

**Lincoln County Planning and Zoning Committee
Thursday, October 14, 2010 at 8:30 a.m.
Lincoln County Service Center, Meeting Room 107**

1. Call Meeting to Order - Meeting was called to order by Chairman Saal at 8:30 a.m. in meeting room 107 in the Lincoln County Service Center. Members present: Saal, Mittelsteadt, Rusch, Meyer & Eisenman along with Dan Miller, Zoning Administrator.
2. Tour sites that will be the subject of the public hearings that will be held at 10:30 a.m. – Committee Members & Miller left to tour the sites listed on the public hearing notice and the site for “Old Business” Item #5.
3. 10:30 a.m. Public Hearing – Hearings were held on the items listed in the notice. Saal, Mittelsteadt, Rusch, Eisenman and Meyer along with Dan Miller; Zoning Administrator, Dan Bowers, Zoning Specialist and 18 other persons were present.
4. Hearings were held in order, discussion occurred and decisions were made by the Planning and Zoning Committee –

COMPREHENSIVE PLAN AMENDMENT

1. A request by G&M Peterson LLC to amend the Lincoln County Comprehensive Plan Map from General Business to Rural Single Family Residential for portions of tax parcels 14.063107.013.002.01.00 and 14.063107.016.001.01.02 comprising approximately 12 acres to accommodate a residential subdivision along the East side of Gibson Lake

Because both items 1 & 2 are inter-related the Committee will take testimony and vote on both items concurrently.

PETITION FOR REZONING

2. A request by G&M Peterson LLC to rezone approximately 12 acres of tax parcels 14.063107.013.002.01.00 and 14.063107.016.001.01.02 from General Business to Rural Residential 3 to accommodate a residential subdivision along the East side of Gibson Lake.

Stacey Pettit – Merrill Town Board Supervisor – entered the town resolution of support for the request into the record.

Rod Akey, Akey Engineering, Merrill, WI relayed that the City Plan Commission approved the general concept plan for development of the property. He also shared the layout and answered questions from the Committee.

Chairman Saal closed the public hearing for the G&M Peterson request.

Motion made by Mittelsteadt, seconded by Eisenman to approve both of the requests and send an ordinance to County Board. Motion carried all ayes.

The ordinance to amend the Land Use Plan and change the zoning district will go to the County Board on October 19, 2010.

5. “Old Business” Revisit CUP-08-009 (2 year review of conditions) granted to Tim Karschney to allow for a camper in a Rural Residential Zoning district (Town of Bradley on Tomahawk River Rd) - Miller reviewed the conditions from the approved permit for the Committee and the 2 year review requirement and ultimate expiration after 5 years. He explained that they had complied with all of the conditions and he also shared the e-mail from Becky Allen, Karschney’s girl friend, who explained that they could not attend today due to work schedules. They were unsure any more if they would be building on the lot due to the downturn in the economy.

Saal closed all testimony on the old business item for Karschney.

Motion by Saal, seconded by Rusch, to extend the permit to the remaining 3 years as all of the required conditions have been met.

Motion carried all ayes.

6. “Old Business” Take action on CUP-10-005 (Laid over since 5/13/10 meeting). Request by Wagner Oil & Best Built Inc. to allow for a gas station/convenience store/ restaurant near the U.S. Hwy 8 & U.S. Hwy 51 interchange – Town of Bradley - Miller explained the status of the layover to no date certain and the lack of contact or information from the applicants.

Harry Gladwin, chairman of the Bradley Plan Commission explained that the plan commission had a lot of input from the public at their hearing on this matter and it raised several concerns over the fragile environment and potential impacts to it from the requested use. Two of the Commission members met with a DNR staffer and based upon that discussion they asked the applicants for more information. There has been no response to that request for additional information so neither the plan commission or the Town Board has taken any action on the matter.

Saal closed testimony on the Wagner Oil old business item.

Motion by Mittelstadt, seconded by Saal to lay over the item until next month and send a letter to the applicant informing them that final action will be taken on the item unless they make a specific request for more time.

Motion carried with a vote of 3 to 2 (Meyer and Eisenman voted no).

7. “Old Business” Petition for Modification request by Donald Nitschke (Town of King on Red Arrow Ln) - Miller explained that this was laid over last month to allow for soil testing of the proposed lots and to get town input on the revised layout and the proposed private road and to see a draft road maintenance agreement. Fran Seroogy supplied a draft road maintenance agreement but short of an association being formed it leaves little recourse for lot owners to recoup costs for maintenance from a reluctant party. Seroogy was going to amend to reflect that.

Todd Loftus, surveyor for Nitschke, was present and explained that the Town of King does not want an extension made to Red Arrow Lane. He answered Miller’s question about the line by agreement and the proposed additional lot to the west of this development. That lot will not be created. Soil testing shows soil suitability for septic systems seems available. The road will be built to whatever standards we require and it will be near the overhead power line.

Dan Bowers testified and expressed his concerns over a private road. It is disappointing to him that the Town of King does not want a public road extension as private roads interrupt connectivity. He felt that easements should be afforded to every property owner that touches this development, including Nitschke’s other lands between Hwy A and these lots. He felt the easement should be written now and conveyed as opposed to having a condition that it occurs should the other lands come in for development.

Selmer Hendrickson, N10375 Red Arrow Lane testified. He is unsure where it leaves him now that he just learned that the lot to address the line by agreement won’t be created. He is concerned that his access will be cut off from

Red Arrow Lane. His garage is allegedly encroaching but it was okay when it was built 20-30 years ago. He does not agree with the lot lines as depicted on the CSM for his parcel (dotted line).

Miller stated the encroachment issue and this request are two different matters and separate. It is a problem between him and Nitschke and does not involve the Zoning Committee.

Loftus clarified that the Hendrickson property is west of Red Arrow Lane and it does not affect the proposed development. Saal closed testimony for the Nitschke request.

Motion by Mittelsteadt, seconded by Eisenman to lay over the request for one more month with direction to the Zoning Staff to send a letter to the applicant and his attorney identifying the specific issues yet to be addressed; they include: 1) Nitschke shall agree to a reservation for extending the road to the east lot line. 2) Language shall be provided on how the owner intends to build the road, who will share in the cost of construction and maintenance and who will have easement rights and how other adjacent lands will be afforded access. 3) A road association should be formed to afford opportunity to take action against uncooperative users of the road.

Motion carried all ayes.

Saal called for a 10 minute recess at this point. Committee reconvened to hear item #8 on the agenda.

8. “Old Business” Revisit CUP-04-018 and discuss request for a 10 year extension of the CUP by Darlene Beyer/Duffek Sand & Gravel - Granted for a nonmetallic mine (Town of Schley off the end of Trout Rd) - Miller explained that the request had been laid over from last month’s meeting to allow for notification of the surrounding property owners of the request.

Saal called for testimony of those in favor of the request for the extension of the permit.

Chad Schmidt, W7056 School Ave., testified that he owns a small excavation company and he is in favor of granting the Beyer’s an extension because it provides more options and keeps the cost of gravel down to the local buyer because it makes for shorter hauls.

Eugene Borchardt, N1234 Hwy Q, is also an owner of a small excavation business. He said that the Beyer pit is the only pit between Merrill and Antigo that sells spec 2 gravel, road gravel, pit run and sand to independent operators. Other sources are 10 to 20 minutes haul time further away. He primarily deals with individual property owners on small projects. He wants the pit to stay open for the requested 10 year extension.

Rod Akey, N2062 Cain Creek Rd, He helped with the original permitting process in 2004. He asked if other pits are subject to a sunset like this one. He explained that there are a few pits north of this pit and one 5 miles southwest of the site and one on highway 17. It is a valuable source of good gravel for the town residents.

Cal Krueger from Duffek Sand and Gravel, 1625 W. Center Street, Antigo, explained that their company did all of the crushing in the pit. In the summer of 2009 between August 25th and September 4th they produced 28,000 tons of crushed material. They have sold 6,000 tons. It isn’t an overly busy pit. Originally they produced 40,000 tons or more and that material was sold. There is about 1.5 tons per cubic yard of material. This pit produces state of Wisconsin spec 2 gravel. With the highway C projects that are slated for 2012 and future years this pit could be a viable source of material. It is also a local source of material for local projects. You cannot pick and choose where gravel is deposited and unfortunately gravel has a close affiliation with waterways and people like to build near them too so a conflict usually arises around the opening and operation of a gravel pit. If you eliminated local sources then hauls become longer and the cost per yard of material goes up. An extra 20 miles means an extra \$30 per load of gravel. It also hurts the environment because more oil and diesel is consumed.

Ron Beyer, W1381 County Highway C, read his written testimony into the record (hardcopy is with record).

Jerry Jagmin – Interim Lincoln County Highway Commissioner stated that it is a good source of gravel and Lincoln County has purchased some. Highway C has some scheduled work with the segment between Highway 17 and Highway K scheduled for 2011 and the segment between Highway 17 and Highway G scheduled for 2012. Since the county did not receive the TIGER grant, the rest of the segment from G to the east county line will have to wait until funding is secured. This is one of a few pits in SE Lincoln County. It could be a source for the Highway C project but that is not a guarantee.

Saal read 3 letters of support into the record from Bill Schneider, Louie Krivoshein – Chairman from the town of Vilas in Langlade County, and Allen Fox.

Saal called for testimony in opposition.

Brad Price, N2694 Town Hall Rd, stated that he worked for 30 years as a government appraiser for the State of WI. From his observations he saw that few gravel pits ever close or have an end life. It is a shame to see all of the unreclaimed pits dotting the countryside. This pit is not as troubling as it first was and traffic hasn't been as bad as it first seemed it might be but he wants the Committee to consider the real impacts of the pit to the neighbors. He referred to several points in his submitted letter. (letter is in the record).

Ann Herda-Rapp, N2798 Trout Rd, stated that just because there are new residents in the area (reference to Beyer's testimony) they should not be penalized for their shorter termed residency. She raised points from her submitted written letters (in the record) and felt that unless there is a documented need for the gravel the permit should be allowed to expire without an extension.

John Rapp (same address as above) stated that enforceable conditions to lessen the impact to the surrounding landowners should be instituted. He wants to know ahead of time when there will be a busy day at the pit so he can plan to be elsewhere. There should be shorter hours for operation of the pit. The pit should not operate at all on Saturdays. He wants the owners and users of the pit to follow the rules.

Earl Welker, N3417 French Ridge Road, Plan Commission Chairman for Schley, summarized what transpired at the Plan Commission meeting from September 16th. There was a lot of testimony and they as a commission tried to balance the operation of the pit with the impacts to those living nearby. He summarized the recommendation of the plan commission and the ultimate vote of the Town Board. (Recommendation is in the record).

Saal closed the testimony on the Beyer request to extend the permit for another 10 years. He then recapped the reason the committee was hearing testimony and deliberating was twofold: 1 to determine if there were violations which cause them to modify the permit or to order a revocation hearing and 2 to determine if the extension should be considered and if conditions should be modified as a result. In his opinion in the last 6 years of operation, there have been a couple of violations documented but they were relatively minor and corrected when brought to the owner or operator's attention. If the permit were to be extended he felt that amending the conditions of the permit had merit.

He felt that the condition relative to heavy haul days and truck routing shall be amended to reflect the condition imposed by the Town of Schley about travel direction of loaded or empty trucks so they match. Also notification with signage shall be posted in the locations specified in the current permit under condition 1 at least 24 hours (as opposed to 12) in advance of a 30 load or more hauling day. The costs of the signs shall be borne by the pit owners/operators.

He also felt that our current condition #13 should be clarified that repairs can occur during normal business hours too and not just from the 6 to 8 pm window after normal operations.

Discussion occurred over amending hours of operation with consensus being that they should remain the same as in the original permit.

Clarification should be made also that no blasting, asphalt plants or concrete plants will be allowed in the pit under terms of this permit.

Motion by Eisenman, seconded by Mittelsteadt, to extend the permit for another 5 years beyond the original termination date and to amend the conditions of the permit as reflected above. The applicant can ask for another extension after 5 years if they wish to do so.

Motion carried all ayes.

At this point, the Committee recessed for lunch until 2:15 p.m. (Motion Eisenman, second by Mittelsteadt to break for lunch, all ayes) Committee reconvened at 2:15 p.m.

9. Discuss process for requests to alter Conditional Use Permits (17.8.30(13)) – Miller explained that this was placed on the agenda after Earl Welker asked at last month's public comment section about how requests to modify conditions of a previously issued conditional use permit are handled. Miller handed out a section from our ordinance that addresses that along with guidance from a UW-Extension guidebook for Zoning Boards. We are following our own and suggested protocols by re-noticing and hearing such requests.

10. Public Comment Opportunity – Welker commented that he thought this process both at the town and the county level went very smoothly.

The Beyers had written a letter to the Committee under public comment asking that opportunity be given to applicants to readdress issues or questions asked by those giving testimony at a hearing. Saal instructed Miller to put "Hearing Rules" on the agenda for next month.

11. Approve the September 9, 2010 meeting minutes – Motion by Eisenman, seconded by Rusch to approve the September 9, 2010 meeting minutes. Motion carried all ayes.

12. Discuss and approve 2010 Budget Modification regarding Wisconsin Fund totals – Miller explained that this modification would reflect the actual totals of Wisconsin Fund monies that were received and distributed this year. Motion by Saal and seconded by Mittelsteadt to approve the budget modification. Motion carried all ayes.

13. Report on Lincoln County Housing Information Fair held on October 6, 2010 – Miller asked Arlene to report on it as she attended. He did state that attendance was low. Meyer stated she felt it was worthwhile and a lot of useful information was available and the public really needs to know what is available. She suggested with a comment in the suggestion box that if it were to be held again that it be done in conjunction with the Senior Expo.

14. Administrator's Report - Miller provided a written report of his activities since their last meeting. Committee placed it on file.

The Committee reviewed the Compliance Report and placed it on file.

The Committee reviewed the Financial Report and placed it on file.

The Committee thanked Miller for the permit log report.

15. Adjourn - Motion by Mittelsteadt, seconded by Meyer to adjourn at 2:46 p.m. Motion carried all ayes.