

County Zoning Agency
MINUTES
April 28, 2020 (Tues) – 5:00 p.m.
100 West Walworth Street
Elkhorn, Wisconsin

LURM Director Michael Cotter called the meeting to order at 5:00 p.m.

Roll call – Committee members present in person were Supervisors Dave Weber, Susan Pruessing, and Citizen Members Richard Kuhnke, Sr. and Jim Van Dreser. Appearing via video was Supervisor Rick Stacey. Appearing via telephone were supervisors Jerry Grant and Ryan Simons. A quorum was present.

County Staff present – Land Use and Resource Management Department Director Michael P. Cotter, Department Deputy Director Shannon Haydin via video, Senior Planner/Hearing Facilitator Matt Weidensee via video. Present for a portion of the meeting / hearing Mark Luberta/County Administrator, and Senior Zoning Officer Nicholas Sigmund via video.

A “sign-in” sheet listing attendees on April 28, 2020 was not presented due to the continued COVID-19 threat.

Details of the April 28, 2020 meeting / hearing are on a digital recording which is on file and available to the public upon request / video to view on our website: www.co.walworth.wi.us

Chairperson nominations

Jerry Grant motioned to nominate Supervisor Rick Stacey for Chairperson. Second by Richard Kuhnke, Sr.

Dave Weber motioned to close nominations for Chairperson. Second by Jerry Grant. Motion carried. 7-favor 0-oppose

Chairperson elections

Motion to elect Rick Stacey to the position of Chairperson. Motion carried. 7-favor 0-oppose

Vice-Chairperson nominations

Jerry Grant motioned to nominate Dave Weber as Vice-Chair. Second by Rick Stacey.

Richard Kuhnke, Sr. motioned to close nominations for Vice-Chair. Second by Dave Weber. Motion carried. 7-favor 0-oppose

Vice-Chairperson elections

Motion to elect Dave Weber to the position of Vice-Chair. Motion carried. 7-favor 0-oppose

Role of the County Zoning Agency – Discussion of the various issues that arise in Walworth County and the role of the members. Introduction of Land Use & Resource Management staff and roles. Discussion of new technology available in the board room and resources available for the field.

Chairman Rick Stacey welcomed the new Committee member.

Jerry Grant motioned to approve the agenda.

Dave Weber motioned to approve the agenda as amended to table item 11.b.2.) Geneva Springs Subdivision Preliminary Plat, Geneva Springs Haven LLC.; 13.b.1.) Kari Lanser, LLC; 13.e.3.) Casey and Bertha Mikrut Trust; 13.f.2.) ATS, Ltd. C/O Robert Allen – Owner; and 13.f.3.) Steve S. Walter. Seconded as amended by Jim Van Dreser. Motion carried. 7-favor 0-oppose.

Jerry Grant motioned to approve the February 20, 2020 CZA Meeting Minutes. (March 19, 2020 CZA meeting was cancelled due to COVID-19 Coronavirus and Governor Ever's orders concerning limiting gatherings of 10 people or more). **Seconded by Dave Weber. Motion carried. 7-favor 0-oppose**

Zoning / Sanitation / Land Conservation Enforcement – Shannon Haydin
Disc Count #5:12:23 – 5:13:09

Subdivision Items – Old Business – None

Subdivision Items – New Business –

1. **David Horowitz**, proposed 1-lot, Certified Survey Map, Section 26, Town 4 North, Range 15 East, Town of Whitewater. Parcel #'s DA175900003, DA193800003, and DBVE 00011 (Lot 11 of Bay View Estates). The proposed CSM contains 2.31 acres of land and is zoned R-1 Single Family Residence District. The purpose of this CSM is to combine all of the above listed parcels into a 1-lot CSM. This CSM requires County Zoning Agency review and approval because it crosses over the exterior boundary of a subdivision plat.

Staff presents request.

David Horowitz speaks regarding the application.

Dave Weber motioned to approve. Seconded by Jim Van Dreser. Motion carried. 7-favor 0-oppose.

The rezone petition will move forward to the May 12, 2020 Walworth County Board for possible action.

Disc Count #5:13:12 – 5:15:28

THIS ITEM NOT HEARD – No Stormwater Plan.

- ~~2. **Geneva Springs Subdivision Preliminary Plat**, Geneva Springs Haven LLC., applicant. Proposed 27 lot and 2 out lot residential subdivision plat located in Section 21, Town 2 North, Range 17 East, Town of Geneva. Parcel #s JA320800002 and JA320800003. The proposed plat contains 13.09 acres of land and is zoned R-2 Single Family Residence District (Sewered). The applicant is requesting a modification of street design standards contained in Section 11.3 (e) of the Walworth County Subdivision Ordinance.~~

Old Business - Ordinance Amendments – None

Old Business – Discussion Items – None

New Business - Ordinance Amendments – None

New Business – Discussion Items –

TABLED – NO TOWN DECISION

- ~~1. **Kari Lanser, LLC** – Owner, Section 13, Sugar Creek Township. Amendment of an existing conditional use for outdoor food and beverage for a drive up coffee shop by relocation of the parking and through traffic area to provide room for a fireworks stand on the parent parcel. Part of Tax Parcel G-SC1300006.~~

2. Second Homes in Walworth County – Oneida County Travel Advisory – Michael Cotter

Michael Cotter discusses Oneida County travel advisory, concerns and enforcement. Discussion by the Committee.

Jim Van Dreser motioned to put on file. Seconded by Dave Weber. Motion carried. 7-favor 0-oppose.

Disc Count #5:15:48 - 5:19:22

Ordinance Amendments – None

Rezones with Conditional Uses –

5:30 P.M.:

1. **Robert Lightfield – Owner, Katherine Cash – Applicant**, Section 20, Spring Prairie Township. Rezone property from the A-1 Prime Agricultural, C-2 Upland Resource Conservation and C-4 Shoreland Wetland Zone Districts to the C-2 and C-4 zone districts in order to create a two lot Planned Residential Development (PRD) with conditional use permit approval to restrict the two lots containing 9.5 and 14.5 acres of C-2 zoned areas and additional C-4 wetland area from further division by recording of required deed restrictions. Part of Tax Parcel O SP2000001.

General:

1. Approved as per plan submitted for a two lot PRD with one single family homes on lot meeting the density and setback requirements if the County Zoning Ordinance with all additional conditions.
2. The owner must meet all Town, County and/or State highway access requirements.
3. The project must meet all Federal, State, County and local Ordinances.
4. The proper preservation, care and maintenance by the original and all subsequent owners of the design of the PRD and all common structures, facilities, essential services, access and open spaces shall be assured by **deed restriction referencing the parcel and shall be recorded meeting standard document format as per 59.43(2m)**. All property within the PRD must remain as part of the PRD and may not be removed from the PRD without County approval.
5. The County reserves the right to rescind this conditional use upon any violation of County regulations.

6. If the Land Management Department determines that changes in either the character of the use or the intensity of the use are not consistent with this approval, then those changes must be brought before the County Zoning Agency for approval.
7. Application for a two lot C.S.M. with the required restrictions must be made for the PRD within one year of this approval.

Specific:

Staff presents request and indicates this is consistent with Farmland Preservation. Brian Greenlees speaks regarding the application. Speaking in FAVOR: Robert Lightfield

Jim Van Dreser motioned to approve. Seconded by Dave Weber. Motion carried. 7-favor 0-oppose.

The rezone petition will move forward to the May 12, 2020 Walworth County Board for possible action.

Disc Count #5:35:02 - 5:50:17

Rezones –

5:40 P.M.:

1. **Slawomir and Renata Rybicki and Neal and Kimberly Moss – Owners**, Section 12, LaFayette Township. Rezone approximately 28.4 acres of A-1 Prime Agricultural District Property to the C-2 Upland Resource Conservation District in order to have the property zoned consistent with the physical character and historic use of the site and divide the property according to percentage of current joint ownership. Tax Parcel K LF1200009.

Staff presents request and indicates this is consistent with Farmland Preservation. Kimberly Moss speaks regarding the application.

Jerry Grant motioned to approve. Seconded by Richard Kuhnke, Sr. Motion carried. 7-favor 0-oppose.

The rezone petition will move forward to the May 12, 2020 Walworth County Board for possible action.

Disc Count #5:50:20 – 5:54:12

5:50 P.M.:

2. **Kamyar Saeian Trust C/O Kamyar Saeian – Owner**, Section 9, Troy Township. Rezone approximately 3.88 acres of A-2 Agricultural zoned property to the C-2 Upland Resource Conservation District in order to have over 10 acres of C-2 zoned land and be able to split off a five acre parcel on which to build a smaller home. Part of Tax Parcel L T 900010A.

Staff presents request. Kamyar Saeian speaks regarding the application.

Dave Weber motioned to approve. Seconded by Jim Van Dreser. Motion carried. 7-favor 0-oppose.

The rezone petition will move forward to the May 12, 2020 Walworth County Board for possible action.

Disc Count #5:54:17 – 5:58:02

TABLED – NO TOWN DECISION

- ~~3. **Casey and Bertha Mikrut Trust C/O John Mikrut Trustee – Owner, Diane Coeroft – Applicant, Section 27, Geneva Township. Rezone approximately .256 acres of C-4 Shoreland Wetland District property to the R-2 Single Family Residential District in order to match the wetland boundary to delineated field conditions for the creation of a potentially buildable residential lot. Part of Tax Parcel JLCB-00299.**~~

Supervisor Ryan Simons does not participate in this hearing and abstains from voting.

6:00 P.M.:

- 4. The Estate of William Dean Mularkey C/O Scot W. Mularkey – Personal Rep. – Owner, Section 6, Troy Township. Rezone approximately .59 acres of B-2 General Business District property to the R-1 Single Family Residential District in order to be able to use the property for residential purposes. Tax Parcel L T 600027.**

Staff presents request.

Attorney James Duquette speaks regarding the application.

Dave Weber motioned to approve. Seconded by Richard Kuhnke, Sr. Motion carried. 6-favor 0-oppose. (Supervisor Simons abstains)

The rezone petition will move forward to the May 12, 2020 Walworth County Board for possible action.

Disc Count #6:01:20 – 6:04:50

Conditional Uses –

6:10 P.M.:

- 1. Marion J. Cournoyer, Leonor I. Hernandez – Owners, Section 27, Linn Township. Conditional use for outdoor food and beverage consumption in the back of the bar, public assembly use to allow free open microphone/ open jam sessions on an outdoor stage behind the Zenda Tap on Fridays and Saturdays from March to October and three organized music events per year with a capacity of up to 120 event ticket holders inside of the outdoor fenced area of the bar. Part of Tax Parcel I L 2700012.**

General:

- 1. The Conditional Uses for outdoor food and beverage consumption and public assembly are approved as per plan submitted with all additional conditions. for free open microphone/ open jam sessions on Fridays and Saturdays and free**

~~karaoke on Sundays on an outdoor stage behind the Zenda Tap from March to October from 12:00 noon until 12:00 a.m. (midnight). Outdoor food and beverage use includes use of six picnic tables in the fenced area used for normal outdoor food and beverage seating for small gathering of bar customers and people who go outside to smoke while the bar is open. All approvals are subject to the plan submitted and with the following conditions.~~

2. Approval is also granted for public assembly use for ~~a maximum of three~~ not paid admission events ~~for up to a maximum 120 bar customers~~ to be held by the bar ~~per year~~. All approvals are subject to the plan submitted and with the following conditions.
3. Use of the grounds shall be limited to the uses as stated in the plan of operations.
4. ~~The three music events shall not be paid (ticket) events. Event hour shall be begin at 1:00 p.m. and end at 12:00 a.m. (midnight). Set up preparation can occur on day one. The event shall be held on day two and dismantling for events shall occur during the third days provided for each event.~~
5. A minimum of six employees shall be on site working during the ~~three~~ music events held by the bar owner for the customers of the bar.
6. All outdoor seating and all outdoor food and beverage consumption must be within the fence backyard area.
7. The stage/deck/pavilion must meet with the commercial building code including all proposed lighting.
8. There shall be a minimum of four portable toilets in the outdoor fenced backyard area to serve the events. The property owner must obtain the required County sanitary permit approval for facilities to be located on site. The property owner must provide copy of the contract for maintenance of the portable toilets.
9. There shall be two outdoor exits from the backyard fence area available as emergency exits.
10. There shall be fire extinguishers located in the outdoor area as required by State and local requirements.
11. There shall be no retail sales of any type from the backyard fenced event area.
12. There shall be no camping or overnight stays of any type allowed on site outside of the caretaker's residence behind the bar.
13. The project must meet with all State, Federal and local requirements.
14. The applicant must obtain all required County Zoning permit including a sign permit for any proposed signage including signs visible from the roadway on the backyard fenced area.
15. Sufficient adult supervision must be present at all times when facilities are in use.
16. The applicant must obtain an approved Land Disturbance, Erosion Control and Stormwater permit from Land Conservation if required by Ordinance.
17. All lighting must be shielded and directed on to the property.
18. The applicant is responsible for obtaining adequate liability insurance and keeps the insurance current during the life of this conditional use.
19. All parking must occur in the areas identified on the approved plan. Parking must meet with requirements of the county zoning ordinance. All parking must be graded and surfaced so as to be dust free. All parking including temporary parking on the grass shall be marked as shown on the approved plan of operations. All parking for business on site must be in compliance with County requirements within 60 days of this approval.
20. If the Land Management Department determines that changes in either the character of the use or the intensity of the use are not consistent with this approval, then those changes must be brought before the County Zoning Agency for approval.
21. Failure to actively exercise this conditional use within three years of the approval date shall result in automatic dismissal without prejudice. The property owner may request a time extension for actively exercising the conditional use. A time extension for actively exercising the conditional use must be requested in writing during the original three year period. Any extension requested during the three year active exercise period greater than one year beyond the original three year period shall require additional Town and County committee approvals.

Specific:

22. Driveway access and designated parking areas for the event shall be located outside of the designated patron attendance fenced area.
23. There shall be a minimum of three parking attendants working the parking area inside the fenced area prior to and after the music events.
24. The owner shall keep a record of the type, dates and times and occupancy of the ~~three~~ approved events and make the record available to the County upon request.
25. The property owner shall be responsible for an onsite security plan and shall be responsible for sharing the plan with the designated fire and police departments prior to use of the site for events.
26. There shall be no camping of any type on the property.
27. Approval is granted for three large outdoor events with a maximum of 120 people with hours of operation from 3 p.m. to 12 a.m. (midnight) as per the Town.
28. Approval is granted for three smaller events of less than 120 people with hours of operation from 3 p.m. to 10 p.m. as per the Town.
29. All events shall take place on a Saturday as per the Town.
30. All events shall be approved by the Linn Police Department as per the Town.
31. There shall be no outdoor open microphone nights as per the Town, outside of the specified conditions no. 27 and 28.
32. The conditional use shall be reviewed by the Town and County in one year as per the Town.

Staff presents request.

Henry Kalinowski speaks regarding the application.

Jerry Grant motioned to approve with the amendment to condition 31. Seconded by Jim Van Dreser. Motion carried. 7-favor 0-oppose.

Disc Count #6:11:30 – 6:25:58

TO BE TABLED - NO TOWN DECISION

- ~~2. **ATS, Ltd. C/O Robert Allen** — Owner, Section 25, Delavan Township. Conditional use review for recreational vehicle and boat storage by construction of a 90 ft. by 500 ft. storage building on land zoned B-4 Highway Business District. Tax Parcel FA139700001.~~

TO BE TABLED - NO TOWN DECISION

- ~~3. **Steve S. Walter** — Owner, Section 21, Darien Township. Conditional use review for expansion of a slurry storage facility for industrial wastes to be applied to agricultural farmland in excess of 25% of the size of the existing approved facility requiring conditional use approval as if establishing the facilities anew. The expansion would double the size of the storage facilities on site by addition of a second 131 ft. diameter 28 ft. tall storage tank and a 68 ft. by 68 ft. dry bunker. The property of concern is located on the northeast side of Hwy 14 approximately 1900 feet northwest of the Interstate Hwy 43 overpass of Hwy 14 and is identified as part of Tax Parcel B-D-2100005A.~~

6:20 P.M.:

4. **Lookout Valley Farms LLC C/O Katheryn Roen – Owner**, Section 15, Geneva Township. Conditional use approval to leave two existing agricultural sheds on a farm separation remnant. Part of Tax Parcel J G 1500007.

General:

1. Approved per plan submitted to leave two buildings for farm use on a farm separation remnant with all additional conditions.
2. Must meet all applicable Federal, State, County and local regulations.
3. The applicant must obtain Township approval for access prior to construction on site.
4. No further land divisions of the A-2 area of the parcel will be allowed without proper County approvals.
5. The buildings shall serve the stated agricultural purpose.
6. If the Land Management Department determines that changes in either the character of the use or the intensity of the use are not consistent with this approval, then those changes must be brought before the County Zoning Agency for approval.
7. Failure to actively exercise this conditional use within three years of the approval date shall result in automatic dismissal without prejudice. The property owner may request a time extension for actively exercising the conditional use. A time extension for actively exercising the conditional use must be requested in writing during the original three year period. Any extension requested during the three year active exercise period greater than one year beyond the original three year period shall require additional Town and County committee approvals.

Specific:

Staff presents request.

Jeff Roan speaks via telephone regarding the application.

Dave Weber motioned to approve. Seconded by Jerry Grant. Motion carried. 7-favor 0-oppose.

Disc Count #6:26:05 – 6:30:00

6:30 P.M.:

5. **Salvatore J. Dimiceli Sr. Trust C/O Attorney Richard Torhorst – Owner**, Section 24, Geneva Township. Conditional Use review for a two parcel Planned Residential Development (PRD) on property zoned C-2 Upland Resource Conservation District using five acre density averaging. The PRD would create a 1.65 acre C-2 zoned CSM parcel with the balance of the required five acres density to be deed restricted as non-buildable on the parent tax parcel. Tax Parcel JA361000001.

General:

1. Approved as per plan submitted for a two lot PRD with a one lot CSM and larger parent parcel meeting the density and setback requirements of the County Zoning Ordinance with all additional conditions.
2. The owner must meet all Town access requirements.
3. The project must meet all Federal, State, County and local Ordinances.
4. The proper preservation, care and maintenance by the original and all subsequent owners of the design of the PRD and all common structures, facilities, essential services, access and open spaces shall be assured by deed restriction on the parent parcel. The deed restriction shall state: **Five acre density averaging with approval of a Planned Residential Development (PRD) conditional use was used to create a less than five acre 1.38 acre CSM parcel within the PRD. The balance area of the required five acres density for the CSM parcel shall be provide for on this parent parcel. The parent parcel may be further divided so long as the balance deed restrict area shall be preserved on a larger than five acre parcel or parcels. All property within the PRD must remain as part of the PRD and may not be removed without**

further County conditional use review and approval. The deed restriction shall be recorded meeting standard document format as per 59.43(2m).

5. Application for creation of the CSM approved by lots size averaging in this PRD shall be made within one year of this approval.
6. Recording of the required deed restriction on the parent parcel shall accompany the required CSM recording.
7. Any request to create additional less than five acres lots within this PRD shall require new Town and County PDR conditional use review and approval.
8. The County reserves the right to rescind this conditional use upon any violation of County regulations.
9. If the Land Management Department determines that changes in either the character of the use or the intensity of the use are not consistent with this approval, then those changes must be brought before the County Zoning Agency for approval.

Specific:

10. No stable or livestock shall be allowed on the **1.65 acre** parcel as per the Town.
11. The property owner shall be required to follow the Town of Geneva lighting ordinance as per the Town.

Staff presents request.

Attorney Richard Torhorst speaks regarding the application.

Jim Van Dreser motioned to approve as amended. Seconded by Dave Weber.

Motion carried. 7-favor 0-oppose.

Disc Count #6:31:40 – 6:37:05

Adjournment

Dave Weber motioned to adjourn. Seconded by Jerry Grant. Motion carried.
7-favor 0-oppose

The meeting was adjourned at 6:37 p.m.

Submitted by Sheril Oldenburg, Recording Secretary.

Minutes are not final until approved by the committee at its next meeting.