminski has issues with the late night/early morning hours with the noise and concerns for the safety with the trucks backing down the road. He has concerns about if Mr. Johnas doesn't make a go of it that it may be purchased by a bigger company because they have already approved the truck terminal. Or that it may end up a building that is just sitting there empty. He stated that what Johnas is saying now is not consistent at all with what he has told him previously & he is against the rezone request.

Judith Kaminski was present to oppose the request of Johnas. She had a list of issues and she gave a timeline when requests had been made by them to the township, when Johnas had hauled gravel onto his property, conversations with Johnas and with the township, and the opposition they prepared as soon as they were made aware of the rezone request. She had several issues with the way the township handled the approval of the request by Johnas and the lack of information that was being communicated to the Kaminskis. She referenced the letters that had been submitted to the Zoning Office and stated several comments from neighbors in opposition to this request. She questioned why more residents of the Town of Corning were not notified of the rezone. She commented on some of the statements and promises that Johnas had made at the Town of Corning meeting. She said that the Town Board seemed ill at ease at making their decision but feels that the decision had already been made before the meeting started. She said that there is other land available that is already zoned appropriately that he could relocate his business to.

Frederick Schepp was present to oppose the request of Johnas. His reason for being opposed is that it will change the rural zoning to an industrial type zoning or business. Saal asked the specific reason and Schepp stated that he was opposed to having businesses in their area and that he was backing the Kaminskis.

Donald Kaminski was present to oppose the request of Johnas. He started telling a story of a former employee of Mr. Johnas'. Meyer questioned what this had to do specifically with the rezone and she thought that the statements he was making were just personal problems. Kaminski said he was trying to establish Johnas' credibility. He then again cited the fact that the gravel has already been hauled in and it was because Johnas was so sure of himself that the request would be granted. Kaminski stated that he had contacted the township as soon as Johnas started hauling gravel in. He stated that they do not need industrial type business in their area. He said that Johnas has had these intentions for a long time and now is just trying to legitimize his business that he has had all along. He said that the town meeting sounded very one sided. Kaminski stated that he had spoken to a Town of Corning Supervisor last night and that the Supervisor had agreed that the matter had been mishandled. Saal interjected that this committee has no control over how the township handles their meetings and that the issue of hauling in gravel is not an issue unless there are perhaps wetlands involved. Kaminski again expressed concerns if the business does not make a go of it. Kaminski presented the committee with a letter from Catherine Weber, Mr. Kaminski's daughter, regarding the Town of Corning meeting.

Short asked again why he had a problem with hauling gravel in. Kaminski stated that it was just Johnas showing that he was confident that he would have no problem getting his request approved. Short stated that as far as he could see Mr. Johnas has not broken any law by bringing in the gravel. Kaminski again said that he wishes they would have been notified earlier in the process.

Chairman Saal closed the public hearing for Rudy Johnas.

Motion by Mittelsteadt, seconded by Short, to APPROVE ON CONDITION the request of Rudy Johnas. CONDITIONS: 1) If a conditional Use Permit is not sought within 6 months of the approval of the zoning change for the purpose of operating a trucking terminal, the county would take action to revert the zoning back to RL-4.

Mittelsteadt stated that he makes this motion because this request is specifically regarding the rezone and that Johnas' request for a trucking terminal still requires a Conditional Use Permit. They can express these concerns and issues at the public hearing for that Conditional Use Permit and they would be addressed at that time. He agreed that the statutes give the town a lot of control over how the property is zoned.

Meyer agreed with Mittelsteadt and she thanked both sides (pro & con) for how prepared they were and for their input. Saal said that there are strong opinions on both sides and that some of the reasons that both sides have given are not issues pertinent to the actual rezone and not what the committee will base their decision upon. Saal stated by his calculation there were just as many for the request as against it and it doesn't appear that the town has any major reservations. He agreed with Mittelsteadt that most of the issues of actually operating the business would be addressed in the Conditional Use process.

Motion carried all ayes.

5. A request by Lincoln County to rezone 40 acres from a Forestry district to a Rural Lands 4 district to allow for year round residences. The property is described as part of the SE ¼ of the SW ¼ of Section 5, T32N, R07E, in the Town of Merrill; having a tax parcel number 14.053207.012.000.00.00 off of County Road R. The request is being heard under section 17.8.25 of the zoning ordinance.

Dan Miller had notified the committee prior to the start of the meeting that the County had withdrawn this request.

Saal suggested that they take a brief recess. The meeting was re-convened at 10:45.

4. Public Comment Opportunity. There was no public comment.
5. Subdivision: Major Plat for Ralph Peterson (Prairie River Savannah) (Final Plat) – MSA Professional Services & Naterra Land, Inc. Dan Miller distributed copies of the final plat and some correspondence. He then reviewed the issues that have been addressed since the last meeting. Keith Rusch from Naterra Land was present and discussed the issue of the public access and the construction of the stairs. The only outstanding issue is with the pond plan and that they already have Army Corp. of Engineers & Lincoln County Land Conservation's approval on everything but that they are awaiting a response from the Department of Natural Resources. Saal asked if this issue would be a problem if they approve the plat. Miller stated that it should not be.

Motion by Mittelsteadt, seconded by Rusch to APPROVE ON CONDITION the plat of Prairie River Savannah: CONDITION: Comply with county agencies' requirements for approval of the Public Access

Motion carried all ayes.

It will go to Lincoln County Board on 8/15/06 for signatures. Dan Bowers, Zoning Specialist, suggested that the Zoning Committee view the progress at the site. Saal asked if by their next tour date they would be able to go to the site and see significant progress. Saal requested that it be put on the next tour agenda (8/3 or 8/10)

6. Subdivision: Major Plat for Donald Forster (Wisconsin River Heights) (Final Plat) – MSA Professional Services & Naterra Land. Saal read a letter into record from the Land Conservation/Information department requesting that the final approval of the plat be laid over until their department has had adequate time to review the stormwater and erosion control plan, the final plat and the proposed road names to ensure compliance with standards and ordinances as they had just received the final plat on July 11th. Mr. Rusch said that he knows that Doug Denk in Land Conservation is part time now but he was still hoping that Doug would have a chance to look at it and get back to Rusch as soon as possible. Mr. Rusch asked that they be on the agenda for the next Zoning Committee meeting.

Motion by Mittelsteadt, seconded by Saal, to lay over the final plat approval until Naterra is ready to come back to them with all of the information and the approvals obtained from the Land Conversation & Land Information Departments (possibly on the next meeting). Motion carried all ayes.

7. A request from Cheri Barna for a waiver from the subdivision ordinance to create lots that will not have frontage on a Public road. Cheri Barna was present to support her request. She said that she has employed as surveyor, David Lemke, to prepare the CSM. Saal said that he had a concern that there is no minimum road width shown on the Road Agreement. Dan Miller clarified the issue and what had previously has been required for safety and well being for year round access. Miller said that they could amend #3 on the Road Agreement to a minimum width of 16 feet.

Meyer asked if this was a “basic” road maintenance agreement. Miller stated that it was and it was to be recorded with the Certified Survey Map. Miller asked Barna how much land she has to the east of these parcel because if there is further development of that land they should make a requirement for a wider road. Barna stated that she has no future plans of dividing the remainder of the parcel. Saal explained the problems that would be created by further development and that those issues should be addressed now. Miller showed how changing the road would allow for a 66 foot width for the easement and satisfy their requirements. Miller stated that she was possibly sealing her fate for future development if she does not meet that requirement. She was afraid that would affect the status of an existing barn. Miller stated that it would make the barn a non-conforming structure but did not think that would be an issue. There was further discussion about the easement. Ownership of the road would be by Lot 2 & Lot 3 of this proposed CSM.

Miller said that he will speak to the surveyor regarding the issues for widening & preserving the easement.

Motion by Saal, seconded by Mittelsteadt, to APPROVE ON CONDITION the waiver request of Cheri Barna to create lot that will not have frontage on a public road. CONDITION: A private road maintenance & easement agreement be recorded and that #3 on the provided agreement be amended to read “to a minimum 16 foot width”. Motion carried all ayes.

8. Approve the June 8, 2006, June 14, 2006 and June 19., 2006 meeting minutes- Motion by Meyer, seconded by Rusch, to approve the June 8, June 14, and June 19, 2006 meeting minutes. Motion carried all ayes.
9. Convene in closed session pursuant to Sec. 19.85(1)(2), Wis. Stats, for purposes of considering employment evaluation of any public employee which the body has jurisdiction. (Warren Hohn; Zoning Technician annual evaluation) M/S to reconvene into open session Meyer / Mittelsteadt all ayes.
10. Reconvene into open session and take any necessary action on item above. Motion by Saal, seconded by Rusch for a favorable evaluation and recommended a step increase for Warren Hohn, Zoning Technician. Motion carried all ayes. Mittelsteadt stated that he believes that Mr. Hohn is an asset to the county. Saal agreed.

11. Administrator's Report - Committee reviewed and discussed issues on the compliance report and Administrator's meetings and activities report. Miller discussed his Administrator's report. Mittelsteadt asked how the meeting went with the Town of Schley. Meyer stated that the meeting went well. Miller stated the limitations in authority and resources that our office has in enforcing the town's issues. Zoning has been e-mailing applications to Earl Welker along with the permit log to keep the town informed of proposals and then they can deal with the requests and the land owners with expressing the town's concerns. Meyer expressed concerns about future problems with too many different views and no consistency in regulations for everyone. Mittelsteadt agreed with the inconsistency and problems with not enough communication with the towns. Mittelsteadt said it bothers him how many different factions are out there going different directions and having different concerns when the goal is to be uniform. Rusch stated that maybe the towns could send representatives to the Public Hearings to clarify the towns concerns (if there are any) on their approvals. Saal stated that the number of Zoning personnel that there is in Lincoln County doesn't allow for better communication with each and every township's concerns and have to make due with what we have.

Meyer had questions about the Compliance Report regarding Pine Creek Condominium. Miller reviewed the issue. Mittelsteadt asked the status of Bennish's Violation. Miller reviewed the issue.

Miller presented the committee a letter from the Town of Schley rescinding their resolution of support of the Ordinance Amendments that were passed for Chapter 17 at the last County Board meeting. Meyer spoke about a phone call she had received regarding concerns over the changes in Crossroad Mixed Use zoning district. Miller said that as the towns become more and more involved in the process they may fragment off and want to be on their own for regulations. Rusch asked if Schley rescinding their resolution left us short for township support. Miller stated that it did not because we had also received resolutions from two more towns in support of the amendments.

Miller presented the committee with correspondence regarding the lawsuit that is currently in process with Wisconsin Public Service Corporation and the committee discussed the request for information from the lawyers retained by Wisconsin Public Service.

Miller presented the Committee a copy of the financial report and reviewed that with them. There was discussion about the 2% cap on the budget. Miller reviewed how the cap is affecting the department and possible solutions. Saal discussed how other departments are handling the cap also. Mittelsteadt stated how frustrating it is when the state mandates more & more services and then puts caps on budget increases.

A Data Conversion update was given. Bowers gave an update on the density allotment project.

12. Meeting Scheduling / next meeting. Discussion about problems with setting times for the tours and hearings and how to avoid them in the future. Meetings may be combined with tours if there are only a couple of requests. Combined meetings will begin at 8:30 a.m. for the tours and 1:00 pm for the hearing with a case by case judgment by Zoning staff and adjusting the schedule accordingly. Saal requested that a memo to surveyors and interested parties be discussed at the next meeting
13. Adjourn – Motion by Rusch, seconded by Meyer, to adjourn at 12:10 p.m. Motion carried all ayes.