

**Lincoln County Planning and Zoning Committee
Thursday, November 12, 2009 at 8:30 a.m.
Lincoln County Service Center, Meeting Room 156**

1. Call Meeting to Order - Meeting was called to order by Chairman Saal at 8:30 a.m. in meeting room 156 in the Lincoln County Service Center. Members present: Saal, Mittelsteadt, Meyer, Rusch and Eisenman along with Dan Miller, Zoning Administrator, and June Winters; Program Assistant.
2. Tour site that will be the subject of the public hearings that will be held at 10:00 a.m. – Committee Members, CUP applicant & Miller left to tour the site listed on the public hearing notice. Committee returned a few minutes late from the tours.
3. 10:00 p.m. Public Hearing – Hearing was held on the item listed in the notice. Hearing called to order at 10:12 a.m. by Chairman Saal. Saal, Meyer, Mittelsteadt, Rusch and Eisenman along with Dan Miller; Zoning Administrator, June Winters; Program Assistant, Mary Heederik; Court Reporter and 11 other persons were present.
4. Discussion by the Planning and Zoning Committee and Decision on the Conditional Use request which was the subject of the Public Hearing -

CONDITIONAL USE

1. A request by James and Lisa Bayer to allow a garage greater than 1,500 square feet in size in a Rural Residential 3 zoning district. The property is located in Section 15, T34N–R6E, in the Town of Bradley, and has an address of N8622 River Oaks Drive. The request is being heard under section 17.3.09 (1)(b) and 17.8.30 of Lincoln County Ordinances.

James Bayer was present in support of his request. He gave the history of the parcel and explained the request for the Committee. He would rather not build 2 separate buildings which is his only other option under the ordinance. Bayer provided a floor plan & a color copy of the proposed structure to show the aesthetics of the building. He stated that it was a reputable company that was building the structure. Saal asked Bayer if he had read the staff report and had any problems with the conditions. Bayer said that he had no problem with maintaining the buffer to keep the structure from view of the road. Bayer also shared that he had spoken with neighbors and that there was no opposition he was aware of.

Harry Gladwin, Town of Bradley Plan Commission was present and stated that both the Plan Commission & Town Board gave unanimous approval for the request at their respective meetings. He commented that Bayer was cooperative and present at their town meetings.

Chairman Saal closed the public hearing for the Bayer request.

Motion by Rusch, seconded by Saal to APPROVE ON CONDITION the request.
CONDITION:

- 1) The owner maintain a 25 foot deep vegetative buffer from the road right-of-way towards the storage building, consisting of native trees and shrubs, along the entire lot road frontage with exception for the existing driveway and visual clearance triangles at the driveway intersection with River Oaks Drive.

Motion carried all ayes.

5. Old Business – A request by Emil Johnson to amend the Land Use Plan and Rezone two parcels of land (County Rd Q in the Town of Scott). Prepare Ordinance to present to Lincoln County board at their December 15, 2009 meeting.
– Dan Miller reviewed for the Committee and audience the process and options in place for the Johnson request that was returned from the County Board meeting on 10/20/09.

Saal commented that his understanding was that the only changes that this Committee can make is the wording in the prepared ordinance and that public comments maybe should be made at the County Board meeting instead of this meeting. Mittelsteadt disagreed and stated that comments should be taken today. This type of request is essentially uncharted territory for this Committee and that he believes that the way that the Committee deals with this request impacts how future requests are handled. He stressed the importance and impact of this decision. Miller stated that comments could be taken today to discuss and possibly include as conditions, but if the objective is to influence the outcome of the ordinance passing or not, the public should present their comments at the County Board meeting.

Mittelsteadt commented that the Committee needs to be clear on the ramifications of allowing this zoning designation change. Miller explained the difference of the Crossroads Mixed Use district and the Planned Industrial district and what types of businesses are allow in each as a permitted by right use or require a Conditional Use Permit. He explained the difference between light & heavy industrial and said that if the rezone is granted, imposed covenants would restrict there being any heavy industrial uses. Mittelsteadt thought that by rezoning to Planned Industrial, even with covenants it would still leave the door open for the possibility of heavy industrial for adjoining land. Mittelsteadt discussed the other pertinent issues, those being; buffer of trees to the roads & other lot lines, water run-off retention, topography of the parcel (gully), waste and septic, potential truck traffic, safety of access on County Rd Q & water supply. He wants to be sure that this is handled correctly so that it doesn't become a detriment later. Miller agreed that there are a lot of unknowns but believes that standards in place for the required steps that need to be taken plus additional restrictions or conditions imposed on any step requiring special approval could address those issues.

Mittelsteadt stated that there will possibly be residential development behind the parcel that is being rezoned and is worried about the negative impact on the adjoining property owners and believes that with the inexperience of this Committee on this type of request, it needs to be scrutinized carefully. Saal commented that he doesn't believe that this Committee has control over some of the issues Mittelsteadt is citing. Saal asked for input from the other Committee members. Mittelsteadt argued that even if we may not have control over some of these issues we still investigate and discuss them. Saal agreed that the ordinance standards do give us some control but not over all of the issues.

Rusch asked Miller why the recommended buffer was only on the west side of the property. Miller explained the reasoning for his recommendations for not requiring a buffer all of the way around. Mittelsteadt asked Miller how many requests for a rezone to Planned Industrial possibly involving an industrial park he had worked on. Miller stated just the one in the Town of Merrill earlier this year. Mittelsteadt didn't think it made much sense that with the existing industrial parks sitting half empty that they are considering a new one. Eisenman stated that he still did not agree with the rezone or with opening up this property to creating an industrial park in this area. Mittelsteadt wanted to make it known that he is requesting a transcript of this meeting.

Saal asked Miller about his recommended conditions. Miller discussed examples of conditions that could be imposed of the type of business requiring a Conditional Use Permit. Saal discussed the number of lots they should allow as the applicant's primary objective is just for his business. Miller said that even without going through the "lot" creation process (no special steps required unless it is less than 10 acres in size) the applicant could potentially already have 3 lots. Saal asked Miller for clarification on how to limit the number of lots and/or businesses. Saal said he does sympathize with the neighbors because of the unknowns in this request. Mittelsteadt asked to see a map of the parcels for clarification of the parcels. Miller clarified the information. Saal asked the Committee if they wanted to hear comments from the audience. The Committee agreed to any new information or comments.

Tim Schoepler came to the podium and shared with the Committee what the previous zoning map indicated and what the actual land usage was and still is. He had pictures indicating that a buffer is also needed on the east side of the property if there is going to be an industrial park there. He said that he didn't think the public had enough input before the recommendation last time. Saal argued that the Committee did take the input into consideration at the last meeting. Schoepler clarified that there wasn't enough of the public's input taken into consideration even at the town level meetings. Schoepler said that the speed limit on County Rd Q may need to be reduced and passing lanes put in for safety if this request is granted. He suggests that the county require the applicant submit some type of "bond" or monetary reserve to ensure that if there are problems there are monies available to cover problems. He also said that the applicant should be required to have insurance so that responsibility for accidents at the dangerous intersection that is being created doesn't fall on the county. Lastly, he sees the water supply issue that has been discussed as a legitimate argument.

Gary Porath came to the podium. He asked that the Committee address the issues of types of businesses allowed regarding the water supply issue. Porath had questions on the process of how this is handled between the Committee and County Board. Mittelsteadt tried to clarify the process. Meyer asked Miller to explain the statute. Miller read the statute. Porath stated that he doesn't think that limiting the number of lots would be as good as maybe limiting the number of employees or size of the business. Miller clarified the standards on types of businesses that would be allowed. Porath commented that the ordinance appears to be more flexible and unrestrictive for businesses than for individuals.

Richard LeDuc came to the podium and stated that he has had discussions with both Ron Mittelsteadt on issues and with Dan Miller on the comprehensive plan and the ordinance and still needed clarification on some points. He questioned the number of businesses that was allowed on a parcel under the code. Miller stated that typically each parcel would only have one principal use or business. Miller said that in speaking with the applicant he is currently interested in only starting his business but that is not to say that in the future Mr. Johnson would be open to creating lots and selling them to accommodate new businesses but Johnson had no definite plans for that at this time. LeDuc asked who will have powers of enforcement of imposed conditions or covenants. He would like to see an option for inspection possibly once a year for the county to inspect and verify that there are no issues contrary to the public interest on the property. Saal asked Miller his opinion on that recommendation and Miller thought that it could possibly be incorporated into the covenants. Mittelsteadt asked Miller to explain "contract zoning" and Miller did so.

Mark Raymer came to the podium. He addressed the issue of the 2 main "drainages" through the subject parcel and how runoff would affect the surrounding properties. He also believes that the location of the access road that will intersect with County Rd Q will be a very dangerous intersection. Raymer also said that industry may negatively affect wildlife in the area.

Saal questioned the number of conditions in the minutes as compared to the Ordinance and Miller explained that Town of Scott approval had already been obtained and that the new ordinance he had prepared already reflected the rezone to include only the south 31 acres.

Motion by Saal, to forward proposed ordinance 2009-12-546 to Lincoln County Board affirmatively with additional conditions of: 5) limited to applicant plus one more business 6) add buffer on east edge of property 7) annual inspection by the Zoning department to ensure compliance. Motion was withdrawn by Saal.

Motion by Saal to forward proposed ordinance 2009-12-546 to Lincoln County Board affirmatively with additional conditions of: 5) limited to applicant's business, 6) add vegetative buffer of evergreens on east side of property, & 7) annual inspection by the Zoning department to ensure compliance. Motion died for lack of second.

There was discussion by the Committee and Mittelsteadt suggested that it be laid over until other appropriate Committees are contacted for input. Committees or individuals that should be contacted for their input would be Traffic Safety, Highway and Corporation Counsel. There was more discussion by the Committee.

Motion by Mittelsteadt, seconded by Meyer to LAYOVER the request until information has been gathered and we have gotten any input from Departments and Committees that the Zoning Administrator feels necessary to write an ordinance for the rezone with Corporation Counsel's approval for protecting the public & Lincoln County.

Motion carried all ayes.

6. Public Comment Opportunity – There was no public comment

Saal called for a brief break at 11:57. Meeting reconvened at 12:05 p.m.

7. Approve the October 8, 2009 meeting minutes – Motion by Saal, seconded by Meyer to approve the October 8, 2009 meeting minutes. Motion carried all ayes.

8. Administrator's Report - Miller reviewed with the Committee the activities since their last meeting. The Committee briefly reviewed the compliance report. Miller shared with the Committee that he is working with Corporation Counsel on how future citations will be handled because the District Attorney's office will no longer handle them. After an informal poll of other counties, it appeared that Corporation Counsel handled them in the majority of the counties. Committee briefly reviewed the financial report. Miller updated the Committee on the Comprehensive Plan revision. Harry Gladwin commented on the importance of the Comprehensive Plan being changeable because it gives direction for development but at times is changeable due to changes over time in the vision of the towns themselves. Meyer commented that definitions of the designations used may not be understood by the general public. Mittelsteadt's request for the transcript of the "Old Business" was discussed. Miller will follow-up. Mittelsteadt also requested a copy of the tapes from today's meeting. Correspondence was discussed. Miller clarified his response to the Town of Harrison regarding a letter to the Lincoln County Clerk dated November 2, 2009 informing them of Town of Harrison's resolution #16-2009. Miller updated the Committee on the budget and the Land Services group re-organization. Committee was reminded of the open houses and Public Hearing that are scheduled for December 3, 2009.

9. Adjourn - Motion by Saal, seconded by Eisenman to adjourn at 12:35 p.m. Motion carried all ayes.