

**Lincoln County Planning and Zoning Committee
Friday, April 13, 2012 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 & Nelson along with Diane Hanson, Land Services Administrator; Dan Bowers, Zoning Specialist & June Winters, Program Assistant.
2. Tour sites that will be the subject of the public hearings – Committee Members & Bowers left to tour the sites listed on the public hearing notice.

10:30 a.m. Public Hearing – At 10:30 a.m. the Public Hearing was called to order. Hearings were held on the items listed in the notice. Saal, Mittelsteadt, Meyer, Rusch & Nelson along with Diane Hanson, Land Services Administrator; Dan Bowers, Zoning Specialist; June Winters, Program Assistant and 8 other persons were present. Chairman Saal explained the rules of conduct for public hearings and introduced the Committee members. He called the first hearing.

COMPREHENSIVE PLAN AMENDMENT

Because items 1 & 2 are for the same property testimony will be taken for both concurrently.

1. A request by Elwood and Elaine Derstine to amend the Lincoln County Comprehensive Plan Map from Suburban Residential to Rural Lands for tax parcel 20.333308.001.002.02.00, comprising approximately 3 acres, to allow for the opportunity to have an expanded home occupation on the property. The property is located in NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33,T33N-R8E, in the Town of Russell, having an address of N5209 County Road X.

PETITION FOR REZONING

2. A request by Elwood and Elaine Derstine to rezone approximately 3 acres from Suburban Residential to Rural Lands 4 for tax parcel 20.333308.001.002.02.00, to allow for the opportunity to have an expanded home occupation on the property. The property is located in NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33,T33N-R8E, in the Town of Russell, having an address of N5209 County Road X.

The Derstines were not present at the hearing so Zoning staff Dan Bowers explained the request for the Committee. The applicant was planning on having a business selling sausage making supplies in a separate building from the home (considered an expanded home occupation) thus requiring a Rezone and ultimately a Conditional Use permit.

Nelson asked for clarification of the requirements for an expanded home occupation and Dan Bowers explained. Saal asked if we had received comments from surrounding property owners and Bowers said that we had not. Mittelsteadt questioned what restrictions were and what was allowed under the current zoning. Bowers gave a brief summary of the Suburban Residential district. Nelson asked if the applicant had given a location of the proposed building. Bowers clarified it was proposed to be built on the same location where a barn had previously existed.

Norm Hodgson was present as the Chairman for the Town of Russell. He explained to the Committee that the Town Board unanimously denied the request for the Comprehensive Plan Amendment & Rezone. He explained the reasons for the denial stating that there are buildings currently available for businesses within the sanitary district and their second reason being that with the recent county/township “clean-up” of zoning districts, they

believed that parcels were zoned correctly for the Land Use Plan for future development & expansion of the sanitary district.

Meyer asked Hodgson if the applicant had attended the Township meetings and Hodgson stated that applicant had been encouraged to but had not been able to attend either of their meetings. Nelson asked Hodgson if they encouraged the applicant to rather another existing building. Hodgson said that other options were discussed with the applicant. Mittelsteadt stated that he has a problem with "politicians becoming realtors". He doesn't believe that government should dictate who buys what. Nelson asked if expansion of the sanitary district would include the East side of County Rd X. Hodgson said that he could not answer that question.

Saal closed the public hearing for the Comprehensive Plan Amendment & Rezone request by Elwood & Elaine Derstine.

Motion by Meyer, to DENY both the Comprehensive Plan Amendment & Rezone request. Motion died for lack of a second.

Motion by Mittelsteadt, seconded by Nelson to LAYOVER the request in order to have the applicant fully understand the issues of the Township.

There was discussion on the motion. Motion carried on a 4-1 vote with Meyer voting nay. Mittelsteadt requested the applicant be sent a compilation of the conversation of this issue and bring it back for a decision by the Committee.

CONDITIONAL USE REQUEST

3. A request by Charles and Rebecca Jaecks to allow for a contractor shop in a Planned Business district on approximately 4.75 acres having a tax parcel 30.023405.012.004.00.00. The property is located in SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, T34N-R5E, in the Town of Tomahawk, having an address of W7950 Hwy 86. The request is being heard under section 17.3.08(6) of Lincoln County Ordinances.

Charles Jaecks Jr. was present to explain his request. He is the owner/operator of Mr. Ed's Excavating and the property under the request. He drew a diagram for the Committee to explain what he wished to do. He said he would be willing to create an earthen berm and trees along the common lot line to the North. He said that the "clean-up" of the property has not gone as fast as expected. He said he had issues with a maximum of 40% of outdoor storage and until he gets storage buildings built he would exceed that. He also had a problem with the hours of operation and because of their multiple businesses one aspect or another of the business may be outside of the suggested hours of operation. He also stated that he has contacted Dave Lemke (surveyor) to survey & locate the north lot line. Saal asked C. Jaecks if he could comply with the 40% storage issue and C. Jaecks said that he has a problem with that limitation. His father's property next door is currently where the business is located. If something happens to his father there is nothing to say that the business may not have to vacate that property. He explained the nature of the businesses that he is involved in and the issues that may come up. There was discussion of options for screening from the adjoining property. He stated that he just wants to utilize this parcel for the continued growth of his business. C. Jaecks stated that he is not planning on having a gravel pit on this property as they have an open pit on the East side of Highway 51, but they do stage some material from their pit on this property just for convenience and location. Bowers asked how high a berm he was proposing along the north line and C. Jaecks said it could be 8 – 10 feet in height. He currently expects to use the same driveway that accesses through his father's property. Bowers asked the timeframe for the storage building. C. Jaecks hoped this summer but couldn't guarantee it. Bowers asked what percentage of the property he expected to need for outdoor storage. C. Jaecks tried to clarify what he would need (50-60%) until he could get a storage building erected. He is proposing a 50' x 80' building. Mittelsteadt asked if stormwater issues should be addressed and Bowers said that would be addressed in the permitting process.

Bowers asked for clarification on the issue with hours of operation. C. Jaecks said because of the different types of services they provide there may not be a set time when trucks would be coming and going. Bowers asked if the hours suggested captured his “regular” business needs and that there are “occasional” times outside of that and C. Jaecks said yes, that was the case. There was discussion by the Committee on the hours of operation issue.

Saal read for the record, that the Town of Tomahawk, on March 12, 2012, approved the Conditional Use Request on a vote of 3-0 with no conditions listed.

Attorney John Wagman, was present to represent the property owner to the north. He asked for a copy of the staff recommendation. He said that they hoped that the earthen berm would be built in accordance with normal standards and be constructed across the entire north lot line. He addressed the “hours of operation” issue and said that they have no objection to “normal workday” hours but on weekends they ask for more limited hours of operation. He explained that the “junk” that was on the property had been placed on the common boundary.

Wagman stated that his clients would like the Committee to require that all of the junk be picked up, the berm constructed to standards, and the hours of operation be less on the weekend. He also stated that the setback of the proposed septage transfer tank is of great concern to his client’s property. They feel that there is the possibility of well contamination, odors and devaluing their property. They are actually requesting that a tank for this purpose NOT be located on this property at all. He cited that Mr. Jaecks had stated that he has a large parcel with his gravel pit and thought it could maybe be located there. Wagman asked for clarification on what would be included in the 40% storage. Diane Hanson clarified what was to be included per the staff report.

Lora Jaecks was present as an adjoining land owner. She pointed out some issues on the drawing that Charles Jaecks had done, explaining the location of different parcels & items. She clarified how, through a settlement, ownership of the parcels was decided. She said the parcel under this request didn’t previously have all of the junk and dirt piles on it. She gave a timeline of how incidents have transpired between the two parcels. She cited that they didn’t bring the issues to the Town of Tomahawk because they didn’t believe their concerns would be dealt with at that level. She is worried about items placed on the property being contaminates of some sort and damaging and devaluing their property. This is a seasonal dwelling for her but may be more permanent in the future. She was questioning what had already been placed on the property line as the proposed berm. She hopes that the barrier will be properly constructed. She suggests that other parts of the property be utilized that would less affect them. Nelson asked when they purchased their parcel. Lora stated that it was in May of 2007. Saal asked L. Jaecks what weekend hours she would be satisfied with. She would prefer Monday through Friday only. Mittelsteadt tried to get clarification of what would be allowable on the weekend. She said that she is afraid if he is allowed weekend hours he will abuse them. Saal pressed the issue and L. Jaecks suggested 8:00 am to 4:00 pm on Saturdays if there had to be operation on the weekend.

There was lengthy discussion on who regulates/monitors requirements of a septage transfer tank if it is allowed. Saal suggested that C. Jaecks be called back to answer questions regarding the septage transfer tank. L. Jaecks also questioned when the “Porta-Potties” are washed/ maintained, where that would take place and where does the water go from washing them out? She also questioned why the pattern of driving within the parcel had to be so close to her property and why the dust & noise couldn’t be contained to the Highway 86 side of C. Jaecks’ property.

Saal recalled Charles Jaecks and asked him specifics about the proposed septage transfer tank. C. Jaecks stated that it requires state approved plans, would be regulated by the DNR, and would be 6,000 – 7,000 gallons. He is unsure what is required by the state but anything installed would meet the state requirements. His plans is to have the capability of emptying at least 2 loads from their truck (truck is 3600 gallon capacity) to hold it until it can be disposed of otherwise. Mittelsteadt said that Zoning is supposed to protect health & welfare and if there is a possibility of contaminating a well that may be an issue. Saal asked why it was not feasible to locate the

transfer tank at the gravel pit location and he said that he wishes to have all the equipment & transfer tank at one location. Mittelsteadt asked how much acreage he has under to contract for landspreading. Jaecks stated that most of it is in Taylor County and they also take it to the treatment facility in Medford. Mittelsteadt asked if it would be possible to park closer to the Highway and further away from the neighbors. C. Jaecks had 2 concerns. He was going to leave the area closest to the highway as a "green" area. He didn't want to put everything close to the west line because he doesn't want to "funnel" runoff that direction. There was lengthy discussion on location of items on the property.

Saal closed the public hearing for the Conditional Use request.

Motion by Saal, seconded by Nelson to APPROVE ON CONDITION the Conditional Use request per recommendations as listed in the staff report.

Conditions:

1. The above mentioned regulations contained in Lincoln County Ordinances 17.2.102, 17.3.08 (6), and 17.5.05 (2) shall apply.
2. No more than 50% of the lot shall be allowed as outdoor storage areas and may include stockpiles of soil, sand, gravel, wood and materials associated with the business.
3. A landscaped buffer yard, compliant with Lincoln County Ordinances 17.5.05 (2), shall be established comprising of a berm 7 feet tall with a minimum of 2 rows of evergreens, with the existing stumps removed before construction of berm, along the entire north lot line & and maintain the existing buffer of evergreens along the west lot line and along Highway 86 for approx. 200' from west lot line.
4. Any proposed septage transfer tank shall comply with all state or federal regulations.
5. The hours of operation shall be 6am to 6pm; Monday through Friday and 8am to 4pm on Saturday with no afterhours outdoor maintenance allowed, with emergencies excepted on a case by case basis.
6. This approval does not authorize a junkyard.

There was lengthy discussion on the proposed conditions (mainly Condition #5). In discussion about the motion, Mittelsteadt suggested that "emergencies" be documented by the applicant in case they were questioned.

Mittelsteadt ask to amend the motion to add a 7th condition that the request should be reviewed in one year from date of decision. Amendment died for lack of second.

There was again discussion on the motion and proposed conditions. Motion carried on a 5 - 0 vote.

At 12:55 p.m. Saal requested a brief break. Meeting was resumed at 1:04 p.m.

4. Public Comment – Earl Welker was present to especially thank the outgoing members of the Committee, Arlene Meyer & Ron Mittelsteadt. He has concerns about the fate of Zoning with the change of County Board/Committee members.
5. Approval of the March 8, 2012 meeting minutes – Motion by Rusch, seconded by Mittelsteadt to approve the March 8, 2012 minutes. Motion carried all ayes.
6. Department Report - Hanson gave the Committee an update on the Lincoln/Langlade County Shoreland Grant project. She stated that the position funded by the grant has been refilled by Janet Brehm and the work under the grant is continuing.

Hanson updated the Committee on the department restructuring. She shared her conversations with the Administrative Coordinator and what is next in the process. Discussion followed.

Committee reviewed the Compliance Report. Hanson reviewed a current violation court case. The Committee discussed the Financial Report and placed it on file.

Hanson reviewed current legislation (2011 Senate Bill 472 – now 2011 Wisconsin Act 170 since passed) related to nonconforming structures and how it may impact current county regulations. The legislation takes effect on April 16, 2012.

She also reviewed proposed 2011 Senate Bill 199 extending the deadline for completing of the private sewage system inventory currently in process, from October of 2013 to October of 2017 and the implementation of the retroactive maintenance from October of 2015 to October of 2019.

7. Convene into closed session pursuant to sec. 19.85(1)(c), Wis. Stats. for purpose of considering employment, promotion, compensation or performance evaluation data of any public employee(s) over which the government body has jurisdiction or exercises responsibility. [Land Services Directory] - Motion by Rusch, seconded by Nelson to convene into closed session with the Committee, Diane Hanson & Randy Scholz present. Roll Call vote - all ayes. During the closed session, Meyer asked to be excused and left the meeting at 1:35 pm.
8. Reconvene into open session and take any necessary action on closed session item (above) – Motion by Nelson, seconded by Rusch to reconvene into open session. Roll-call vote ayes. No action was taken on the closed session issue.
9. Confirm next meeting/public hearing date – Tentatively May 10, 2012 - Confirmed that will be the meeting date.
10. Adjourn - Motion by Mittelsteadt, seconded by Saal to adjourn at 2:00 p.m. Motion carried all ayes.

Minutes prepared by June Winters