

Lincoln County Planning and Zoning Committee
Thursday, January 12, 2006 at 8:30 a.m.
Land Resource Center Meeting Room

1. Call Meeting to Order - Meeting was called to order by Acting Chairman Meyer at 8:30 a.m. in the Land Resource Center Meeting Room. Members present: Meyer, Cohrs, and Powell. Visitors: Dan Miller, Dan Bowers, Kris Reichelt, Mary Heederik – Court Reporter and approximately 20 others were present. Saal and Kleinschmidt were excused from the meeting.
2. Public Hearings – Hearings were held on the items as listed in the notice.
3. Discussion by the Planning and Zoning Committee and Decisions on any Conditional Use requests, Rezone requests, and old business items, which were the subjects of Public Hearings.

CONDITIONAL USE REQUESTS

1. The request of Terry and Shannon VanRyen to operate an LP filling station as a home occupation in a Rural Lands 2 District. The property is described as part of Section 33, T35N, R07E, in the Town of King; having a tax parcel number 12.333507.012.001.02.00 and an address of W3959 County Road D. The request is being heard under section 17.3.09 (8) of the zoning ordinance.

Terry VanRyen was present to support their request. He indicated that he was working with the local fire department and his insurance company for them to complete a fire inspection. He has been in contact with the Town of Nokomis Volunteer Fire Department as well so that they are aware of the business just incase they would be called for any reason. He did get a favorable recommendation from the Town of King with the same conditions as listed on the County Staff report. As soon as he gets the inspections and pictures he will pass them onto the Zoning Department Staff.

The Town of King recommendation of approval for the request was read and entered into the record along with the conditions.

Acting Chairman Meyer closed the public hearing for Terry and Shannon VanRyen.

Motion by Powell, seconded by Cohrs to APPROVE ON CONDITIONS the request of Terry and Shannon VanRyen. CONDITIONS: 1. All aspects of state and federal codes are adhered to with respect to the sale, storage, transport and transfer of Liquid Propane. 2. An inspection by the local fire department is performed and a copy of the report of the inspection is provided by the applicant to the Zoning Department that shows he is in compliance with their jurisdiction. 3. The applicant apply for a certificate of installation from the Department of Commerce and the form “SBD-9656” is obtained from the Department of Commerce and a copy is placed on file in the Zoning Office with this permit. 4. Inspections of the facility occur semi-annually by the local fire department (or as often as deemed necessary by the Committee) and reports of the inspections be submitted to the department for filing with the permit. Motion Carried 3 – 0.

Powell stated that no one showed up in opposition of the request at the Town of King meeting.

PETITION FOR REZONING

2. A request by Don Matulka and co-applicant McKeough Land Company Inc. to rezone the following lands for the purpose of residential development:

Town	Tax Parcel	Current District	Proposed District
Town of Bradley	04.323506.009.002.00.00	Forestry	RR-3
Town of Bradley	04.323506.014.002.00.00	Forestry	RR-3
Town of Bradley	04.323506.015.001.00.00	Forestry	RR-3

Mark Kordus, McKeough Land Company, Inc. was present to support the request. He indicated that he was acting as an agent for the applicant in order for them to have their land rezoned from Forestry to Rural Residential 3 for development of a condominium plat. If McKeough does purchase the property from the applicant then they would place 30+ acres in a conservation easement or record a deed restricting approximately 30+ acres from being developed in the future. The private road would have a 30 foot width and it would be pavement to 18 feet on their property. The Army Corp of Engineers and the Department of Natural Resources were on the property to evaluation the wetlands. He said that the public part of Branch

Road ends just above the railroad tracks. He couldn't find anything that would direct the Town of Bradley by minutes to maintain or take over Branch Road. The title company they hired to research all the deeds associated with the private road had found that no one owned the road. Kordus said that they would work with the other property owners along the private road to try to work out some kind of agreement as far as maintaining the road otherwise the condominium association would probably take care of the entire private road which in this case would be Branch Road. It doesn't make sense to maintain just the road on their property especially if you can't access the property if the other part of it isn't maintained. Kordus said that they can't commit to something that they don't own at this point. Kordus said that essentially only a 9 unit non-expandable condominium would be built on the property. They have had some soil testing done on the property to date. Kordus said that their attorney who works with condominium documents said that there is case law stating that if a non-expandable condominium went to an expandable condominium that they would have to go to this Committee in order to do that. Kordus said that with putting approximately 30+ acres in an conservation easement that only leaves approximately 22 acres or less that would be available for the condominium development.

The Department's concern with rezoning this property to a RR-3 district is that they could potentially have more than 9 residences on the property. The Department recommended that the property be rezoned to RR-4 not a RR-3 zoning district as requested.

A discussion took place on the maintenance of the private road and if all of Branch Road should be brought up to Town specifications and then be turned over to the Town of Bradley. The Committee also mentioned that they don't like to approve developments on a private road without some kind of road maintenance agreement that would be recorded with the Register of Deeds.

Miller said that since this is a condominium development the County doesn't have the review authority process, if it were a subdivision development then we would. They would have to follow Chapter 703 of the state statutes but this is only possible if this Committee approves the rezone request for this property.

Diana Smith, Town of Bradley Plan Commission, was present to support the request. The Board was only concerned with the rezone at the time they made their decision and they recommended it be rezoned to RR-4, they weren't worried about the road at that time. However, after getting the staff report they agreed with their report. She said that it was possible that the owner could get the rezone but the deal between the applicant and McKeough Land Company could dissolve so the Board had to keep that in mind as well when making their decision. Smith said that it was her understanding that one of the wetlands could be considered lake bed which could limit the number building sites for that property as well. There were residents present at their meeting that were concerned about the private road issues. The current owner can access their property through Branch Road so there wasn't any rational reason for denying the applicant's request. There are other surrounding properties in that area that were rezoned so they couldn't deny this request. Smith indicated that the Town of Bradley does have the final say when it comes to rezone requests.

Bill Daugherty was present to oppose the request. He indicated that they paid for the private road and he doesn't want the traffic to increase on Branch Road. He said that there are houses that are just 10 feet from the road so safety is a big concern of his. If this road is paved then he felt that people would increase their speed which is a huge safety concern. They like it with the natural speed bumps currently in the road to keep the speed limit down. He felt that people should have been notified by registered mail to ensure that they received the notice since this affects all the property owners on the private road. He said that no one owning property on Branch Road would have ever thought that this road would be developed. He would hope that they would have to comply with Lincoln County's code as far as setbacks to the water which is 75 feet. The impact on the shoreline and the lake was also a big concern. He asked how the fire department was going to get down that road if one of the condominiums caught on fire.

Miller read the list of surrounding property owners that were notified regarding the Don Matulka and co-applicant McKeough Land Company Inc. rezone request.

Rueben Grund was present to oppose the request because of the number of new homes that would be built at the end of that private road which would increase the traffic. He also was concerned with safety and access to his land & the usability of it.

Denise Weinzal was present to oppose the request. She indicated that she was against any destruction of wildlife habitat. She wants future generations to enjoy the wildlife and once these areas are developed they can't be reclaimed to their natural state ever again.

Anthony Weinzell was present to oppose the request. He asked how much water frontage does each condominium have to have in order to comply with the Zoning Ordinance? He was against improving the private road due to the increase traffic, a snow plow that would be going through along with septic pumping trucks, and he doesn't want to pay for maintaining the road in order to have a condominium developed on that property. He said that the private road isn't used in the winter time so the roads do remain in good shape. He had a big concern with filling in wetlands and destroying the wildlife in that area if this property is developed. He also was concerned with cleaning out the stumps, weeds, etc. in the lake.

Acting Chairman Meyer closed the public hearing for Don Matulka and co-applicant McKeough Land Company Inc.

Miller explained to the Committee that contract zoning is illegal but conditional zoning is legal which gives this Committee some latitude to impose the conditions as suggested by staff.

Motion by Powell, seconded by Meyer to LAYOVER the rezone request for Don Matulka and co-applicant McKeough Land Company Inc. in order for the developer to provide this Committee with more concrete information. Motion Carried 3 – 0.

3. A request by Ralph Peterson and co-applicant Eugene Uttech to rezone the following lands for the purpose of residential development:

Town	Tax Parcel	Current District	Proposed District
Town of Merrill	14.053107.002.001.00.00	RR-4	RR-3
Town of Merrill	14.053107.005.001.00.00	RR-4	RR-3
Town of Merrill	14.323207.012.002.00.00	RR-4	RR-3
Town of Merrill	14.323207.015.001.00.00	RR-4	RR-3

Keith Rusch, Naterra Land Company, was present to support the request. He indicated that he was representing the applicant in this request in order to develop a subdivision. The refuse that is on the property would be cleaned up by Mr. Peterson the property owner. Naterra Land Company would reclaim the existing pit when they develop the roads within the subdivision. The Town of Merrill did approve the rezone with conditions. He said that the roads would be constructed to Town specifications. He explained that Outlot 1 would be owned by an association and they would pay the taxes for that parcel. He said that his company would be willing to provide public access to the lake but he did speak with Jane Severt from the Lincoln County Forestry Department and she said that they weren't in favor of taking over the public access since they already have enough to take care of but they possibly could work something out if no one else was willing to take over the public access. He said that the lots would have 200 feet of frontage along Outlot 1.

The Town of Merrill recommendation of approval for the request was read and entered into the record along with the conditions.

Bill Burgener, Town of Merrill Chairman, was present to support the request.

Beverly Janish was present to ask some questions regarding the rezone request. She wasn't so sure that the land could support this type of development as far as septic systems and the water level on the creek. She wanted to know if anyone was checking into these questions.

Miller said that a lot of Janish's questions would be answered through the platting process.

Letters of opposition from Wendie Martell and Rob & Pam Hofmann were read and entered into the record.

Acting Chairman Meyer closed the public hearing for Ralph Peterson and co-applicant Eugene Uttech.

Motion by Cohrs, seconded by Powell to APPROVE the request of Ralph Peterson and co-applicant Eugene Uttech with the following conditions: the dump is cleaned up, the pit reclaimed, property owner of the association be responsible for the taxes & maintaining Outlot 1, coordinate they're road layout with the reconfigured Smith Road, and provide public access to the lake which would not be deeded to the Town of Merrill. This request should be sent to the County Board as an ordinance amendment for their approval. Motion Carried 3 – 0.

Acting Chairman Meyer called for a 10-minute break at this point.

4. A request by Town of Bradley to rezone lands within the Town of Bradley.

Diana Smith, Town of Bradley Plan Commission, was present to support the request. She explained that this rezone request is part of the recodification process. This gave the Town of Bradley an opportunity to make map changes. The Town of Bradley sent out 34 letters to land owners that had their property rezoned to forestry, asking if they would like to have their property changed to one of the RL districts and they only received a response from 2 land owners wanting their property to remain in the forestry district. She felt that these properties were just plain mapping errors. She said that there are probably other mistakes that they haven't caught. Smith went through the recommended changes by the County Staff. The Board made a political decision to approve the request as advertised because this is what the citizens of the Town of Bradley wanted.

A letter from D. Judith Lokemoen was read and entered into the record. She was asking that her mother's property (Line #37 of the notice – Dorothy Knope) be rezoned to a RL-4 district versus a RL-2 district. Their intentions are to split the property between family members. Smith said that she didn't think that the Town Board would have a problem with her request because this is what the land owner wants. She didn't feel that she was going out on a limb with this either. The County Staff didn't have a problem with Lokemoen's request.

Bowers reviewed the staff report with the Committee. He recommended that D. Judith Lokemoen's request be added as item #4 on the staff recommendations to have her property rezoned to the RL-4 zoning district. The Committee, the staff, and Smith talked about the difference between the RR-3 versus a RR-4 zoning district.

Acting Chairman Meyer closed the public hearing for the Town of Bradley rezone.

Motion by Powell, seconded by Cohrs to APPROVE the request of the Town of Bradley and send an ordinance amendment to the County Board for approval along with the following changes: remove line #71 – Builer, Thomas Parcel #04.033506.015.001.00.00 from the rezone request, add Nokomis Lumber Corp, Parcel #04.023506.008.001.00.00 and rezone it to Forestry, add Kings Log Jam, LLC, Parcel #04.253506.012.011.00.00 and rezone it to Planned Business, change Dorothy Knope's property item #37 on the list, Parcel #04.063506.002.010.00.00 and rezone it to RL-4, and change Richard Eineichner item #104 on the list, Parcel #04.323506.011.001.00.00 and rezone it to RR-4. Motion Carried 3 – 0.

The Committee thanked the Town of Bradley and the County Staff for all their hard work.

4. Old Business – A request by Wisconsin Public Service to rezone lands for the purpose of residential development – Town of Scott Resolution in Opposition-

Miller distributed a copy of a Resolution from the Town of Scott indicating that they denied Wisconsin Public Service request due to numerous residents expressing vigorous opposition and that it is in direct conflict with the Town of Scott Land Use Plan.

Motion by Cohrs, seconded by Powell to CONFIRM the Resolution #2005-02 dated December 13th of 2005 presented by the Town of Scott that the Wisconsin Public Service request in the Town of Scott (Parcel # 2) be denied and a denial report be given to the County Board. Motion Carried 3 – 0.

5. Subdivision Modification Request for Dwight Debroux (Sec. 36, Township 32, Range 06 East, Town of Merrill, Parcel #14.363206.001.001.01.00 (1Lot CSM – without public road frontage) – Dwight Debroux was present to support the request. Miller read Chapter 18.7.03 (3) which states that in order for this Committee to grant a waiver a 3/4th vote is required of the entire membership of this Committee. The Committee said that there has to be at least 4 members present and then all 4 members would have to be in favor in order to grant a waiver of the subdivision ordinance. The Committee said this request should be laid over and be brought back next month in order that the other members can hear the information to make a decision. They suggested that if the applicant can't be present at that meeting then he should submit a letter stating what he wants to do with the property.
6. Public Comment Opportunity – Bower's said that he would like to thank Diana Smith for all her hard work on the rezone request for the Town of Bradley. The Committee agreed and asked that a letter be sent to the Town of Bradley thanking them for all their hard work along with recognizing Diana Smith as well.

7. Approve the December 8, 2005 meeting minutes – Motion by Cohrs, seconded by Powell to approve the December 8, 2005 meeting minutes. Motion Carried 3 – 0.

The agenda items were not necessarily discussed as listed on the agenda.

8. Convene in closed session pursuant to Sec. 19.85 (1)(2) Wis. Stats. For purposes of considering employment evaluation data of any public employee which the body has jurisdiction. (Dan Bowers; Zoning Specialist annual evaluation) – Motion by Cohrs, seconded by Powell to go into closed session along with Dan Miller and Dan Bowers. Motion Carried 3 – 0 with a roll call vote.
9. Reconvene into open session and take any necessary action on item above – Motion by Cohrs, seconded by Powell to reconvene into open session. Motion Carried 3 – 0. Motion by Cohrs, seconded by Powell to give Dan Bowers; Zoning Specialist a favorable evaluation and a step increase along with their appreciation for a job well done. Motion Carried 3 – 0.
10. Carmody – Discuss Contract for 2006 & Problems with On-line Permitting – Miller indicated that he had a couple of staff meetings in order to identify problems with using the system. He said he felt that this started out to be a great idea but it just generated more work than it was worth. He recommended that Lincoln County try to break the contract for 2006 for the Land Uses, Conditional Uses, Variances, and Subdivisions. He felt that Lincoln County should continue with the sanitary/service provider program. Miller said that he did speak with Corporation Counsel and she was going to review the contract. The Committee recommended that this be put on next months agenda as a closed session for renegotiation of the Carmody contract and have Carmody and Corporation Counsel present at that meeting. Miller said that worse case is that Lincoln County would be required to pay \$12 per permit to Carmody for 2006.
11. Discuss/Set Date for Code Review Meeting With Town Representatives – The Committee agreed that a meeting should be set and have the Towns make their recommendations for changes and those recommendations be brought back to this body for possible approval. The Committee recommended that the meeting not be longer than 2 hours in length and additional meetings would be scheduled if necessary. They recommended that the Towns bring their concerns in written form to the County Staff a few days ahead of time of the meeting in order to expedite the process at that meeting. The Towns may have to elect new representatives. The Committee felt that all townships should be notified but only those townships that adopted the new code would be allowed to participate. The Committee also stated that no per diem or mileage would be paid from the County.
12. Administrator's Report – The Committee reviewed the compliance report, the financial report, and the administrator's report. Miller indicated that the Town of Corning had vetoed the rezone request that was approved by this Committee last month. The Town of Corning was against adding parcel #06.023104.016.000.00.00 to the rezone. Miller indicated that this item would be placed on next months meeting to have this Committee discuss whether or not they would eliminate that parcel from the rezone request and then present it to the County Board again for adoption. Miller distributed correspondence to the Committee for review. Miller also reviewed Assembly Bill 884 with the Committee regarding endangered species. Reichelt explained that they have started the data conversion project again for 2006. To date they had scanned approximately 18,000 files.
13. Adjourn – Motion by Meyer, seconded by Powell to adjourn at 11:22 p.m. Motion Carried 3 – 0.