

Lincoln County Planning and Zoning Committee
Monday, April 8, 2013 at 1:00 p.m.
Lincoln County Service Center, Meeting Room 156

1. Call Meeting to Order - Meeting was called to order by Chairman Saal at 1:00 p.m. in meeting room 156 in the Lincoln County Service Center. Members present: Saal, Bailey & Rusch, along with Diane Hanson, Land Services Administrator; Dan Bowers, Zoning Specialist & June Winters, Program Assistant. Nelson & Pike were excused from the tour but will attend the hearing.
2. Tour the sites that will be the subjects of the public hearings – Committee Members that were present and Bowers left to tour the Rezone request & Conditional Use request site listed on the public hearing notice.
3. Approval of the March 14, 2013 meeting minutes – Motion by Rusch, seconded by Saal to approve the March 14, 2013 minutes. Motion carried all ayes.
4. Public Comment – There was no public comment.
5. 2:30 p.m. Public Hearing – At 2:30 p.m. the Public Hearing was called to order. Hearings were held on the items listed in the notice. Saal, Rusch, Bailey, Nelson & Pike along with Diane Hanson, Land Services Administrator; Dan Bowers, Zoning Specialist; June Winters, Program Assistant and 13 others were present. Chairman Saal explained the rules of conduct for public hearings and introduced the Committee members. He called the first hearing.

PETITION FOR REZONING

1. A request by John Schade to rezone approximately 18 acres from a Planned Business zoning district to a General Business zoning district to allow for a salvage yard. The property is located in the SW¹/₄NW¹/₄ of Section 11,T35N-R6E, in the Town of Bradley, having addresses of N11541 Roberts Road. The tax parcel number is 04.113506.007.001.00.00.

John Schade, owner of Backroad Repair LLC, was present to explain his request. He shared his history on the parcel. He said with the downturn in the economy in 2008 he more or less got out of the auto sales part of the business and focused more on vehicle repair & recycling parts. He explained the certifications that he has to operate his business required by the different regulating agencies. He explained how they recycle or dispose of the different hazardous materials and the parts that are dismantled. He has 3 full time employees and 3 part time employees.

Dan Bowers asked Schade to explain what his business consisted of since the Conditional Use permit that he obtained in 2006. Schade said he could not make a profit with the auto sales. He could not stay in business just as a repair shop that's why he started salvaging & recycling parts. Bowers posed the question to Schade that if the rezone is granted and the next step being a Conditional Use hearing for the salvage business; what could people expect to see at this site. Schade said that he has spoken to Foley's Tree Service about planting trees for screening his property from the neighbors. Bowers said at the tour there were a lot of vehicles in the fenced in area and asked how many of those would remain. Schade explained that they "parts out" the cars at a rate of 2-3 per week and then they are hauled away for crushing. Schade said that he could relocate the cars more to a remote part of the 18 acres so they are not visible from the road. Saal commented that what was at the site looked more like a recycling center than a salvage yard based on what items are on the premises now and the Committee is just trying to clarify what type of business he asking for. Schade said he is just proposing a salvage yard. Bailey asked if Schade was going to be storing the "parts" in an enclosed building or are they going to be left out in the open. Schade said his future plan is to put up a building. Schade said time to recycle is different

for each vehicle depending on the age of the vehicle and the demand for the parts. Bailey asked where the cars go for crushing. Schade said they take a couple of vehicles to Schulz's Recycling once a week. Bowers estimated there were approximately 2-3 acres occupied by vehicles and asked Schade if that was a typical amount. Schade estimated he has about 85 cars there now and it fluctuates. Bowers said he just wanted an expectation of the size the business could potentially be and Schade said that he buys probably 6 vehicles a month to process. Schade estimated that it could potentially take up to 5 acres area to store the vehicles. Hanson asked about the fluids in the vehicles and when they are drained. Schade said if it as "running/drivable" vehicle the fluids remain in it. He has approximately 45 vehicles currently for engine parts on the premises. All fluids are drained indoors and captured. Schade said that only he or an employee may remove the parts from a vehicle, not the customer.

Bailey commented that the aesthetics of the business is his biggest concern as Schade appears to be minimizing the environmental impact with the precautions he is taking. Bailey was more concerned by how Schade was going to minimize the visibility of the business. Bowers asked Schade how he safeguards against the vehicles that are there for a long period of time, starting to leak fluids and rust. Schade says he is required to do monthly self- inspections of the inventory and is inspected annually in October by Mike Kohn of (ICECOR Cooperative Compliance Program).

Harry Gladwin, Town of Bradley Plan Commission, was present and reviewed the March 25th Bradley Plan Commission meeting. He gave some background stating that the Township had received some complaints about a lot of old cars parked on the NE corner of the property. His understanding was that they were owned by a club that restores cars renting space from Schade to store the cars. He said at a meeting with Gladwin, Bowers & John & Conni Schade, it was determined that the business was not consistent with the current zoning and it was suggested that it be rezoned to General Business. The Town of Bradley did not have that zoning designation at the current time and had to add that to the plan. That was discussed at a Town of Bradley public hearing and was voted unanimously to add General Business to their Land Use Plan. Then at the Plan Commission meeting on March 25th he believed that there were 15 in favor and 5 opposed to Schade's rezone request at that meeting. If rezoned to General Business a salvage yard would still require a Conditional Use permit. Bradley Town Board will meet on April 16th to decide on the rezone request. He did say that the Plan Commission was recommending approval of the zoning change to the Town Board. Gladwin said he had abstained from the voting because of personal business with Schade and Gladwin's grandson is employed by Schade.

Hanson summarized the letters of support that had been received in Zoning from: Bill Zeromski, Bob Gustin, Carl Gladwin, Paul Winker, Steve Rast & Paul Kurth Jr. Mainly the letters cited the business is well run & beneficial to the area. A petition was also submitted with 284 signatures in support of continuing the repair & salvage business.

Kari Timm was present in opposition. She and fiancé John Henning have property directly across Highway 8 from the Schade property. She said that she was at the Town of Bradley meeting. She cited information that was received from Joe Knight at the WISDOT. She had spoken to Knight for clarification of the current statutes. Timm submitted & read portions of Wis. State Statute 84.31 regulating junkyards; 84.31(1), 84.31(2)(f) & 84.31(3). Timm stated that the intersection that this property is located is the entryway to the corridor of probably the most tourist oriented area in Lincoln County and basically a gateway to the community. Timm said that it was her understanding that this area was originally zoned the Planned Business district because they did not want any industrial type of businesses in that area. This area was more reserved for bars, restaurant, resort types of businesses, etc. all being more tourist related business. She referenced the original Conditional Use Permit in 2006, where Saal had stated that he hoped that Schade understood the conditions being imposed because he did not want the area to become "junky looking". Timm submitted & reviewed portions of the WDOT salvage dealer license application blank. She submitted a copy of Backroad Repair & Salvage webpage advertising as a Repair & Salvage business. She questioned that on the application that it had to comply with all local zoning, building code and permit requirements. She submitted a copy of the back page of Schade's application to

WISDOT for this license with both Dan Miller, Lincoln County Zoning Administrator & Kevin Koth, Town of Bradley Chairman signatures on it. Timm questioned Joe Knight about the salvage license being issued and Knight said that they were presented with the appropriate applications & signatures so they issued the license. Timm questions the legality of this license. She doesn't agree with the solution that is being proposed to fix this problem and is very much concerned that changing the zoning on this property potentially opens up even a less desirable type of business if the property should change ownership.

Don Johnson, Tomahawk resident, was present. He has concerns about it being a focal point of the community and while he states that Schade may run a good business at this location, it may not be appropriate at that location. He doesn't have anything against this type of business but not at this location. Johnson believes Schade may have other options that may be a better fit for this location. Johnson says with just "intentions" and no set business plan and timetable he feels that even though well intended he does not know if it a good fit. He has concerns as Timm did that if rezoned, and changes ownership in the future it may open up more problems. Johnson stated that this is a primary intersection for any major event in the Northwoods and therefore a Gateway to the Northwoods and is a lousy location for a junkyard.

Gerald Garrou was present and he is an adjoining landowner. He stated that there have previously been a lot more vehicles than are currently there and has been cleaned up somewhat since the complaints had started. His family has had lots of repair work done by Schade and has no problem with the repair aspect of the business but the junk that has accumulated should not have been allowed to happen. He purchased his home from his parent about 10 years ago and they had been long time residents at that location. He is afraid that his property value will be diminished and be un-saleable by being next door to a salvage yard. Garrou is a carpenter and knows that he has to obtain proper permits before he starts a job and wants to make sure that the proper steps are taken care of in the proper order for Schade's business. Garrou said that he has nothing against Mr. Schade but no one wants to live next door to a junkyard. Garrou commented that nothing happened until the neighbors complained but he wondered why the neighbors even had to be the ones to complain when the problem is so visible to anyone driving by.

Jim Olson was present and is an adjoining landowner. He is not opposed to the property being an auto repair facility but does not want to live next door to a salvage yard. He is concerned with property reduced values and contamination of his well.

John Henning was present and owns approximately 8 acres zoned Residential directly across Highway 8 from Schade's property. He is hoping in the future to put up some residential structures on his property and fears that being directly across from a junkyard would not be a very good selling point. He submitted, to the Committee, an aerial photo of how many lakes are in close proximity to Schade's business and says that people owning & paying taxes on these lake properties shouldn't have to drive past a junkyard just before they get to their lake property. Henning didn't believe that Schade is intentionally going to pollute the environment but he believes that junkyards are noted for being an environmental problem. Henning stated that Dan Miller's & Kevin Koth's signatures on the WISDOT application should never have been given. Henning said that he had spoken with Dan Miller and Miller had told him that it was permission to have only 3 scrap cars. Henning had also spoken to Koth, and Koth had thought the limit was 8 scrap cars. Henning said at one time he had counted 105 scrap cars and 1 school bus. In his opinion this is not acceptable and worries that if Schade is granted the rezone and subsequent Conditional Use permit if he would even be held to conditions put on that permit. Nelson clarified the location of Henning's property. Henning said that there is a DOT wayside directly across from Schade's business and doesn't think that visitors stopping there shouldn't have to look at a junkyard either.

Hanson summarized the 13 letters/e-mails of opposition from Kent Richert, Tom Poppie, Michael & Jacqueline Poppie, Roger Peters, Tom Ziebell, Susan & Kenyon Kies, Hugh & Geraldine Newman, Yvonne Poppie, Jon & Terri Lundgren, James Olson, Paul Garner, Paul & Michelle Venske and Diana Smith citing negative

environmental impact from vehicle fluids, unsightly appearance of property & devaluation of surrounding property values.

Bowers commented on a conversation that he had with Dave Meurett at the DOT regarding their requirements for junkyards next to state highways and he had said that it is just required to be screened from public view.

Hanson read an e-mail from Mike Kohn, ICECOR regarding preventing potential pollution from the business and stating that Schade complies with the requirements. Mr. Kohn feels that the operation is very well run and meeting the requirement of the stormwater permit that was issued and described the process in which vehicles and their fluids were handled.

Bowers asked to recall the applicant to the podium and the Committee agreed. Schade returned to the podium. Bowers asked about the document that was signed by the previous ZA & Bradley Town Chairman for the application for the salvage yard. Schade said when he spoke with Dan Miller and told him what his plan was, Dan told him what he was talking about should be within the guidelines of what was allowed. Schade said that he hadn't expected to have that part of the business grow to what it has. Bowers asked how many vehicles are involved before you need the salvage license and Schade said that you cannot sell a part off a vehicle you do not own so that's why the salvage license was obtained. Bowers asked if the initial repair business required that salvage license because he was "parting out" some of the vehicles he ended up with. Schade said that it did.

Saal closed the public hearing for the Rezone request. Saal said he has several concerns and is not sure how to move forward. Bowers said that this is the remedy that is being sought for the violations that exist because of what the business has migrated into. Regarding the falsification of the application he said that's why he had wanted the applicant to come back to the podium to see what his understanding was of, "at what point did he need that license" and it was to take part from any junk vehicle that he may have ended up with. Bowers didn't think there was any intention to falsify information on either part. Hanson said we didn't know when that application had been signed as there was no date on it.

Saal reviewed the options that the Committee may have to move forward.

Motion by Bailey, seconded by Nelson to LAYOVER the request until Town of Bradley recommendation has been received. Motion carried all ayes.

At 4:10 p.m. the Saal called for a short break. Committee resumed the hearing at 4:19 p.m. and proceeded with item #2.

CONDITIONAL USE REQUEST

2. A request by Patricia Urban, personal representative to Robert and Vivian Stephan, and County Materials Corporation, co-applicant, to open a 21 acre gravel pit as a conditional use in a Rural Lands 2 zoning district. The property is located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 1, T34N-R6E, in the Town of Bradley, off of Crass Road. The request is being heard under section 17.3.08(10) of Lincoln County Ordinances.

Supervisor Pike recused himself from participating from the hearing as a close relative is employed by County Materials.

Jim Small, a geologist employed and representing County Materials and the property owners, was present to explain the request. He stated that County Materials purchased Winger Concrete located in Tomahawk in 2011 and while they have 2 open pits the reserves of materials are running out and are hoping to obtain the parcel under the request for a source of material specifically sand & gravel. They have met with the Town of Bradley twice with another meeting scheduled for April 9th to hopefully move forward to the Town Board meeting on April 16th

to obtain township recommendation. County Materials currently has 40 some active pits across the state and would like to use this as a source for sales in our area. Their plan is to cut the timber, strip off the topsoil, dig, crush & stockpile at this location to haul away. This part of their process would take approximately a month. They would not be “washing” the aggregate at this site. That would be done at the plant’s location in the City of Tomahawk. This process would take place possibly once or twice a year. He briefly explained the reclamation. About 21-23 acres will be disturbed. Saal wanted clarification on the depth they would be going. Small stated that he didn’t believe that they would be going into the water table as he doesn’t believe there would be aggregate that deep but didn’t totally disallow the possibility in the future. They would reclaim any steep slopes as quickly as possible. They would leave a 100’ buffer of trees along Crass Rd and would pave approximately 100 feet at the entrance onto Crass Rd.

Pete Krautkramer, Aggregate Supervisor at County Materials, was present to answer questions also. Bailey asked for clarification on the amount of crushing that will be taking place and Krautkramer said each time they crush material it would be 3-4 weeks at the site occurring possibly every 4-6 months. Bailey asked what impact taking the topsoil off of the area will have on the water table. Small said that after they remove the topsoil water will filtrate more into the ground. Small stated that they will be leaving a minimum of the required buffer, as required by Zoning. Nelson asked what their route would be to get to the business in Tomahawk. North on Crass Rd and then through town on State Rd. 86 to get to their facility on South Tomahawk Ave. Bailey asked if this issue has been addressed with the Town of Bradley. Small said that these issues are being discussed with the Town of Bradley probably at their meeting tomorrow night.

Bowers asked Small about mining underneath the ATC power line easement. Small said that they are currently negotiating that issue with ATC. They need to have access to their easement & power lines. He explained to the Committee using the map where operations would potentially be.

Bailey asked what their typical hours of operation were and do they run into any problems at other sites. Krautkramer said that 7a.m.– 5p.m. are their typical hours of operation and yes they do, from time to time, do have complaints about noise and dust. He explained typically how they schedule & haul and that it varies depending on the amount of business orders they have and trucks available.

Saal asked Bowers about increasing buffer depths from the current 10’ requirement to a deeper depth. 100’ from the road is what County Materials is proposing. Bowers said his staff report outlined the conditions that the township & the Zoning Committee may want to consider but was leaving buffer depths open for discussion.

Saal said they need to discuss the other recommendations as far as length of pit life & reclamation details.

Small stated that typically they plant trees seedlings on the 3-1 slopes. They usually plant red or white pine or spruce that they usually order from the DNR. Saal asked if it would be about 20% coverage and Small said he thought so in the slope areas. Saal asked Nelson if he thought inserting 20% as the figure in recommendation #6 on the staff report would be a reasonable figure and Nelson agreed.

Saal asked the Committee what they thought a reasonable length of pit life would be and asked if 10 years would be a reasonable figure as a suggestion. There was discussion about the timeframe and possible renewal at that time.

There was then discussion about recommendation #2 – Buffer depths. Saal felt that we need input from the neighbors & Township on that. Nelson said they are restricted by the utility easement & the proposed 100’ buffer from Crass Rd. They are required to stay 200’ from the residence to the south. Krautkramer said with these restrictions they would like to go as close to the other lot lines as they can. Bowers said that he would like to have more input from the Town and affected neighbors in determining the buffers that will be required. There

was lengthy discussion on how to determine those buffer distances. Krautkramer both stated that typically in other counties, the 10' buffer depth is what is adhered to.

Bailey said he had received a letter at his Highway Committee meeting regarding this request. It had not been received in the Zoning Office. Hanson said that we should finish the proponents of the requests if this was a letter of opposition. Saal asked if there were any more questions for Small & Krautkramer. Nelson asked if there was a timeframe on how long after extraction before reclamation needs to be done. Bowers explained the process currently in place. There was discussion on the process. Bowers said that a timeframe is a good idea to have in place.

Harry Gladwin was present representing the Town of Bradley Plan Commission. He stated at their Town meeting tomorrow night they will be discussing the conditions they would like to see. He said that hopefully the Plan Commission would have a recommendation for the Town Board meeting set for April 16th. They will discuss the environmental impact and a lot of other issues that have been brought forward.

Hanson shared an e-mail from Paul Garner, an adjoining property owner, who is not opposed to the gravel pit as long as the property is reclaimed in a timely manner. Another adjoining neighbor had called the zoning office and was told that something in writing would need to be submitted and nothing in writing was received from that property owner. Bailey read the comment that he had had received via the Highway Commissioner from Orrin Kolberg, an adjoining land owner with several issues and or conditions regarding dust, traffic safety, road wear & environmental impact he would like to see imposed if the Conditional Use permit is granted. He is not opposed he just wishes to see some regulation if granted.

Saal closed the public hearing for the Conditional Use request.

Motion by Nelson, seconded by Saal to LAYOVER the request until Town of Bradley recommendation has been received. Motion carried all ayes.

6. Department Report - Committee reviewed the Compliance report. Committee reviewed the financial report and put it on file.
7. Confirm next meeting/public hearing date – Tentatively May 9, 2013 – Because of conflicts and after discussion, the Committee rescheduled the next meeting to Friday, May 17, 2013 at 8:30 a.m.

Saal allowed Gladwin to come back to the podium to dispute a comment that had been made by Ms. Timm during testimony for the Backroad Repair request, that Gladwin has misrepresented to them information from Joe Knight at the DOT as far as what regulations were in place. He stated that he had NOT said that a statute that was referenced was no longer valid. He shared conversations that he had with Dan Miller & Kevin Koth regarding their signatures on the salvage license application. Gladwin said that he does the best that he can to be accurate with the information he has at the time.

Before they adjourned, Bailey shared a compliment that he had received from a landowner who had been in the Zoning office and said that zoning staff had been very helpful.

8. Adjourn - Motion by Nelson, seconded by Saal to adjourn at 5:29 p.m. Motion carried all ayes.