

**GREEN LAKE COUNTY
LAND USE PLANNING AND ZONING COMMITTEE
MEETING MINUTES
Thursday, November 1, 2012
Business Meeting – 4:30 p.m.
Public Hearing – 6:00 p.m.**

CALL TO ORDER

Committee Chair Starshak called the meeting of the Land Use Planning and Zoning Committee to order at 4:30 p.m. in the Green Lake County Government Center, County Board Room #0902, Green Lake, WI. The requirements of the open meeting law were certified as being met.

Present: **Eugene Henke, Ben Moderow, Don Peters, Harley Reabe, Michael Starshak**

Absent:

Also Present: **Al Shute**, County Surveyor/Land Development Director
Carole DeCramer, Committee Secretary
Daniel Sondalle, Corporation Counsel

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Motion by Henke/Reabe, unanimously carried, to approve the agenda.

APPROVAL OF MINUTES

Motion by Reabe/Henke, unanimously carried, to approve the corrected October 4, 2012, minutes.

PUBLIC APPEARANCES

Elmer Bock, W1618 County Road S – Stated that he was in attendance because of the noise and dust created by Landmark. These issues are problematic in his neighborhood.

Mike Elder, Executive Vice President, Corporate Services, and Doug Cropp, Senior Vice President, Grain Division, Landmark Services Coop – Explained that information was emailed to Matt Kirkman, Code Enforcement Officer, regarding what the company has done to rectify the issues outlined by Mr. Bock. The company has been watering the parking lot three to four times a day in an attempt to curb the dust problem. They've had the noise levels monitored in different locations and have found that the noise level from just the ambient noise is between 30-40 decibels. When the grain drying operation is added to that, it can be an additional 30 decibels. A semi driving by can reach 75 decibels. The grain drying operation is no more than an additional 30 decibels to the ambient noise levels. The company feels that, since the conditional use permit conditions specified no more than 40 decibels, they are within the level that was originally specified. They are willing to explore other alternatives since this is an issue with the neighbors; however, the company feels that they are within the maximum noise level.

Mr. Bock refuted Landmark Coop's noise level findings.

The committee discussed the possibility of staff going out to do noise monitoring. Shute explained that the department is not equipped to do that, but the committee could decide to hire a firm to do that.

Moderow – Stated that he feels that the company is within their noise limitations.

Reabe - The decibels are not being exceeded by the equipment.

Henke – Asked the Landmark representatives if they've ever talked to the manufacturer about finding a way to quiet the fans.

Elders stated that they had not contacted the manufacturer.

Reabe – Agreed with Henke.

Starshak – As part of a good neighbor policy, it would be good for Landmark to contact the fan manufacturer to see if any of the noise could be resolved.

Sondalle – Advised that this should be discussed again next month to see if anything has been resolved.

Shute – After reviewing the conditions of the conditional use permit, in the harvest segment of the narrative that was part of the original submittal, it states that the grain dryer would operate 24 hours, seven days per week during October 1st through December 1st. The grain aeration fans could operate 24 hours per day during the harvest season.

Elder – Landmark Services will look into all of this and report back at the December meeting.

Shute – Reported that Scott and Sandy Hautamaki, through an email to Shute, also complained about the noise.

Peters – Stated to Elder and Crop that he highly suggests that they try to do something about the noise.

Diane Pollesch, W1598 County Road S, (neighbors of Elmer Bock) – Reported that, when she sits on her deck, white stuff falls on them. It's difficult to watch TV in their bedroom; when the driers are running, they have to turn up the TV. Had they known about the noise issues, they never would have built their house there.

PUBLIC COMMENT

John Bloch, W1604 State Road 23 – Explained that he has been working with Matt Kirkman and Al Shute, including a conversation with Attorney Sondalle, in regards to parceling a piece of his property off of his land. The Blochs have heard about the new R-4 zoning district. Since their property is located on Highway 23, they feel singled out because they can't do what the ordinances want to accomplish. It's unfair that the county requires a separate access for each parcel because the State of Wisconsin is saying that they will not grant any more. As highways are being redesigned, they're now combining business accesses. It's safer with a limited number of accesses. Landowners on the county roads are able to put in as many roads as they like when creating new parcels. This opportunity does not exist for landowners on a state highway. The Blochs feel as though there is a hole in the new ordinance because of this requirement. Mr. Block asked that the committee give this some thought and make the ordinance so that everything is equal for everybody. It shouldn't be based on where you live.

COMMITTEE DISCUSSION RELATED TO STANDARDS TO BE APPLIED TO ZONING REQUESTS (ZONING AMENDMENTS AND CONDITIONAL USE PERMITS)

Starshak – Explained that this was added to the agenda in an attempt to get the committee on the same page when deciding requests based on state-mandated criteria. It is confusing to be given the outline of criteria in the staff report and then some of the decisions are not based on the criteria, especially when looking at some of the farmland preservation requests. There are good economic reasons to be doing what the committee has done, but there are decisions made that are contrary to the criteria.

Attorney Sondalle – Advised that, in any application for a zoning amendment or conditional use permit request, staff always puts forth the standards that should be applied in making decisions. Make a decision based on the standards and vote. You may not always agree; you may be split. You have to decide what you feel are appropriate standards. Look at the facts, apply the standards. Applicants can always appeal and then the court decides if the reasons are valid.

Starshak – When I read the criteria, I think it’s pretty much in black and white. It can be problematic, if we’re flexible with the criteria and inconsistent, do we open the county up to liability by not applying criteria evenly?

Sondalle – Someone would have to sue us to show that argument. In 28 years, Green Lake County has been sued once on that issue and that was for the Board of Adjustment’s decision on a variance. The county won that case.

Starshak – If we don’t use what’s stated in the staff report, does it help us when we need to make changes to the law. It’s a tough philosophical battle.

Sondalle – You have to apply the standards. Al (Shute) sends the requests to the towns. The towns come back and approve it and it’s not consistent with their comprehensive plans and then they get frustrated with the county because the county does not want to approve something that is not consistent with their plans. The towns have to update their comprehensive plans and so does the county. You could have the applicant also file an amendment to the comprehensive plan to change the plan so that it’s consistent.

Starshak – Shouldn’t we then restate what’s in the staff report to reflect some of the conflicts? Right now, there are times when the committee does not adhere to the criteria when making decisions.

Shute and Attorney Sondalle will do some research on this issue.

CORRESPONDENCE

a. KEITH FOYE, DATCP; FARMLAND PRESERVATION PLAN

Shute – Each of the committee members has been given a copy of an email sent by Keith Foye, DATCP. The certification of the current farmland preservation plan will expire in 2014 and that year would have been the year we would have worked on a plan so that at the end of that year, we’d have one to replace the expiring plan. Once that plan is certified and in place, the county has 12 months to update the A-1 Exclusive Agriculture District of the zoning ordinance to

comply with that plan. In our case, we have comprehensive planning which precedes all of this, which is 2013. This memo only addresses the farmland preservation plan. In the future, Mid-State Associates (MSA) could be used to coordinate these updates. They do know the background on town comprehensive plans and they could speak with some credibility on how to update them. They could be invited to a future meeting for further discussion.

Starshak – The memo also states that there could be a two-year delay in the certification expiration deadline so the county could coordinate the farmland preservation plan with its comprehensive plan. The county could also request a delay in the 12/31/15 deadline for certification of the county's certified farmland preservation plan zoning ordinance. The county would be eligible for a planning grant of up to 50% of the cost, not to exceed \$30,000. DATCP submitted a budget request to DOA that includes funding for farmland preservation program planning grants in each year of the upcoming biennial budget. It will not be known for sure if the money is available until sometime the middle of 2013 when the budget is finalized. Green Lake County would be in the 4th round of counties eligible for grants.

TOWN OF MANCHESTER – OPT OUT OF COUNTY ZONING

Shute – A copy of a letter written by Attorney Jon Wilsnack was given to each committee member. Attorney Wilsnack represents the Town of Manchester and stated that he has requested information from the department and has not received a response from Al Shute. Shute explained that research was done and everything was copied and mailed to Attorney Wilsnack. Wilsnack's office was called and his secretary verified that the information was received.

PURCHASES - None

CLAIMS

Claims totaling \$742.19 for Land Use Planning & Zoning were submitted.

Motion by Peters/Moderow, unanimously carried, to approve the claims in the amount of \$742.19 for payment.

APPROVAL OF DEPARTMENT ACTIVITY REPORTS

a. Permits, public hearings, etc.

Shute – Discussed the various aspects of the activity report.

b. Violations

Attorney Sondalle – Reviewed the violation reports.

Motion by Moderow/Peters, unanimously carried, to approve the monthly reports.

DEPARTMENT/COMMITTEE ACTIVITY

a. Agricultural zoning districts

Shute – A draft of the proposed A-2 zoning district was given to each committee member and language for the cottage industry was mailed to each prior to the meeting. The proposed A-2 represents the combination of the existing A-2 and A-3. They are very similar in uses and conditional uses. The proposed ordinance would drop the minimum lot size to eight acres.

There are county residents who want to start attending committee meetings to provide their input.

b. Land Division Ordinance amendments

Shute – Mr. Bloch, who spoke to the committee earlier, is one of several individuals that staff has worked with recently that is trying to do something with his land but needs 66’ of frontage on a public road. When the parcel is back off of the road, the parcel needs a 66’ of ownership. What you end up with is a flag lot (a parcel of land with a 66’ strip of land connecting it to the access point). What is happening to property owners like Mr. Bloch is, when the land is located on a state highway, the state is limiting the number of accesses. In some cases, the state is taking driveways away.

Attorney Sondalle – You would allow easements and right now, the county does not allow easements. Right now, if you want to split up any land, no matter how many acres, you cannot do it without road frontage. People who own land and have easements to access their land would not be able to divide their land unless they would get a variance to allow an easement. It’s impossible in most cases unless all of the landowners between your land and the public road agree to sell you 66’.

Shute - Under the jurisdiction section of the ordinance, the ordinance is in effect in all unincorporated areas of the county which should be reviewed as the county’s ordinance overlaps in some areas. There are certified survey map requirements that are outdated. Some of the definitions should be updated. As we go through the ordinance, we may find some other minor changes.

Attorney Sondalle – Basically, the department is asking for direction to work on this ordinance and bring it back.

Starshak – Directed Shute to move forward with the ordinance amendments.

DISCUSS A RESOLUTION THAT WOULD BE PRESENTED FOR THE COUNTY BOARD SIGNATURES TO BE SENT TO STATE LEGISLATORS OUTLINING HOW THE MANDATED COMPREHENSIVE PLAN AND FARMLAND PRESERVATION PLAN UPDATES ARE HARDSHIPS FOR SMALL COUNTIES.

Starshak – This was covered in Mr. Foye’s (DATCP) letter, discussed earlier in the meeting that advised the county to wait until next year to deal with the comprehensive plan and farmland preservation plan updates. This will be taken off of the agenda until the beginning of next year.

CLOSED SESSION PER WISCONSIN STATE STATUTE 19.85(1)(c) CONSIDERING EMPLOYMENT, PROMOTION, COMPENSATION OR PERFORMANCE EVALUATION DATA OF ANY PUBLIC EMPLOYEE OVER WHICH THE GOVERNMENTAL BODY HAS JURISDICTION OR EXERCISES RESPONSIBILITY. (ANNUAL REVIEW FOR GIS SPECIALIST GERALD STANUCH AND ADMINISTRATIVE ASSISTANT CAROLE DECRAMER

6:32 p.m. Motion by Moderow/Reabe, unanimously carried on roll call (5-ayes, 0-nays), to move to closed session per Wisconsin State Statute 19.85(1)(c) Considering employment, promotion, compensation or performance evaluation data of any public employee over

which the governmental body has jurisdiction or exercises responsibility. (Annual review for GIS Specialist Gerald Stanuch and Administrative Assistant Carole DeCramer)

RESUME INTO OPEN SESSION FOR FINDINGS OF CLOSED SESSION.

6:40 p.m. Motion by Henke/Reabe, unanimously carried on roll call (5-ayes, 0-nays), to resume into open session for findings of closed session.

Findings:

Motion by Reabe/Henke, unanimously carried on roll call (5-ayes, 0-nays), to accept the evaluation for Gerald Stanuch and Carole DeCramer and have them forwarded to their personnel files.

FUTURE AGENDA ITEMS

a. Future Activities

- Ag districts; cottage industry definition
- Land division amendments
- Standards to be applied to zoning requests (zoning amendments and conditional use permits)
- Discuss timeline for road setbacks

NEXT MEETING DATE

December 6, 2012

Business Meeting - 4:30 p.m.

Public Hearing - 6:00 p.m.

6:05 p.m. Recess

6:10 p.m. Reconvened

Committee Chairman Starshak reconvened the meeting of the Land Use Planning and Zoning Committee at 6:10 p.m. for public hearing items and read the rules of public hearing.

PUBLIC HEARING ITEMS

Audio of committee discussion is available upon request from the Green Lake County Land Use Planning and Zoning Department.

Item I: Applicant: Steven L Eckert **General Legal Description:** County Road I/O, Parcel #010-00366-0200, Lot 1 Certified Survey Map 3388, Part of the NW¼, Section 17, T14N, R13E, Town of Mackford, ±3.058 acres **Explanation:** Rezone request from R-1 Single-Family Residence District to R-4 Rural Residential District.

a) Public Hearing

Steven L. Eckert, W2176 County Road X – Spoke in favor of the request.

Public hearing closed.

b) Committee Discussion and Deliberation

Shute – Staff believes that this is a good fit for the R-4 district

Henke – The Town of Mackford approves of this request.

c) Committee Decision

On a motion by Peters/Reabe, carried on roll call (5-eyes, 0-nays), to recommend approval of the rezone request as presented and forward to County Board for final action.

d) Execute Determination Form/Ordinance

Item II: Applicant: Steven L Eckert **General Legal Description:** W2176 County Road X, Parcel #010-00391-0100, Part of the NE¼, Section 19, T14N, R13E, Town of Mackford, ±10.0 acres **Explanation:** Rezone request from A-1 Exclusive Agriculture District to R-4 Rural Residential District.

a) Public Hearing

Steven L. Eckert, W2176 County Road X – Spoke in favor of the request.

Public hearing closed.

b) Committee Discussion and Deliberation

Shute – This was denied the first time. The two separate parcels and each would meet the R-4 district.

Henke – The Town of Mackford approves this rezone request.

c) Committee Decision

On a motion by Henke/Moderow, carried on roll call (5-eyes, 0-nays), to recommend approval of the rezone request as presented and forward to County Board for final action.

d) Execute Determination Form/Ordinance

Item III: Applicant: Double S Dairy LLC , Steven Smits **General Legal Description:** N1153 County Road Q, Parcel #010-00470-0000, Part of the NE¼ of Section 23, T14N, R13E, Town of Mackford, ±3.0 acres **Explanation:** Rezone request from A-1 Exclusive Agriculture District to R-4 Rural Residential District.

a) Public Hearing

No one appeared.

Public hearing closed.

b) Committee Discussion and Deliberation

Henke – The Town of Mackford approves this rezone request.

c) Committee Decision

On a motion by Henke/Reabe, carried on roll call (5-eyes, 0-nays), to recommend approval of the rezone request as presented and forward to County Board for final action.

d) Execute Determination Form/Ordinance

Item IV: Applicant: Diane J Burk **Agent:** Roberta Walker **General Legal Description:** Parcels 006-00279-0000,006-00279-0200, 006-00282-0000, All being located in the SE¼ of Section 15, T15N, R13E, Town of Green Lake, ±28.355 acres **Explanation:** Rezone request from A-1 Exclusive Agriculture District to A-2 General Agriculture District (± 18.001 acres) and A-1 Exclusive Agriculture District to A-3 Light Agriculture District (± 10.354 acres).

a) Public Hearing

Roberta Walker, W4401 Brooklyn J Road, Ripon, representing the Diane Burk Estate – Spoke in favor of the request.

Public hearing closed.

b) Committee Discussion and Deliberation

Shute – There are no issues with this request.

James Fox, Town of Green Lake Chairman – Spoke in favor of the request.

c) Committee Decision

On a motion by Reabe/Moderow, carried on roll call (5-eyes, 0-nays), to recommend approval of the rezone request as presented and forward to County Board for final action.

d) Execute Determination Form/Ordinance

Item V: Applicant: Thomas R Willett **General Legal Description:** Parcel #004-00614-0200, Part of the SE¼ and SW¼ of Section 25, T16N, R13E, Town of Brooklyn, ±28.092 acres **Explanation:** Rezone request from A-1 Exclusive Agriculture District to A-2 General Agriculture District.

a) Public Hearing

Dr. Thomas Willett, 5531 Brooklyn G – Spoke in favor of the request.

Public hearing closed.

b) Committee Discussion and Deliberation

Shute – The proposed rezone is consistent with the comprehensive plan because it is staying in an agricultural district.

Reabe - The Town of Brooklyn Board and Plan Commission unanimously approved of this request.

c) Committee Decision

On a motion by Reabe/Henke, carried on roll call (5-ayes, 0-nays), to recommend approval of the rezone request as presented and forward to County Board for final action.

d) Execute Determination Form/Ordinance

ADJOURN

On a motion by Henke/Reabe, unanimously carried, the committee adjourned.

Time: 6:42 p.m.

RECORDED BY

Carole DeCramer
Committee Secretary

APPROVED ON:

December 6, 2012