

GRANT COUNTY CONSERVATION, SANITATION, & ZONING COMMITTEE MEETING

May 1, 2018

9:00 a.m.

Grant County Board Room (#264)

Lancaster, Wisconsin

The Grant County Conservation, Sanitation & Zoning Committee meeting was called to order on May 1, 2018 at 9:00 a.m. by Dwight Nelson, the Conservation, Sanitation, and Zoning Committee Chairman, in the Grant County Board Room #264, 111 S. Jefferson St., Lancaster.

Board members present: Dwight Nelson, Lester Jantzen, Gary Northouse, Gabe Loeffelholz, and Mike Lieurance. Others present: Lynda Schweikert, Annette Lolwing, Kevin Lange, Justin Johnson, Joe Schmelz, Nathalie Schattner, Ben Wood, Bob Keeney, Eileen Brownlee, Paul Lambert, Larry Bailey, Amanda Anderson, Patricia Mereaitis, Jamie Klein, Laura Lee, Donna Swanson, Dave Swanson, Steve Kittel, and Shane Drinkwater.

Certification of Open Meeting Law

Annette Lolwing sent the agenda to Karla Schwantes and Linda Gebhard to post in the Administration Building and at the Courthouse, also sent an agenda to Bob Middendorf, WGLR, and was posted in the front of the Ag Service Center Building. Media notices were sent to Karla Schwantes, Linda Gebhard, Herald Independent, Tri County Press, Platteville Journal, Muscoda Progressive, and the Boscobel Dial.

Approval of Agenda

Motion by Lester Jantzen seconded by Mike Lieurance to approve the May 1, 2018, agenda with the change that Biddick Inc., Clifton Twp. has withdrawn their petition of CUP#18-011. Motion carried.

Election of Chair

Bob Keeney opened nominations for the Chairman position of the CSZC. Mike Lieurance nominated Dwight Nelson, seconded by Gary Northouse. Motion by Mike Lieurance, seconded by Gabe Loeffelholz moved to close nominations and cast a unanimous ballot for Dwight Nelson. Voice vote was taken. All in favor, no opposed. Motion carried.

Election of Vice Chair

Bob Keeney opened nominations for the Vice Chairman position of the CSZC. Gabe Loeffelholz nominated Mike Lieurance. Motion by Dwight Nelson, seconded by Lester Jantzen moved to close the nomination and cast a unanimous ballot for Mike Lieurance. Voice vote was taken. All in favor, no opposed. Motion carried.

Election of Secretary

Bob Keeney opened nominations for the Secretary position of the CSZC. Dwight Nelson nominated Lester Jantzen, seconded by Mike Lieurance. Motion by Dwight Nelson, seconded by Gabe Loeffelholz moved to close the nomination and cast a unanimous ballot for Lester Jantzen. Voice vote was taken. All in favor, no opposed. Motion carried.

Bob Keeney stepped aside to allow Dwight Nelson take over as the Chairman of the CSZC meeting.

Approval of the Minutes

Motion by Lester Jantzen, seconded by Gabe Loeffelholz to approve the April 3, 2018 minutes. Motion carried.

Review & Accept the Bills

Motion by Gary Northouse, seconded by Mike Lieurance to accept the bills. Motion carried.

Further Discussion & Possible Action on Petition #CUP 18-009 Aloha Community Platteville LLC

Lynda read aloud to the committee, the "Findings of Fact" that were discussed last month for parcel ID 030-00747-0000. See Attachment "A"

Lima Twp. Town board voted to not recommend approval of the CUP. 1. Neighbors object. 2. It is Exclusive Ag. 3. Not any one of the 3 houses would receive a CUP because of the close proximity to each other. Town board voted 1 in Favor, and 2 Opposed to grant the CUP.

Lynda also explained the passing of the 2017 Wisconsin Act 67 which basically states that if you have conditional use permits allowed in your Zoning Ordinance, you must approve the Conditional Use Permit. Conditions may be placed on the Conditional Use Permit, but the conditions must have a reasonable and measureable findings to back them up.

Ben Wood also gave an overview of WI Act 67.

The only restrictions that apply to this parcel is that the existing structure meets all the set-backs in the R-3 district, which it does.

The committee granted Mandy Anderson time to speak. Mandy expressed a concern with the shared well agreement between the 2 residences. Ben Wood stated that this can not be considered.

The committee granted Paul Lambert time to speak. He feels that the CUP process should slow down so everyone can receive all the facts. Ben Wood stated that we can't look at those potential problems.

Lynda reiterated that the committee was voting on allowing a single family residence in an A-1 Zoning district.

Eileen Brownlee explained that this has never been about an adult family home, it is about a single family home. This will be Ag use property and is absolutely permitted to have goats, chickens, and an orchard there.

Motion by Gary Northouse, seconded by Lester Jantzen to approve the Conditional Use Permit to allow a single family residence in the A-1 Zoning district. Motion carried.

Public Hearing for Conditional Use Permits

Chairman Nelson opened the Public Hearing:

#CUP-18-010 Scott Winkers, Millville Twp. is requesting a Conditional Use Permit on

PIN: 036-00376-0000 of +/- 28.4 acres to allow for the use of nonmetallic mineral extraction, under Chapter 3.05 E (3) of the Grant County Comprehensive Zoning Ordinance.

In Favor: Millville Twp., approved the request on March 19, 2018. There was a Condition placed on this permit: All County and DNR conditions must be met prior to approval. As long as all the conditions are met they are in concurrence with the continued operation at the pit on Winkers Lane. Permits that are in process are the Shoreland Permit (stockpile removed from the Shoreland), Floodplain Permit (fuel tank anchored on site), Conditional Use Permit, Need the DNR permit #NR340, Steve Kittel, Delta 3 Engineer, was present and spoke in favor.

In Opposition: Patricia Mereaitis spoke in opposition. She is concerned that the operation should be monitored for inspection and compliance with all permits. There were 3 others that registered in opposition but choose to not speak.

Applicant Rebuttal: None

In Interest: Lynda stated that Southwest Regional Planning has authority to go to the quarries, and will be monitoring quarry for compliance.

Committee Discussion: Bob Keeney asked who the operator is? Ron Harvey; and has also asked if the operation ceased? No it has not.

Chairman Nelson Closed the Public Hearing:

Motion by Gary Northouse, seconded by Gabe Loeffelholz to approve the Conditional Use Permit to allow for the use of nonmetallic mineral extraction, under Chapter 3.05 E (3) of the Grant County Comprehensive Zoning Ordinance with continued inspections. Motion carried.

Zoning and Sanitation Report

Lynda presented the Zoning and Sanitation report. The 2017 fees totaled \$24,111.00, compared to the 2018 total fees of \$26,665.00, an increase of \$2,554.00 from 2017. The rezones are down by 8, due to the result of the revision of the Ordinance. The zoning permits are up by 10 from 2017. The maintenance fees have an increase of 86 from 2017. The sanitary permits are down by 8 from 2017. There are 3 court cases pending; Tatiana Katara – Pleaded not guilty for sanitary maintenance, Levi Stoltzfus – Pleading not guilty for sanitary maintenance, and Levi Fischer – multiple zoning violations. There are 27 remaining that are still out of compliance, these will be going to the enforcement stage of our ordinance. Only 1 is working towards compliance.

Each year 1/3 of the sanitary permits are sent out for maintenance and/or pumping. This year a list of people who are due for their 3 year maintenance had been given out to the plumbers and pumpers to get started and not wait until August. Motion by Lester Jantzen, seconded by Mike Lieurance to accept the Zoning and Sanitation Report. Motion carried.

There are no BOA (Board of Adjustments) scheduled at this time.

County Cost Sharing – Starting Balance is \$20,527.09/Ending Balance \$15,047.09.

Lynda presented an extension request for Kevin Hahn, Castle Rock Twp., \$240.00, for a well decommissioning. Motion by Gary Northouse, seconded by Gabe Loeffelholz to approve the extension to August 9, 2018. Motion carried.

Lynda presented 2 extension requests for Allan Theill, Jamestown Twp., \$3,000.00 and \$2,225.00 for 2 waste storage closures. Motion by Gabe Loeffelholz, seconded by Gary Northouse to approve the extension to August 9, 2018. Motion carried.

Lynda presented tentative approval request for county cost sharing on a well decommissioning for Brian and Alli Gutknecht, Glen Haven Twp., \$480.00. Motion by Gabe Loeffelholz, seconded by Lester Jantzen to approve the Gutknecht's request. Motion carried.

Lynda presented tentative approval request for county cost sharing on a waste storage closure for Eugene and Jolene Hostetler, Watterstown Twp., \$5,000.00. Motion by Lester Jantzen, seconded by Gabe Loeffelholz to approve the Hostetler's request. Motion carried.

SWRM Cost Sharing

2017 DATCP Cost Sharing – Beginning/Ending Balance is \$9,718.45.

2018 DATCP Cost Sharing – Beginning/Ending Balance is \$24,343.75.

Storage Permit Approval

Lynda reported that Eugene and Jolene Hostetler, Watterstown Twp., are applying for 2 waste storage abandonment permits. They have paid their 2 permit fees of \$50.00 each. They are both earthen structures. Construction plans have been completed in office. Motion by Mike Lieurance, seconded by Gary Northouse to approve both permits. Motion carried.

Appointments

Southern Area Association Representative and Alternate. Looking for a representative and alternate to attend meetings and report back to the committee. Southern Area is made up of 11 counties, they meet 4

times per year. SAA is made up of county officials and staff. The Spring meeting will be held on May 24, 2018. SAA Tour will also be in July or August. There is a meeting in the fall, usually in October to approve resolutions. Then there is the Conference which is held in March. Mike Lieurance, will be the representative and Lester Jantzen will be the alternate.

Southwest Badger RC&D meets once a month in Richland Center. Is an organization that looks to utilize Agricultural opportunities; they also have a forestry person, an invasive species person, and a rotational grazing person. They are a nonprofit organization. Majority of funding comes from grants. We pay dues to SW Badger RC&D. Gabe Loeffelholz will be the representative and Gary Northouse will be the alternate.

CSZD Administrator Report

Lynda gave an update on the ground water study. Madeline Gotkowitz found some internal funding at the WGNHS (Wisconsin Geological Natural History Society). Madeline and Mark Borchart expect to have a pre-proposal ready in 3 to 4 weeks.

Lynda reported that the tree sale has been postponed. The tree delivery is on May 9th, tree sorting will be on May 10th, and tree pick up will be on Friday, May 11th.

Lynda reported that the SAA meeting will be on May 24th, in Madison. Need to let Lynda know who plans on attending.

Lynda reported that the LWRMP (Land & Water Resource Management Plan) is a guiding document that sets priorities for the next 10 years. It is up for renewal this year. The LWRMP is a requirement by DATCP to be eligible for funding for staff and support and for cost sharing. We have had our local workgroup meetings and have sent the draft to DATCP for review. Lynda will have the public hearing at the committee meeting in June, then present to the full County Board in June.

Lean Update

Lynda reported that the staff has begun working on process maps for the Continuity of Work project. Each employee is required to list out all the tasks that they are responsible for. Each employee is tasked to 2-3 process maps each year. The completed process will be stored in a binder.

Lynda is also a facilitator and has volunteered to work on the Grant County Owned Property Assessment. There are 300 to 500 small parcels of land owned by Grant County.

FPP Report

Kevin reported that he has a cancellation of Notice of Noncompliance for FPP for Gary Grandview, Clifton Twp. Motion by Mike Lieurance, seconded by Lester Jantzen to approve the cancellation of Notice of Noncompliance. Motion carried.

- Kevin reported that the tree sale is still on schedule for May 11th.
- He will be delivering the Arbor Day trees to the schools the following week after the tree sale.
- Kevin reported that on May 16th and 17th he will be helping Dr. Chris Baxter at UW Platteville. They host the High School Land Judging contest.

NRCS Report – Joe Schmelz

Joe reported that May 18th is the second EQIP batching date deadline for the initiatives of soil health, honey bee & monarch.

August 1st from 9:00 – 11:00 a.m. will be the local workgroup meeting to be held at the Belmont Community Building. This is the meeting that the 3 counties get together; Grant, Iowa and Lafayette along with partners and producers to review and give their input as to what the priorities may be for EQIP's next funding year, FY2019.

Joe reported that they are working through the CSP applications for the new FY18 and the FY19 sign up renewals. Will be working on CSP for the next couple of months. The deadline has passed, but are still accepting applications for FY2019 and for renewals. There were around 20 applications for about 14,000 acres.

Joe reported that they received their randomly generated compliance tracts. They have sent out letters to around 40 landowners. There will be more added to the total by adding FSA loan producers, and any USDA employee that owns land, any whistle blowers or 569's. Usually end up around 50 to 60 tracts.

NRCS will be hosting stream habitat days on Tuesday, May 8th and on June 12th. This includes the DATCP area, 11 counties. NRCS and LCD's are eligible to attend.

This is the year of the new farm bill. Some changes that we will be seeing are in the CSP, CRP and the EQIP programs.

FSA Report – Nathalie Schattner

Nathalie reported that the Milk Marginal Protection Provisions have been releases and will be running until June 1, 2018. The coverage is retroactive back to the first of the year. February and March margins are out. Postcards have been sent out to all the milk producers.

FSA and UW-Extension will be hosting 2 informational meetings: May 9th in Belmont at 10.30 a.m. The other meeting is between Richland Center, Crawford, and Gays Mills and will be held May 15th at 1:30. UW extension will be there to go over the provisions and to help the people understand the FSA programs.

There still are no new CRP acres or information. They are still taking CREP offers.

They have sent crop certification appointment post cards out for the first 2 weeks in May.

Forestry Report – None to report

Discussion & Possible Action on New Meeting Day

Lynda asked the committee to think about changing the day that the Committee meets on. Public Hearings must have 14 days from the date they are published to the date of our meeting. Our main newspaper is the Herald Independent and that is published on Thursday. Publications need to be to the paper by Tuesday morning. If we move the meeting to a Thursday, it would decrease a week wait time. Motion by Lester Jantzen, seconded by Gary Northouse to change the CSZC meetings to the 1st Thursday of the month. Motion carried.

RC&D & WI Land+Water Report – No Report

Motion by Lester Jantzen, seconded by Gary Northouse to adjourn to June 7, 2018 at 9:00 a.m. Motion carried.

Respectfully Submitted by Annette Lolwing for Lester Jantzen.

Attachment "A"

Aloha Community Platteville LLC CUP Findings of Fact:

- Parcel Id: 030-00747-0000 is zoned A1
- A1 zoning allows for a single family residence with a Conditional Use Permit (CUP)
- According to WI Stat 60.63 (3m)(b): An adult family home described ins. 50.01 (1) (b) that meets the criteria specified in par. (a) and that is licensed under s. 50.033 (1m) (b) is permitted in the town without restriction as to the number of adult family homes and may locate in any residential zone, without being required to obtain special zoning permission except as provided in sub. (10).
- The Aloha Community Platteville LLC was licensed as an Adult Family Home by the State of Wisconsin on 6/15/2017
- Aloha Community Platteville LLC submitted an application for CUP on 3/6/2018
 - At the time of application, Ms. Brownlee stated that they were on the Town of Lima March 14, 2018 Plan Commission/Town Board agenda
 - According to an email dated 3/15/2018 from Ms. Brownlee, the Town board of Lima chose not to act on the issue because they said it was not on their agenda.
- The County is not required by State law to notify the town board for a CUP, however their internal policy asks for their recommendation.
- The Town of Lima has the following if they feel the Adult Family Home has an effect on the health, safety or welfare of the residents of their municipality.
 - 59.6905(i) (i) Not less than 11 months nor more than 13 months after the first licensure of an adult family home under s. 50.033 or of a community living arrangement and every year thereafter, the common council or village or town board of a municipality in which a licensed adult family home or a community living arrangement is located may make a determination as to the effect of the adult family home or community living arrangement on the health, safety or welfare of the residents of the municipality. The determination shall be made according to the procedures provided under par. (j). If the common council or village or town board determines that the existence in the municipality of a licensed adult family home or a community living arrangement poses a threat to the health, safety or welfare of the residents of the municipality, the common council or village or town board may order the adult family home or community living arrangement to cease operation unless special zoning permission is obtained. The order is subject to judicial review under s. 68.13, except that a free copy of the transcript may not be provided to the licensed adult family home or community living arrangement. The licensed adult family home or community living arrangement shall cease operation within 90 days after the date of the order, or the date of final judicial review of the order, or the date of the denial of special zoning permission, whichever is later.
- 4/3/18 CSZD Committee Meeting voted to postpone to May meeting
- 4/11/18 phone call from Pat Ostendorf, Lima Township Chairman, stated that the Town board voted not to recommend the CUP for approval.

GRANT COUNTY

CONSERVATION, SANITATION AND ZONING DEPT

150 West Alona Lane, Suite #1, Lancaster, WI 53813 608/723-6377 X4

Conditional Use Permits

Historically, conditional use permits (CUPs) have been a zoning tool to allow uses in a district that may be objectionable by attaching conditions that force the use to comport with surrounding legal uses. The courts have ruled that conditions must be directly related to the proposed use and a zoning ordinance must include general criteria for the consistent consideration of CUPs based in protecting the public's health and safety. It is the applicant's responsibility to provide evidence that the conditions can be met. As long as the imposed conditions are complied with, the CUP is deemed a vested permitted use.

Act 67 significantly reduces the flexibility of CUPs in the following ways:

- It requires any condition imposed must be related to the purpose of the ordinance and based on substantial evidence, which is defined as "facts and information, other than merely personal preference or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion". *Generalized assumptions of impact are no longer acceptable, as neither are general concerns of the public.*
- The decision, whether to approve or deny, must be supported by substantial evidence. *All decisions will require a written findings of fact in anticipation of challenge.*
- Requirements and conditions must be reasonable and, "to the extent practicable", measurable. *Most public testimony will not meet this standard, thus eliminating it from being a consideration in the decision.*
- An appeal of a denial bypasses the Board of Adjustment and goes directly to circuit court for certiorari review. *This further emphasizes the importance of a written record of decision. A certiorari review is where the court examines the record to determine the evidence contained therein supports the decision.*
- If an applicant "meets or agrees to meet" all of the requirements and conditions specified by the ordinance or imposed by the zoning body, the CUP shall be granted. *This implies it is now the zoning jurisdiction's burden to prove a proposed CUP cannot meet "reasonable" and "measurable" standards, versus the historical burden of the applicant needing to prove he or she can.*