

**** AMENDED ** Lincoln County Planning and Zoning Committee
Thursday, February 14, 2008 at 10:00 a.m.
Land Resource Center Meeting Room**

2. The tour scheduled for 8:30 a.m. was cancelled due to inclement weather.
3. 10:00 a.m. Public Hearings – Hearings were held on the item listed in the notice. Hearing called to order at 10:00 a.m. by Chairman Saal. Saal, Meyer, Mittelsteadt, Rusch and Short along with Dan Miller, Zoning Administrator; Dan Bowers, Zoning Specialist; Rebecca Hehling, Administrative Assistant; Ray Kraemer, Court Reporter and 27 others were present.
4. Discussion by the Planning and Zoning Committee and Decision on the Rezone request which was the subject of the Public Hearing.

CONDITIONAL USE REQUEST

1. A request by Harold DeHart and co-applicant Foley's Tree Service to allow for a garden center and nursery in a Crossroads Mixed Use District. The property is located in Northern View Estates of Section 11, T35N-R6E, in the Town of Bradley. The request will cover lots 6, 7, and 10 of Northern View Estates located off of Dehart Drive. The request is being heard under section 17.3.02(5) of Lincoln County Ordinances.

Jerry Foley was present to support his request. Mr. Foley restated the request presented in his petition and discussed his business plan at the request of Chairman Saal. Foley indicated that he had no objections to the conditions recommended by the staff report.

Dan Miller was present to review the staff report. Miller advised Mr. Foley of the 2 year time limit for exercising the Conditional Use Permit. He further advised that although a land use permit application would need to be applied for within that period, the actual issuance of the permit triggered its expiration date allowing for some long range planning consistent with Foley's testimony that it may be several years before the project is completed.

Harry Gladwin, Town of Bradley Plan Commission, was present. Gladwin indicated that the Plan Commission had reviewed Foley's request and recommended approval to the Town Board with the conditions requested in the Zoning Department staff report. The Town Board approved the same on February 11, 2008.

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

Motion by Mittelsteadt, seconded by Meyer to APPROVE ON CONDITION as listed on the staff report.

CONDITIONS:

- 1) All proposed outdoor security lighting shall conform to the performance standards of 17.5.04 of the zoning ordinance and the restrictive covenants of the subdivision.
- 2) If a loading dock or waste receptacles are proposed on the property, they shall be so located as to be screened from view by all residents in the neighborhood and from the roadway by using topographical features, building layout or natural vegetative screening and fencing if appropriate.
- 3) If fencing is proposed to secure areas from public access, the fence shall be solid and constructed of wood or materials that resemble wood.
- 4) Staging of logs and wood chip piles for future sale shall be done in an area on Lot 10 away from public view from DeHart DR and from view by the future residents of the subdivision. (The area south of the proposed storage building inside of the wood line in the middle of lot 10 for example would comply with this condition).
- 5) All items discussed in the memo attached to the Conditional Use Application as submitted by Foley's Tree Service, LLC and dated January 14, 2008 are incorporated as conditions of approval to this permit and are made enforceable by Lincoln County Planning & Zoning.

Motion carried all ayes.

COMPREHENSIVE PLAN AMENDMENT AND PETITION FOR REZONING

2. A request by Wisconsin Public Service Corporation to amend the Lincoln County Comprehensive Plan by changing the planned land use classifications for two properties described as follows:

Government Lot 7 of Section 32, T32N-R6E in the Town of Harding – Change from “Public Recreation” to “Rural Single Family Residential”.

AND

All that part of the NE ¼ of the SE ¼ and Government Lot 3 of Section 5, lying east of CSM No. 384 and CSM No. 385, in T31N-R6E in the Town of Scott – Change from “Rural Lands” to “Rural Single Family Residential”.

3. A request by Wisconsin Public Service Corporation to rezone approximately 35 acres from a Forestry zoning district to Rural Residential 2 zoning district to allow for up to 15 residential lots. The property is located in Government Lot 7 of Section 32, T32N-R6E in the Town of Harding; having a tax parcel number of 08.323206.015.000.00.00. The request is being heard under section 17.8.25 of Lincoln County Ordinances.
4. A request by Wisconsin Public Service Corporation to rezone approximately 40 acres from a Rural Lands 2 zoning district to Rural Residential 2 zoning district to allow for up to 15 residential lots. The property is located in the NE ¼ of the SE ¼ and Government Lot 3 of Section 5, lying east of CSM No. 384 and CSM No. 385, in T31N-R6E in the Town of Scott; having tax parcel numbers of 24.053106.016.000.00.00 and 24.053106.013.001.00.00. The request is being heard under section 17.8.25 of Lincoln County Ordinances.

Chairman Saal indicated that Committee intended to take testimony regarding the Comprehensive Plan Amendment and the Petition for Rezoning for each Township (Harding and Scott) simultaneously so as to avoid **duplicative** testimony for each request.

The public hearing began with testimony in favor of the rezone and plan amendment for the Town of Harding.

Kerry Spees appeared on behalf of Wisconsin Public Service Corporation (WPS). Spees reaffirmed the request to rezone the Harding parcel to a RR-2 designation which he stated was consistent with the zoning that had been in place prior to 01/01/05 when the Comprehensive Plan and recodification took effect. Spees indicated that the request was very close in design with nearby developments. He indicated that they were willing to work with the County to address concerns that had arisen including allowing fishing along the banks within 100 ft. of docks; restricting the number of docks to only parcels with shoreline frontage (to be determined, based upon lot size and maximum of 15 lots for the parcel) and providing a dock and parking for public access to the water. He also indicated a willingness to work with the County to address any additional concerns that might arise as the project continued.

Chairman Saal commented that the Committee was well aware of the concept of Contract Zoning and Miller indicated that he had received a letter from the Town of Harding requesting that the matter be laid over.

Patti Van Den Elzen appeared on behalf of WPS. Van Den Elzen discussed the 99 acre Tesch Rd property that was originally included in the re-zone request. Van Den Elzen indicated that an offer had been made by a conservancy trust to take control of that parcel; however, conditions of that sale included an easement for one dock and the stipulation that the remaining parcels be re-zoned consistent with WPS request. The offer will expire on June 1, 2008. Van Den Elzen discussed with Miller the impact of RR-3 zoning versus RR-2 zoning on the number of lots and the parcel width each lot would be required to maintain. Van Den Elzen indicated that WPS would consider amending its request to an RR-3 zoning designation.

Tom Geiger, Tom O'Neal, Roger Lenzner, Rita Wichman, Peter Engel, Harry Gladwin and Lynn Geiger spoke in opposition to the WPS request.

T. Geiger stated that he felt a change of zoning of the parcel went against the intended plan of the Town of Harding. T. Geiger stated that Township and its citizens put a great deal of time, effort and thought into the plan and that rezoning the parcel would contradict that and undermine those efforts. He likened WPS to an 800 lb gorilla, discussed the breadth of the WPS corporation and indicated that he feels that the WPS request is about money. WPS has a right to sell their parcel at any time, but he feels that they are motivated by a higher profit if the parcel is zoned for residential development. T. Geiger indicated that other companies have and continue to sell forest land for profit every day and sell it for forestry uses. He feels that more homes on the parcel directly impacts WPS in the sale of electricity, natural gas, a higher tax base and more mortgages thus circulating more money for the corporation. He feels that WPS advertises a belief in environmental practices yet is not concerned with the impact to the environment of this project.

O'Neal indicated that he is a property owner on lands adjoining the Harding parcel. O'Neal stated that he chose the location of his home, from many other sites, due to its current zoning, minimal traffic and rural characteristics. O'Neal indicated that, in the course of his lifetime, he has seen open spaces rezoned and become over-crowded and he does not want to see that happen to this area. He states it is not his personal use of public water that is of concern to him but the impact of a large development on the area. He would like to see more information on the impact of a development before any decisions are made. He doesn't want to see the Town try to minimize the damage but to see the land preserved in its current state.

Lenzer indicated that he lives right next door to the Harding parcel and has spent time on the parcel. He states that 50 years from now we are not going to be here and we should consider the effects of a rezone and development on future generations.

Wichman stated that she lives on the river but would like to speak for the people who do not. She has spoken with many residents, fishermen who enjoy the area and others who use the public lands and waterway while gathering signatures for a petition. She feels a large-scale development would be detrimental to the fish and wildlife habitat. Wichman stated that many other Northern townships did not have zoning in place to stop development from taking over along their shorelines and now regret that decision. Wichman noted that no one in the community stood on the side of WPS in favor of rezoning these parcels.

Engel agrees that WPS has a right to sell their land, but is concerned with the impact of the number of parcels they wish to create. Engel is a local resident and is familiar with the Rock Island area and discussed its geologic formation. He is concerned that the water aquifer will not be able to sustain new wells as it essentially is a rock ridge. He feels that WPS is asking for a rezone for monetary gain and the townspeople and county will be left with any problems that could occur.

Gladwin indicated that he was speaking as a concerned citizen and not representing the Town of Bradley Plan Commission by his comments. Gladwin indicated that he did the math while discussions were proceeding and that with a zoning designation of RR-2 it would allow for the creation of 81.8 lots on the combined 75 acres and a zoning designation of RR-3 would allow for the creation of 65.5 lots. He asked that the committee take this into consideration.

L. Geiger stated that WPS has held the parcels for a number of years for hydroelectric purposes and are now divesting them as excess parcels. During this time, the township created a Land Use Plan. The plan was created by the residents and townships who invested a lot of time, energy and money into its implementation. The vision was to maintain local control over development by the towns and county. The plan allowed for growth along Edwards Dr but not along the river. A zoning change will have long-lasting impacts that were not part of that vision and will open the door for future plan changes. She has questions about the 200 foot buffer and public access. L. Geiger discussed the previous WPS lawsuit and feels that this is a David and Goliath situation where the townspeople are being bullied by a billion dollar corporation into changing their vision. She asks that we leave the natural beauty for future generations not concrete, brick and mortar.

There was discussion between the committee members and Corporation Counsel, Nancy Bergstrom, who was in attendance, about the ramifications of a layover and whether or not the public would have an opportunity to be heard at a future hearing.

Chairman Saal stated that public testimony for the Rezone Request and Comprehensive Plan amendment in the Town of Harding had ended.

Chairman Saal called for a recess between 11:10a.m. and 11:15 a.m

Chairman Saal acknowledged that he had not addressed written testimony yet and read highlights from a letter of opposition by Jerry Bloechel and entered it into the record. Saal also read a letter by Ron Hornischer, Town of Harding Chairman, requesting that the matter be laid over so they could gather more information.

Chairman Saal closed then the public hearing for the WPS Rezone request and Comprehensive Plan amendment in the Town of Harding. The public hearing was then held on the WPS Rezone request and Comprehensive Plan amendment in the Town of Scott and began with persons present in support of WPS.

Kerry Spees appeared on behalf of Wisconsin Public Service Corporation (WPS). He stated that their request was essentially the same as what he presented in the Town of Harding matter and went back over the key details of that proposal. He indicated again that they were willing to work with the County about key concerns for the development. Meyer questioned Spees about how they would ensure that negotiated items would be implemented if they intended to sell the property and not develop it on their own. Spees indicated that they would implement shoreline policy and would include deed restrictions to protect the property in the future.

Miller pointed out the differences between the Scott parcel and the Harding parcel. He indicated that the Scott parcel was originally zoned Recreation, which would have triggered the conditional use process for a major plat regardless of the 2005 zoning change. He also stated that the Scott parcel had other major challenges including wetlands and soils that were unsuitable for conventional POWTS on half of the parcel. These items present a stronger argument for rezoning to a RR-3 designation.

Patti Van Den Elzen appeared on behalf of WPS. She stated that WPS would consider rezoning the parcel to RR-3. She also reminded the committee that the conservancy trust for the 99 acre parcel on Tesch Rd. was contingent on WPS rezoning this parcel. Van Den Elzen indicated that development of this parcel would be limited to 15 lots by restrictive covenants placed on the deed.

Jim Voigt, Richard Reindl, Lise Skofronick, Lynn Geiger, Tom Geiger and Tom O'Neal appeared in opposition to the WPS Request.

Voigt stated that he lives right next door to the parcel and has many concerns. His parcel gets a lot of run-off from the WPS land and he is concerned where additional water from a development will go. He understands why WPS wants to sell and develop the parcel but 15 houses sounds greedy. Townships like Minocqua and others up North have turned their lake front properties into a parade of homes. He is concerned about the size of a home that would be allowed. He wants to preserve the natural characteristics and feels that if the area gets too congested no one will want to use it. He has walked the current buffer area and picks up trash and debris; he wonders who will police the 200 ft buffer in the future if no one is doing it now. He expressed concern of a zoning change setting precedent for others who want to make money to simply change the Town's plan. Voigt was also concerned with the location of a proposed road, increased traffic and water quality.

Richard Reindl has been a long-time resident of the Town of Scott and enjoys using the waterway for recreation. While he has lived there he has seen a marked increase in traffic and shoreline erosion. His family owns property in Eagle River that has become overcrowded and he has seen evidence first-hand of the impacts. He and his neighbors are also concerned about additional traffic on Rae Dr. He is a local business owner and feels that WPS generates enough revenue through its fees. He is vehemently opposed to further development of the area and

taking away the use of the water from the public. He is also concerned about the quality of drinking water and wells if a development is added.

Lise Skofronick spoke for herself and on behalf of her son, Mark, who also owns property in the area. Skofronick is a businesswoman and analyzed the project based on its pros and cons. She would like to see the town or county do a sound financial analysis. The cons being that the aquifer could go down; there could be damage to the fishing from over use of motorized watercraft; it would deteriorate the shoreline; the area would lose its tranquility; it would be costly for the Town to maintain the roads and there would be an increase in traffic to the area. The pros are the monetary benefit to WPS. Skofronick feels that there would be nothing for the townspeople to gain and all to lose if the property was rezoned.

L. Geiger expressed a desire to reinforce her earlier statements. She also stated that the end of the Harding parcel, a point, is cut off and part of it resides in Scott. A rezone of the Scott parcel could affect the Harding parcel and the Town of Harding residents would have no say in the process. She also stated that the location of the Scott parcel, directly across from Council Grounds Park, could have an impact on tourism as campers do not want to look across the lake at a subdivision, they come to enjoy the natural beauty.

T. Geiger advised that he attended a hearing in the Town of Scott when this proposal first came forward. Each town created its own land use plan and he felt the Town of Scott planned well and thought of future growth. They designated an area along Hwy Q & Hwy K for residential development. The town is distinguished in that it has areas near the 1 ½ mile extra-territorial zone of the city of Merrill which are more urban and lands in the West that are mostly agricultural in nature. With the futures of corn and soy beans high, the agricultural lands could be in high demand in the near future. He feels that there is a market for the WPS parcel for agricultural use, in addition to its potential for development.

O'Neal stated that this was not an issue of "not at the end of my street." The town of Scott held hearings on the zoning changes and property owners were invited to attend. WPS did not show up and are now coming in after the fact. The zoning in the area is the will of the people. We are not talking about an individual who wants to rezone the parcel; we should not vote to change the zoning just to maximize the profit for WPS. He commented on an article in the Wausau paper that discussed WPS request for a rate increase to cover their expenses; unlike individuals, if WPS's profitability is challenged they have laws in place to assist them.

Chairman Saal read highlights of letters of opposition from Terry Eirich and Rita Wichman & Tom Algire and entered them into the record. Discussion was had with Corporation Council about the entry of these documents and any other written documents into the record. Postcards in opposition submitted by Steve & Ginny Drew and Ruth Dietrich were reviewed by the committee and entered into the record. Jerry Voigt provided notices of opposition from Gigi Heinz and Danny Graap, which were entered into the record by Chairman Saal.

Miller talked about the keeping of records for review and consideration in the event of a layover.

Chairman Saal closed the public hearing for the Rezone request in the Town of Scott.

Motion by Mittelsteadt seconded by Meyer to layover the Rezone request and Comprehensive Plan amendment of Wisconsin Public Service in the Towns of Harding and Scott with the condition that additional public hearings would be held on the matter.

Discussion was had amongst the committee about the feasibility of the matter being brought back as old business or new business and whether the public would have an opportunity to be heard at the next hearing. The matter was discussed with input from Corporation Counsel Bergstrom. Meyer withdrew her second and the motion died.

Motion by Saal seconded by Rusch to layover the Rezone request and Comprehensive Plan amendment of Wisconsin Public Service in the Towns of Harding and Scott. Chairman Saal stated his understanding that the matter would be placed on the agenda for the next meeting as "old business" at which time the matter would be

reviewed for additional input by the Towns or a modification of the WPS request, with a significant change prompting the committee to schedule an additional public hearing on the matter if warranted.

Motion carried with Saal, Meyers, Rusch and Short in favor; Mittelsteadt opposed. There was further discussion of the scope of a significant change and Mittelsteadt expressed his desire that the public have an opportunity to be heard if there is new information presented.

6. Public Comment Opportunity –

Richard Reindl questioned Zoning Committee procedures. He felt that the information provided today was enough for the Committee to decide on a course of action. He does not agree with a layover and would like a decision.

Earl Welker commented as a private citizen, not in his capacity as Planning Commission Chairman for the Town of Schley. Welker discussed the fact that WPS does not know which of the proposed zoning designations it is requesting and felt it would be helpful if the two sides could come up with a decision on the matter so as not to drag things out any further. He also indicated that it was difficult for the audience to hear the speaker at the podium as the speaker's back was toward them and suggested that a microphone might help.

Tom O'Neal indicated that holding over the matter gives the appearance that the Zoning Committee is in negotiation with WPS, rather than making a decision. Chairman Saal stated that a layover is consistent with policy.

The Zoning Committee broke for lunch from 12:20 – 1:25p.m. Greta Rusch was excused from the remainder of the meeting for an appointment.

5. Old Business – Amendment to Chapter 20 – Floodplain Zoning Ordinance -

Miller discussed the DNR's position that LOMA's be removed from the revision to the Floodplain Ordinance. He indicated that he had discussed with the Town of King concerns about flood insurance and also discussed with the matter with other townships including Bradley and Schley. Miller has received letters of support from the Towns of Wilson and Tomahawk but is waiting on support from the other Townships. Saal felt it would be appropriate to wait for all the towns to weigh in before bringing the matter to the County Board and it was decided to include this issue on next month's agenda for review.

7. Update and discussion on "Action Items" implementation timetable from Comprehensive Plan –

Miller provided a spreadsheet for the Committee's review and discussion at next month's meeting. Discussion was had regarding the prioritization of tasks and action items to be completed. Miller noted that it would be appropriate to get direction from the committee before going to the County Board as a special report as this is a multi-department project. Discussion then turned to cooperation from the City of Merrill on the matter of the well head protection issue and Miller reported that although he had discussions with Pat Geisendorfer, the City had not provided a memo he had requested and the project died out. Saal commented that the city lags behind the county in some matters. Miller also provided a flow chart outlining the Comprehensive Plan amendment process to be considered as a handout for the public; the Committee will review the handout and discuss it at next month's meeting.

8. Discussion on chapter 21 ordinance amendments (Shoreland Ordinance) –

Miller presented a map and FAQ sheet to the Committee regarding proposed changes to the Shoreland Ordinance due to the reclassification of 4 water bodies to the lake class map and the addition of 3 high-sensitivity streams that were missing in the original maps. Miller and Bowers discussed the DNR criteria for adding/reclassifying these particular water bodies and answered the Committees questions regarding the DNR classification of these rivers and streams versus our lake classifications project. Particular attention was focused on the stretch of the Wisconsin River along State Rd 107 and it was concluded that the rest of the subject water reclassifications were on primarily undeveloped lands. The Committee agreed to review the maps and handout and be prepared to discuss the

amendment at next months meeting. Saal agreed to schedule a hearing on the amendments at the March meeting as well.

9. Discussion, approval & Signatures for one Budget Modification for 2007 –

Miller reviewed the reason for the budget modification. Brief discussion was held on the cost of dual-publication of hearing notices. Motion by Meyer, seconded by Short to Approve and sign the \$174.90 Budget Modification as requested for 2007. Motion carried all ayes.

10. Approve the January 10, 2008 meeting minutes –

Motion by Saal, seconded by Meyer to approve the January 10, 2008 meeting minutes. Motion carried all ayes.

11. Administrator's Report - The Committee discussed issues on the Compliance report. There was specific discussion about the requirement for a functioning septic system in an unoccupied dwelling. Dan Miller discussed some activities since the last committee meeting.

The Committee received information regarding the WCCA Spring Conference and discussed the same. Motion by Saal, seconded by Meyer that any committee members who would like to attend the WCCA Spring Conference be allowed to do so and that mileage and per diem be reimbursed. Motion carried all ayes.

The Committee received information regarding the Lakes Conference and discussed the same. Motion by Saal, seconded by Short that any committee members who would like to attend the Lakes Conference be allowed to do so and that mileage and per diem be reimbursed. Motion carried, Saal, Meyer and Short in favor, Mittelsteadt opposed.

Miller discussed an e-mail response that he had directed to the WI DNR, Assembly Committee on Natural Resources and Don Friske without prior committee approval regarding the removal of phosphorus from fertilizer and encouraging them not to weaken the bill. The Committee indicated its support of Miller's response and Mittelsteadt commended Miller for responding to the e-mail.

Miller also discussed Assembly Bill 678 allowing counties to retain 20 % of the fines it collects versus the current standard of 10 % and provided the Committee members with a copy of the February Case Law update which dealt specifically with the Supreme Court gridlock over the authority of Townships to impose moratoria in certain situations.

The Financial Report was received and approved.

Meyer complimented Miller and his staff on their preparations for the WPS hearings, particularly Dan Bowers for his letter to FERC, and stated she is impressed by the knowledge of the Zoning staff. Saal commented the Zoning staff does a good job and makes the Committee look good. Harry Gladwin stated that he had received a call from a Town of Bradley resident regarding a difficult situation with a possible subdivision. The resident commented that Miller and his staff provided valuable input and that working with Miller was a good experience. Saal noted that Lincoln County has many fine departments. Gladwin also complimented the Committee and Miller on their decision to have Corporation Counsel present for the WPS hearings and the Committee's referral of certain questions to her for her input. He indicated this committee is a good role model for his Town of Bradley Planning Commission and he learns something each time he attends a meeting. Mittelsteadt commented that Bergstrom was instrumental in providing guidance to the Committee and informing the public.

Discussion among the Committee regarding full day per diem and lunch reimbursement.

12. Adjourn - Motion by Mittelsteadt, seconded by Saal to adjourn at 2 : 17 p.m. Motion carried all ayes.