

**Lincoln County Planning and Zoning Committee
Thursday, October 11, 2007 at 9:00 a.m.
Land Resource Center Meeting Room**

1. Call Meeting to Order - Meeting was called to order by Chairman Saal at 9:00 a.m. in the Land Resource Center meeting room. Members present: Saal, Meyer, Mittelsteadt, Rusch and Short along with Dan Miller Zoning Administrator.
2. Toured sites that will be the subject of the public hearing that will be held at 1:00 p.m. Committee recessed for lunch at approximately noon at 3's Company in Merrill.
3. 1:00 p.m. Public Hearings – Hearings were held on the items listed in the notice. Hearing called to order at 1:00 p.m. by Chairman Saal. Saal, Meyer, Mittelsteadt, Rusch and Short along with Dan Miller, Dan Bowers, June Winters; Program Assistant, Ray Kraemer; Court Reporter and 7 others were present.
4. Discussion by the Planning and Zoning Committee and Decision on the Conditional Use requests which were the subjects of the Public Hearing.

CONDITIONAL USE REQUEST

1. A request by Jeff and Barbara Mondeik to allow for a pole barn and gazebo which, in combination with existing buildings, will exceed 5,000 square feet in total building coverage for the property in a Crossroads Mixed Use District. The property is located in part of the NE¹/₄ of the NE¹/₄ of Section 04, T32N–R8E, in the Town of Schley; having a tax parcel number of 22.043208.001.002.00.00 and an address of N4839 County Road X. The request is being heard under sections 17.2.53(2) and 17.2.100 of Lincoln County Ordinances.

Barbara Mondeik was present to support their request. She explained their request. The building will be used for storage of personal items such as equipment and wood. They would also like to put up a gazebo. There was some confusion on the ordinance section that was referenced. Dan Miller clarified the discrepancy and the ordinance sections on the notice were correct. Dan Miller asked Mondeik why a rezone to RL would not be favorable to them since their existing business was previously authorized by a Conditional Use Permit. Mondeik said that she thought that the CMU designation was more flexible for their needs. Miller just clarified that if they are in a CMU district anytime they build any additional structures in the future they may need to apply for another Conditional Use Permit. She said that they have discussed that and understand that they may have to go through this same process in the future but they wish to leave the zoning designation as CMU. Bowers asked if the storage building would be associated with the business. Mondeik said that it would not. She also explained some landscaping that they would be doing on the property as they are continuously trying to improve the look of their property.

Earl Welker, Town of Schley Plan Commission was present and discussed this being the proper zoning district for this area. When the town did their plan they looked at this intersection as having the potential for more business development at this intersection. He stated that also there have been changes discussed for the CMU district and maybe there should even be more flexibility incorporated in the district. He spoke about the recommendations that the Plan Commission had presented to the Town Board. He stated that Meyer pointed out that there had been an error made on the Town Plan Commission approval form and in fact that George Mondeik had abstained from voting on this matter. Chairman Saal closed the public hearing for the Conditional Use request.

Motion by Meyer, seconded by Mittelsteadt to APPROVE the request. Motion carried all ayes

2. A request by Cynthia and Kevin Baumann to allow for two view corridors to be combined to allow greater than 30 feet of opening along the shoreline of Clear Lake. The property is located in part of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 10, T35N–R6E, in the Town of Bradley; having a tax parcel number of 04.103506.015.009.02.00 on Clear Lake Road. The request is being heard under section 21.09(3)(h) of Lincoln County Ordinances.

Cynthia Baumann was present to support their request. She explained their request for the committee. Miller said that he had spoken to their builder at the tour onsite about the fate of several of the very large trees within the proposed corridor. Baumann said that anything within the proposed view access corridor would be cut. Miller had questions regarding the boathouse and the length of rail and dock that would be required. Miller also asked for clarification on the removal of part of the “ice ridge”. Baumann said that they would like to remove the “ice ridge” the width of the proposed opening. Miller asked what ground cover they would have there. She said that they would like to have a sand beach. Miller talked about possible erosion problems with just a sand beach.

Mittelsteadt asked for clarification on the request for “snow fence” on the staff report. Miller clarified that he wants the snow fence installed so the excavators know exactly how far they may disturb the soil and that it would be removed after earth moving activities are completed. Baumann stated that they have a lot of frontage to deal with so even if they combined the viewing corridors there would still be a lot of area that is undisturbed and natural. Mittelsteadt commented on some of the larger trees on their property and how much they stabilize the soil. Baumann said that they would take another look at a large white pine that Mittelsteadt was referencing and see if they can’t adjust the corridor area to save that tree.

Harry Gladwin, Town of Bradley Plan Commission, was present and explained the town recommendation and that they support the conditions in the staff report. He said that the Baumanns were very cooperative through this process. Chairman Saal read into record a letter of opposition from John Hein. Chairman Saal closed the public hearing for the Conditional Use request.

Motion by Mittelsteadt, seconded by Rusch to APPROVE ON CONDITION.

CONDITIONS:

- 1) The applicant be limited to 25 additional feet of vegetative clearing inside of 35 feet from the water,
- 2) The vegetative buffer zone be protected from additional cutting inside of 40 feet from the water (35 feet preserved native vegetation and 5 feet of active planting of site adapted qualified plants) along the remaining shoreline on the property by covenant as indicated in a deed affidavit that is recorded in the Lincoln County Register of Deeds,
- 3) Remaining vegetation near the construction area be protected by the installation of snow fence prior to grading and leveling the site for construction,
- 4) Appropriate methods for stabilization of soil on exposed slopes and the bank on the shoreline must be addressed in an erosion control plan and installed in accordance with an approved soil disturbance permit before cutting of trees, filling and grading or construction occurs.
- 5) That the large white pine tree along the west edge of the corridor that was discussed would remain.

Motion carried all ayes.

3. A request by James Koebe to allow for up to 7 mini-storage warehouses in a Crossroads Mixed Use District. The property is located in part of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 24, T31N–R6E, in the Town of Scott; having a tax parcel number of 24.243106.006.003.00.00 on County Road K. The request is being heard under section 17.3.08(1) of Lincoln County Ordinances.

James Koebe was present to support his request. He explained his request. Miller asked if the stormwater plan is a more accurate description of where the buildings would be located than what was on his application that was originally submitted. Koebe said that it was and this would also cause the driveway to be moved 90’ to the north.

Miller asked about the colors that Koebe would be making the buildings. Saal commented that this committee has made a practice of not regulating aesthetics as far as specific colors. Miller just wanted to make sure that whatever colors used would not be offensive to the subdivision across Hwy K. Short asked if Koebe was going to have the new units look like his existing units at another location. Koebe said that they would be. Bowers commented that the storm water plan only showed 4 of the proposed buildings and wondered where the other 3 on the request would be located. Koebe said that they would be to the east. Saal asked about screening with trees. Koebe stated that he did not wish to make it so remote from vision of the highway that he would have security problems. He has already had problems at other locations with break-ins. There was more discussion on the security/screening issue. Bowers asked about timeline for building. Koebe stated that he puts up a building as the market provides opportunity then builds the next as the first nears full occupancy. He predicts about 2 years for the first 4 buildings.

Dan Miller pointed out that the Town of Scott had clarification on the back of their approval regarding conditions that they would like to see imposed. Rusch pointed out that some of the buffering was between the east property line if any future development to the east. Miller asked if the committee wished to extend the time to exercise the Conditional Use Permit beyond the 2 year time frame so that if the economy slow and it takes longer than 2 years he does not need to come back before the committee. Meyer said that was understandable that it may take longer than the 2 years and he should not need to come before the committee until he goes beyond the original 7 units being granted.

Saal read into record the approval from the Town of Scott.

Chairman Saal closed the public hearing for the Conditional Use request.

Motion by Mittelsteadt, seconded by Meyer to APPROVE ON CONDITION.

CONDITIONS:

- 1) A screen shall be planted (or preserved where it is now in compliance) between the proposed buildings and Hwy K to include two staggered rows of evergreens that, when mature, will provide a wall of vegetation. A 100 foot opening in the screen shall be allowed for driveway access and visual clearance where the driveway intersects with Hwy K. The Screen will not be necessary on the north half of the property but only in front of the storage buildings.
- 2) No plumbing or power shall be allowed inside of the storage buildings except for outside lighting and to an onsite office, should one become necessary, or to a lighted sign.
- 3) No secondary business shall be allowed to operate inside of the storage facilities.
- 4) State plan approval for the buildings shall be obtained.
- 5) A stormwater and erosion control plan shall be submitted that complies with Chapter 17 standards in conjunction with a soil disturbance permit prior to excavating, filling or disturbing a cumulative acre of surface area on the property.
- 6) Time frame for exercising the Conditional Use to construct the 7 approved buildings be extended beyond the normal 2 year timeframe because construction is somewhat dictated by the economy.

Motion carried all ayes.

PETITION FOR REZONING

4. A request by Tomahawk Tissue and co-applicant Chuck Kelly (buyer) to rezone 10 acres from a Forestry zoning district to an Industrial zoning district to allow for the property to be split from the remaining 40 acres. The property is located in the SW ¼ of the NE ¼ of Section 17, T35N, R6E, in the Town of Bradley; having a tax parcel number of 04.173506.003.000.00.00. The request is being heard under section 17.8.25 of Lincoln County Ordinances.

Request was withdrawn on 9/25/07 per phone conversation between Chuck Kelly and Dan Miller.

5. A request by Dan Obermann to rezone 20 acres from a Forestry zoning district to a Rural Lands 2 zoning district to allow for an after the fact split from the remaining 40 acres. The property is located in the SE ¼ of the SE ¼ of Section 29, T34N, R6E, in the Town of Bradley; having a tax parcel number of 04.293406.016.002.00.00. The request is being heard under section 17.8.25 of Lincoln County Ordinances.

Dan Obermann was present to support his request. He along with other family members purchased this property last January. It was brought to their attention that they were in violation of the current zoning code because they did not purchase at least 35 acres in land zoned Forestry. He stated that he did not think that his request would be contrary to any of the points listed on the Procedure for Zoning District Map Amendments that the Zoning office had sent him. He has letters of support from adjoining landowners stating that they did not care if his property was rezoned to RL2 even though they declined adding their property to the rezone request. He explained that he never intends to build a home there even if the property is rezoned. When he was originally contacted by the Zoning office he was given 3 options to resolve the situation: 1) To purchase an additional 15 acres and keep it zoned Forestry; 2) to get adjoining land owners to join in the rezone so that it would not be a spot zone, or; 3) to sell the property back to the buyer. Obermann stated that he would be fine with any conditions or restrictions imposed for not building a year round home if it were to be rezoned to RL2. He stated when the sale was made neither he nor the seller was aware of the restrictions. He stated that there is a letter of opposition but that is not from a directly adjoining landowner. Miller asked should a condition of the rezone be to record a deed affidavit restricted to only a seasonal dwelling on the parcel would Obermann be willing to comply with that? Obermann asked for clarification of "seasonal". Miller stated occupied no more than 180 days a year. Obermann said yes, o.k. Mittelsteadt asked if in the future something changed regarding development could that affidavit be voided. Miller explained the process if that should be the case. Miller had questions about the easement and if it was specific to Obermann or if it was perpetual and went with the property. Obermann said that he is not sure how it reads. Saal questioned what would happen if this rezone is denied. Miller stated that it would be an outstanding violation and that our office would pursue it as such against the Van Brothers as the seller.

Saal stated that the town of Bradley had submitted a resolution of support for the rezone. He also read into the record letters of support from Van Brothers, LLC and Paul Nelson who are adjoining land owners.

George Alery was present and spoke in opposition of the request. He is not a directly adjoining land owner. He stated that Mr. Obermann wants to use an easement road through Alery's land and that he has already gone across it with a bulldozer without Alery's permission. Meyer asked for clarification on where Alery's land was. Alery clarified it for her.

Harry Gladwin was present and speaking as just a resident of the Town of Bradley not for the Bradley Plan Commission. He said that when the town was working on the Land Use Plan, that "spot zoning" was discussed at the town meetings. He stated although he was not in attendance at the Town Board meeting when this was approved he was told that Supervisor, Bill Jelinek, went through each of the points that Obermann had talked about and said that he was told that it did constitute a "spot zone" so Jelinek had voted against the approval even though it was ultimately approved by the town. Gladwin stated that he was surprised that a 20 acre parcel was purchased by a realtor without checking on the zoning restrictions. He says all too often things seem to take place with the mindset to go ahead and do what you want then deal with any problems afterwards. Gladwin was not present at the Plan Commission meeting where this was approved and feels that this constitutes a spot zoning. Bowers asked Gladwin if when this rezone request was presented to the Town was it presented as an "option" or a recommended solution from Zoning. Gladwin was not sure. Bowers stated that it was just one of the 3 options and not the recommended solution by Zoning.

Chairman Saal closed the public hearing for the Rezone request.

Motion by Mittelsteadt, seconded by Meyer to APPROVE ON CONDITION with the restriction that only a seasonal dwelling be allowed to be placed on the property if it is rezoned. There was discussion on the motion. Saal stated that although he was sympathetic to Mr. Obermann's situation he did not think that this is an appropriate rezone because he sees it as a spot zone. Short also commented on the spot zoning issue. Mittelsteadt asked that Miller clarify a spot zone. Miller said that if it affords an individual a use or a privilege that is denied to others in the same vicinity it is a spot zone. Miller said that in certain cases if a spot zone benefits the public it may still be granted. It shouldn't be granted if it only benefits one person. Mittelsteadt asked for clarification of the power of the township resolution of support. Miller explained that if a rezone is granted a Township may veto the rezone. If a rezone is denied by the County Board it ends there as the Township may not override a denial. Miller asked if Mittelsteadt's motion would require some type of notification to future owner's of this restriction. Mittelsteadt said it would require a deed affidavit. Mittelsteadt said he does have a problem with some of the restrictions in Forestry district in family situations when land must be divided. Miller stated that not in every circumstance does property need to be divided to solve these problems. Deeding an undivided interest in a complete 40 could work and would also be an option for Obermann. Motion was withdrawn by Mittelsteadt and second was withdrawn by Meyer. Motion by Saal, seconded by Short to DENY the Rezone request. Motion carried all ayes. Resolution to deny the rezone request will go to Lincoln County Board on November 13, 2007

At 2:50 p.m. the committee took a 10 minute break. Meeting resumed at 3:02 p.m.

ORDINANCE AMENDMENTS

6. Lincoln County will be holding a public hearing on amendments to the text of Chapter 17 of the Lincoln County Ordinances. The amendments include changes to sections 17.3.06 Utility and Transportation Land Uses, 17.5.08 Erosion Control and Stormwater Standards, and 17.8.70 Density Based Zoning Tracking. A copy of the text amendment is available for review at the Lincoln County Zoning Office located at 901 Spruce Street, Merrill WI 54452.

Earl Welker, Town of Schley Plan Commission was present to comment on the changes. He was glad that they had held the "round table" meeting regarding the changes and was confused about a few issues after that meeting. In their recommendation they suggested clarification of the code sections regarding the Agriculture district and existing homes. Bowers asked for clarification on this request. Combining two paragraphs may alleviate the confusion. Bowers will take care of that so that the official text that goes to County Board will have the correct wording.

Harry Gladwin, Town of Bradley Plan Commission. He stated that the town had approved the amendments and submitted the resolution of support. He just said that the commission wants to have further meetings or discussion when they propose changes to Crossroad Mixed Use district.

Chairman Saal read into the record resolutions of support from the towns of Schley, Scott and Merrill. Chairman Saal closed the public hearing for the Amendments to the text of Chapter 17 of Lincoln County Ordinances.

Motion by Saal, seconded by Rusch to combine 17.8.70 paragraph 4(a) & 4(b) for clarification. Motion carried all ayes.

Motion by Mittelsteadt, seconded by Short to APPROVE the text amendments as discussed and amended. Motion carried all ayes. Ordinance 2007-10-514 as amended will go before Lincoln County Board on October

16, 2007. Miller stated that copies have already been made for County Board packets so He will explain the change at the County Board meeting on October 16th.

5. Public Comment Opportunity - Harry Gladwin wanted to share with the committee information regarding the Chuck Kelly rezone that had been withdrawn regarding the abandoned land fill on the site and the possible lein that the DNR may impose because of the potential ground water contamination problems. This property now belongs to Lincoln County as the result of a bankruptcy proceeding. He suggested looking into a grant to help with clean up of the property.

Earl Welker commented on a statement made by Mittelsteadt regarding town input on Conditional Use and Rezone requests and how much weight it carries in the committee making decisions.

6. Discussion on meeting schedule for 2008 – June Winters and Dan Miller explained that in an attempt to accommodate applicants and not drag out the request process we were looking at different options for scheduling Zoning Committee Public Hearings. Saal said after reading through the information and options he wasn't sure that with all things considered that there is a solution for accommodating everyone. Earl Welker said that they try to have their town board and plan commission meetings shortly before the Zoning Committee meeting and have at times called special meetings so that they may get their input to us. There was discussion on the options. It was decided to just leave the scheduled meeting days the same as in previous years.
7. Approve the September 12, 2007 & September 13, 2007 meeting minutes – Motion by Meyer, seconded by Saal to approve the September 12, 2007 meeting minutes. Motion carried all ayes. Motion by Saal, seconded by Short to approve the September 13, 2007 meeting minutes. Motion carried all ayes.
8. Administrator's Report - The Committee discussed issues on the Compliance report. Miller reviewed & discussed the Administrator's report. He reported that the Shoreland Buffer Specialist had now started and had already visited several properties. The committee reviewed the Financial report. The committee reviewed correspondence that had been received.
9. Adjourn - Motion by Rusch, seconded by Saal to adjourn at 3:50 p.m. Motion carried all ayes.