

TOWN OF HORTONIA

Public Hearing & Special Meeting January 26, 2010

The Pledge of Allegiance was said.

The Public Hearing, called to order by Chairman Jaeckle at 7:00 p.m., had all Plan Commissioners present including Nancy Willenkamp, John Wiesner, Rick Martin and Dave LeMahieu; also present, Clerk Andrew Hogan. Twenty others were also present including Attorney Rich Carlson, Building Inspector Jim Emmons and Jeff Sanders of Community Planning and Consulting, LLC.

The Board verified that notice of the Public Hearing, subsequent special meeting and the agenda were posted at www.townofhortonia.org, Town Hall, Modern Flooring and Hortonia's Westside Auto Repair. Notice of the Public Hearing was published on December 24, 2009 in the Appleton Post Crescent. Notice of the Public Hearing was also given to the following neighboring municipalities and intergovernmental agencies: Towns of Mukwa, Dale, Ellington, Greenville, Liberty and Caledonia; Village of Hortonville, City of New London; School Districts of Hortonville and New London; Outagamie County Planning and Zoning Departments; East Central Wisconsin Regional Planning Commission; State of Wisconsin Departments of Transportation, Administration and Natural Resources;. Receiving notice were, respectively: Clerks Jeanette Zielinski, Marcia Kelly, Bonnie Fischer, Debbie Wagner, Darlene Krake, Mary Lynn Clark, Lynne Mischker, Sue Tennie; Superintendents Bill Prijic and Bill Fitzpatrick; Planning Director Michael C. Hendrick, Zoning Administrator Timothy Roach; Executive Director Eric Fowle; Transportation Planner Mathew Halada, Comprehensive Planning Grant Administrator Peter Herreid.

The purpose of the Public Hearing was to receive public comment on the revised Town of Hortonia Comprehensive Plan 20-Year Future Land Use Map.

Jeff Sanders reviewed the events that prompted the revision of the map, beginning with an effort by the Town to address zoning discrepancies in 2006. This effort ran concurrent to the development of the Town's Comprehensive Plan in 2006 which created the original Future Land Use map. The two initiatives, running in parallel, resulted in several zoning updates that were inconsistent with desired future land use. Because of this, Outagamie County would not approve the rezoning ordinance adopted by the Town in 2007. That ordinance updated the zoning of 54 parcels at once. Due to the number of public hearings held by the Town in order to gain approval of the 54 parcel rezone, the Town opted to resolve the discrepancies by updating the Future Land Use map. Jeff later stressed that although there may still be some irregularities in either map, or both, it's important to keep the two maps compatible as both zoning and desired future land use evolve. As long as the two maps are compatible, Outagamie County should accept the Town's rezonings. Jeff noted that persons aware of either zoning or future land use irregularities should jot them down and let the Town Board know so that they could be rectified on a case by cases basis. Jeff summarized that the objective of the land use revision is to comply with the county's recommended changes as a means to improve the likelihood that the County will accept the Town's rezoning ordinance.

Three items were received ahead of the meeting by the Clerk and entered as evidence during the meeting: (1) letter from City of New London Mayor Gary Henke

objecting to the Future Land-Use classification of Rural Commercial; the Town recognized that to be a mapping error and presented a revised map as evidence during the meeting which classified the Sara Lee property as industrial, just as it was in the original 20-Year Future Land Use map; (2) letter from horse enthusiasts including 3-page summary of economic impact and other support material expressing concern that the map insufficiently addresses land-use for equine initiatives; (3) map of proposed State Hwy 15 bypass of Hortonville from the Wisconsin Department of Transportation, Green Bay office.

Resident and former Chairman Kevin Bolssen expressed concern that the future land use maps did not address discrepancies relative to zoning citing examples on properties belonging to himself, Carroll Fulmer, Wolfrath, Schiedermayer; a number near intersection of State Hwy 15 & 45; several along River Road; a few along TT and others.

In reply to Kevin's question about land use relative to zoning of property belonging to Black Creek Limestone Co., Jeff Sanders clarified that zoning and future land use do not correspond one-to-one, identically. However, he reiterated that the zoning and future land use did need to be compatible. Specifically, Jeff pointed out that Ag zoning is consistent with mining as a conditional use. He also pointed out that the Town could create a mining district, however, that would only make sense if the Town was trying to court mining operations to move into the Township. With only one Quarry in the Township, using a conditional use of Ag zoning was appropriate.

Addressing Kevin's concern about discrepancies, Jeff pointed out that although there may still be irregularities in the maps, the important thing is that the zoning map is consistent with the Future Land Use map. Going forward, the two maps could be revised annually as a maintenance measure, rather than trying to hold public hearings, case by case, as items are identified – both cost and effort make that approach prohibitive. Jeff again called for people who were aware of irregularities in the mapping to jot down those irregularities and bring them to the Town Board's attention.

When former Supervisor Dennis Clegg asked if a trail system running through the Township would require land-owner consent, Jeff replied that currently anything under consideration would utilize rights of way and existing easements. However, a more comprehensive trail system could incorporate land dedicated by land-owners.

When WisDOT's State Hwy 15 bypass map was displayed after the Clerk entered it as testimony, resident Cindy Hogan expressed dismay that the bypass would be within 300 feet of Hortonville Elementary School, citing air quality and noise concerns. Replying to Cindy's question as to whether the Town could influence WisDOT's plans calling for a greater buffer between the Elementary School and the 4-lane bypass, Chairman Jaeckle talked about his recent meetings with highway officials regarding expansion of County Road CB up to County Road JJ alleviating some of the traffic.

When Cindy questioned why Hortonville Area School District busses were not given access to the bypass at the North end of the Village, Chairman Jaeckle observed that WisDOT's design was a public safety faux pas because it forced emergency vehicles responding from the Hortonville Fire Department to drive to either end of the Village when driving to the scene of an accident on the bypass. Responding to both comments, Dennis Clegg stated that in his capacity as Town Supervisor he attended several meetings

regarding the bypass where Roger Retzlaff, Village President, opposed a northern access, citing that WisDOT would not allow a ramp in the middle of a 4-mile bypass.

Commenting on the horse enthusiasts' letter, Jeff indicated that the initiatives in their letter could not be acted on in the context of this Public Hearing because their proposals were not entered as part of the 30-day notice of this Public Hearing, however, the recommendations would be entered into the record. Jeff discussed that there were two distinct ways the enthusiasts' initiatives could be realized: (1) by convincing the Town Board and Plan Commission to incorporate their horse community and horse trail planning into the Town's ordinances, which would require public hearings (2) by convincing subdivision developers to incorporate their community and trail objectives. Following Jeff's comments, horse enthusiasts in the audience elected not to address the Board and Commission.

Commenting on the letter from New London Mayor Gary Henke, Jeff indicated that the city currently has extraterritorial plat review, but not zoning review. With few exceptions the city can not initiate annexations; land-owners have to initiate the process. Despite that limitation, the city is well within its right to consider Town lands as secondary growth expansion areas. As long as developers perceive advantages to joining the incorporated municipality, the Town will continue to lose high value lands to annexations by both the Village of Hortonville and the City of New London. Plan Commissioners need to carefully consider this in the context of ordinance revisions that aim to make development more restrictive in the township.

Chairman Jaeckle polled the floor one last time for any further public comment. There were no respondents.

Motion made by John Wiesner and seconded by Nancy Willenkamp to adjourn the public hearing. Carried.

The special meeting of the Town Board and Plan Commission, called to order at 7:45 p.m. by Chairman Jaeckle, had all Plan Commissioners present; Board Supervisor Bob Luedtke was absent; also present, Clerk Andrew Hogan. Nineteen others were also present including Attorney Rich Carlson, Building Inspector Jim Emmons and Jeff Sanders of Community Planning and Consulting, LLC.

Attorney Rich Carlson raised a point of order stating that the Plan Commission needs to make a recommendation to the Town Board before the Board can act, adding that the Board would need to act to adopt an ordinance amending the Comprehensive Plan by accepting the revised 20-year future land use map.

Attorney Carlson supported the view that the zoning map may have errors citing that when the Town Board, led by Chairman Red Surprise, had undertaken the project of updating the zoning map in 1996, there were gaps in data and irregularities. He went on to say that the in 2006 Town Board Chairman Kevin Bolssen sought to rectify as many of the exiting zoning problems as possible. In that regard the 2007 ordinance rezoning 54 parcels was an error correction endeavor.

Attorney Carlson supported Sanders' earlier statement, that the 20-year future land use map need not map one-to-one with districts within the zoning map; that consistency between the maps was the key issue. Carlson went on to caution the audience about treating the two maps similarly, explaining that the future land use map is only a

guide, but the zoning map is a legal instrument that either prohibits or permits construction and/or development.

When Chairman Jaeckle asked for a motion from a commissioner, Dennis Clegg questioned whether it was prudent to adopt a future land use map that continued to have problems. Jeff Sanders replied that errors could be corrected during the next revision of the map, encouraging audience members to annotate their maps and submit corrections to the Town Board.

Motion made by Rick Martin for the Plan Commission to recommend to the Town Board adoption of the 20-Year Future Land Use map revised [*on 12-22-09 by Omni Associates in response to the City of New London's objections*] and presented as evidence at the public hearing. The motion was seconded by Dave LeMahieu. Carried – 3 ayes: Rick Martin, Dave LeMahieu, John Jaeckle; 1 abstain: Nancy Willenkamp; 1 nay: John Wiesner.

Motion made by Nancy Willenkamp and seconded by John Jaeckle to accept the Professional Planning Services Agreement between the Town of Hortonia and Community Planning and Consulting, LLC. Carried – 2 ayes, 0 nay.

Building Inspector, Jim Emmons, came before the Board and Plan Commission to solicit an opinion as to whether or not to grant Terry Prewitt a building permit in Section 5 of Hortonia Township, given the current driveway access situation. Emmons explained that there is a bit of history to this particular case, citing a building permit granted by the Town of Dale to a resident whose driveway runs across a Town of Hortonia property. This same driveway would be used by the Prewitt's for access to the proposed home. Emmons went on to say that based on current access ordinances, a variance would need to be issued in order for the use to be permitted.

Terry Prewitt fielded questions and availed a map to the Board, Commissioners and Attorney Carlson to apprise them of the specific details of the situation.

Attorney Carlson weighed in, stating that the Town should not exacerbate the problems affecting multiple properties by granting a variance. Carlson offered that a CSM would be a means to fix the problem as long as it included a 66ft wide road easement where the land would be reserved for a future public road. The Prewitt's would need to honor the easement, but the driveway could remain as is, presently.

Carlson opined that the CSM could be done concurrently with the building permit application, when asked by the Board if the CSM needs to be adopted first. Carlson recommended that the surveyor developing the CSM contact his office, when asked by Prewitt how the details of the easement need to be delineated.

Jeff Sanders briefly discussed the Working Lands Initiative citing that anything that is not zone A-1 (prime agricultural district) will be unaffected. The clerk, cited a December 14 White Paper by Martenson & Eisele discussing the affect of the new conversion fee on rezonings, sought clarity from Sanders about whether or not Town landowners are exempt from the fee outlined by Statute §91.48(b) given that the DATCP granted the Town a two year extension on its Farmland Preservation ordinance, effective December 30, 2009. Sanders offered to provide more details during a follow-up meeting.

Chairman Jaeckle polled the floor noting that most of the audience had left.

Jeff Sanders reviewed elements of his staff report recommending that the revising the conservation subdivision should be the first step in the Town's process to update its land use related ordinances. Attorney Carlson recommended that clauses related to clustering be addressed. Carlson and Sanders took turns commenting on threshold for clustering of water treatment systems, wells and other common systems. Jeff Sanders then delineated a tentative timeline for revising and adopting the revised conservation subdivision ordinance.

Attorney Carlson addressed the Plan Commission offering some insights and strategies for zoning short and planning short.

Motion made by Nancy Willenkamp and seconded by Rick Martin to adjourn the meeting. Carried. Meeting adjourned at 8:43 p.m.

These minutes are unapproved and subject to final Board approval.

Andrew Hogan, Clerk
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