

DODGE COUNTY PLANNING, DEVELOPMENT AND PARKS COMMITTEE MINUTES

The Dodge County Planning, Development and Parks Committee met on October 20, 2014 at 7:00 p.m. on the 1st Floor of the Administration Building, Juneau, Wisconsin.

Chairman Schaefer called the meeting to order. Roll Call was taken. Members present were Tom Schaefer, Allen Behl, Randy Grebel, Joseph Marsik and Janice Bobholz. The staff present at the request of the Chairman were Joyce Fiacco and Joseph Giebel. John Corey, Dodge County Corporation Counsel and Jim Mielke, County Administrator were also present.

The Chairman asked the staff to confirm compliance with the open meeting laws and the public hearing notice requirements. Mr. Giebel noted that the meeting was properly noticed in accord with the open meeting law and noted that the required notices for the public hearings listed on the agenda were posted, mailed and published in accord with the statute and code requirements.

The agenda was reviewed and approved as posted.

PUBLIC HEARING

Norm Eggert – Request for a Conditional Use Permit under the Land Use Code, Dodge County, Wisconsin to allow for the creation of an approximate 2.5-acre nonfarm single family residential lot within the A-1 Prime Agricultural Zoning District. The property is located in part of the SW ¼, NW ¼, Section 24, Town of Shields;

Motion by Grebel to approve the conditional use permit request to allow for the creation of a 2.5-acre nonfarm residential lot within the A-1 Prime Agriculture Zoning District subject to the following conditions:

1. The applicant shall obtain the required land division approvals for the proposed lot from the County and local municipalities if required, prior to the creation of these lots;
2. The proposed non-farm residential lot shall not exceed 2.5-acres in area unless the lot is successfully rezoned out of the A-1 Prime Agricultural Zoning District;
3. Only one single family residential unit may be constructed on the proposed non-farm residential lot unless this lot is successfully rezoned into a zoning district which allows additional residential units;
4. The acreage of the proposed non-farm residential lot shall count towards the total non-farm residential acreage that can be created from the base farm tract for this property;
5. A "Notice of Zoning Limitations" document shall be recorded with the Dodge County Register of Deeds Office for the following parcels which make up the "base farm tract" which notifies the potential buyers of these parcels that there may be limitations as to the number of new lots that can be created from this base farm tract:
 - 040-0914-2422-004; 040-0914-2423-000;
6. The owner and subsequent owners of this non-farm residential lot hereby agree to comply with Subsection 9.2, Right to Farm provisions of the Dodge County Land Use Code and that they will not cause unnecessary interference with adjoining farming operations producing agricultural products and using generally accepted agricultural practices, including access to active farming operations;
7. The decision of the Committee is valid for one year.

Second by Behl Vote 5-0 Motion carried.

PUBLIC HEARING

Peter Graetz - Request for a Conditional Use Permit under the Land Use Code, Dodge County, Wisconsin to allow for the creation of a 2-acre nonfarm single family residential lot within the A-1 Prime Agricultural Zoning District. The property is located in part of the NE ¼, NE ¼, Section 29, Town of Ashippun;

Motion by Bobholz to approve the conditional use permit request to allow for the creation of a 2-acre nonfarm residential lot within the A-1 Prime Agriculture Zoning District subject to the following conditions:

1. The applicant shall obtain the required land division approvals for the proposed lot from the County and local municipalities if required, prior to the creation of these lots;
2. The proposed non-farm residential lots shall not contain more than 3.5-acres in area of land that is located within the A-1 Prime Agricultural Zoning District.
3. Only one single family residential unit may be constructed on the proposed non-farm residential lots unless the lots are successfully rezoned into a zoning district which allows additional residential units.
4. The applicable acreage of the proposed non-farm residential lots shall count towards the total non-farm residential acreage that can be created from the base farm tract for this property.
5. A "Notice of Zoning Limitations" document shall be recorded with the Dodge County Register of Deeds Office for the following parcels which make up the "base farm tract" which notifies the potential buyers of these parcels that there may be limitations as to the number of new lots that can be created from this base farm tract: 002-0917-2911-000; 2914-001; 2914-002;
6. The owner and subsequent owners of this non-farm residential lot hereby agree to comply with Subsection 9.2, Right to Farm provisions of the Dodge County Land Use Code and that they will not cause unnecessary interference with adjoining farming operations producing agricultural products and using generally accepted agricultural practices, including access to active farming operations;
7. The decision of the Committee is valid for one year.

Second by Marsik Vote 5-0 Motion carried.

PUBLIC HEARING

Rubicon Territory, LLC, agent for Gilbert and Susan McNutt - Request for a Conditional Use Permit under the Land Use Code, Dodge County, Wisconsin to allow a commercial and personal storage business use within the A-2 General Agricultural Zoning District at this location. The site is located in part of the SE ¼, SW ¼, Section 29, Town of Rubicon, along the west side of El Donna Drive approximately 200 feet south of its intersection with Ricardo Drive.

Motion by Marsik to approve the conditional use permit request to allow a commercial and personal storage business use within the A-2 General Agricultural Zoning District at this location subject to the following conditions:

1. The operation shall be conducted without offensive noise, vibration, dust, smoke, odor, glare, lighting or the risk of fire, explosion or other accident and shall not be detrimental to the public health and safety or general welfare of the immediate neighborhood or community.

2. It shall be the responsibility of the applicant to obtain all other Federal, State and/or local municipality permits and approvals that may be required for the proposed operation on this site.
3. The proposed (office/restroom/kitchenette) addition shall be served by an approved, code-compliant, sanitary system.
4. No outside storage of vehicles/boats/watercraft or equipment shall be permitted.
5. The operation shall be conducted in accord with the plans submitted on September 16, 2014
6. Any significant change or expansion of the operation on this site may require that a new Conditional Use Permit be obtained.

Second by Grebel Vote 5-0 Motion carried.

PUBLIC HEARING

Daniel Hesprich – Request for a Conditional Use Permit under the Land Use Code, Dodge County, Wisconsin to allow the expansion of an animal confinement facility on this site within the A-1 Prime Agricultural Zoning District. The facility will have a maximum of 999 animal units on this site. The property is located in part of SW ¼, SE ¼, Section 16, T13N, R17E, Town of Lomira, the site address being W1474 County Road H.

Motion by Behl to approve the conditional use permit request to allow the expansion of an animal confinement facility on this site within the A-1 Prime Agricultural Zoning District to a maximum of 999 animal units subject to the following conditions:

1. The applicant shall follow all terms/provisions/requirements set forth in the approved ATCP 51 Livestock Siting application.
2. It shall be the responsibility of the applicant to obtain all other Federal, State and/or local municipality permits and approvals that may be required for the proposed operation on this site.
3. Any significant change to the existing/proposed facilities, including any future expansion of the facility that would exceed 999 Total Animal Units (AU), may require that a new Conditional Use Permit (CUP) be approved.

Second by Bobholz Vote 5-0 Motion carried.

OTHER BUSINESS

1. Court of Appeals Case – Hegwood vs. Town of Eagle Board of Appeals

Mr. Giebel provided the Committee with information on the Court of Appeals Published Opinion – Hegwood vs. Town of Eagle Board of Appeals. Mr. Giebel noted that the Wisconsin Supreme Court denied review of the court of appeal's decision in Hegwood v. Town of Eagle Board of Appeals and therefore the court of appeals decision is the controlling interpretation. The Court of Appeals held that, except for towns that adopted general zoning prior to the adoption of the county shoreland ordinance, towns do not have the authority to regulate shorelands.

Mr. Giebel noted that the County's current shoreland ordinance only contains the minimum standards required by the Department of Natural Resources under NR 115, Wis. Adm. Code, which generally focus on building setback requirements from the water, impervious surface area requirements, limited height requirements and vegetation removal requirements within the shoreland area. The standards in the County shoreland ordinance do not currently regulate the different type of uses or other development standards within the shoreland property. The 9 towns that have adopted the County's Land Use Code (Ashippun, Calamus, Lebanon, Leroy, Lomira, Oak Grove, Rubicon, Shields and Trenton) are unaffected by this decision because the use and development standards are enforced by the County in these towns through the Land Use Code. Based on the Court of Appeals decision, the 15 towns in Dodge County that have not adopted the County's Land Use Code (Beaver Dam, Burnett, Chester, Clyman, Elba, Emmet, Fox Lake, Herman, Hubbard, Hustisford, Lowell, Portland, Theresa, Westford, and Williamstown) would not have the authority to enforce zoning regulations in the shoreland areas leaving these areas unregulated in regards to the zoning use regulations and other zoning development standards.

County Board Supervisor Joe Marsik requested that the Committee discuss the possible options for the County to provide temporary zoning control in the shoreland area for the 15 towns that have been affected by this Court decision:

Joe Marsik presented his concerns with the town's lack of zoning control in the shoreland area as a result of this court decision and questioned whether the County can amend the Shoreland Ordinance to include zoning regulations for the 15 towns that are affected by this decision. He also questioned if a moratorium could be approved which would restrict any development in the shoreland areas of the 15 towns that are not under County Zoning.

The Committee, along with John Corey, Jim Mielke, Joyce Fiacco and Joe Giebel discussed the different options that may be available to the County to address the zoning issues.

The Committee discussed whether all of the towns truly understood the implications of this decision and discussed different options for the County staff to provide the towns with information regarding this decision.

Following the discussion, it was the general consensus of the Committee that it may be in the best interest of the County to let the individual towns make the decision on whether to move forward on a moratorium or an amendment of Shoreland Ordinance.

Tom Schaefer indicated that he will be attending a Town's Association conference next week and would hope to obtain information on how the other towns in the state are addressing these issues. Mr. Giebel also indicated that he will be attending the Wisconsin County Code Administrators conference this week and would try to obtain information on how the other counties are addressing these matters.

The Committee asked Mr. Giebel to place this issue back on the next agenda for discussion and asked Mr. Schaefer and Mr. Giebel to provide the Committee with an update at the next meeting on how the other towns and counties are addressing this issue.

2. The minutes from the October 6, 2014 meeting were reviewed by the Committee.

Motion by Grebel to approve the minutes as written.

Second by Marsik Vote: 5-0 Motion carried.

3. No Committee Member Reports


4. No additional Per Diems

Motion by order of the Chairman to adjourn the meeting.

Motion carried.

Meeting adjourned at 8:25 p.m.

Respectfully Submitted,



Allen Behl, Secretary

Disclaimer: The above minutes may be approved, amended or corrected at the next committee meeting.