

Dane County



Minutes

Tuesday, June 25, 2019

6:30 PM

City - County Building, ROOM 354
210 Martin Luther King Jr. Blvd., Madison

Zoning & Land Regulation Committee

Consider:

Who benefits? Who is burdened?

Who does not have a voice at the table?

How can policymakers mitigate unintended consequences?

A. Call to Order

Chair Bollig call the meeting of the June 25, 2019 Zoning and Land Regulation Committee to order at 6:30pm.

Staff present: Everson, Lane, and Violante

Present 4 - JERRY BOLLIG, STEVEN PETERS, HEIDI WEGLEITNER, and KRISTEN AUDET

Excused 1 - JASON KNOLL

B. Public comment for any item not listed on the agenda

No comments made by the public.

[2019](#)
[RPT-129](#)

June 25th ZLR Committee meeting registrants

C. Consideration of Minutes

D. Public Hearing for Zoning Map Amendments, Conditional Use Permits, and Ordinance Amendments

[11422](#)

PETITION: REZONE 11422
APPLICANT: DAVID R ESSER
LOCATION: SOUTH OF 6587 HYSLOP ROAD, SECTION 35, TOWN OF DANE
CHANGE FROM: FP-35 Farmland Preservation District TO RR-2 Rural Residential District
REASON: creating three residential lots

In favor: Dave Esser

Opposed: Peter Turke, Brad Madigan, and Carol Ellickson. Mr. Madigan was disputing the possession of the housing density rights regarding the Madigan/Eser farm. Ms. Ellickson expressed concerns regarding the placement of houses in the wetland area.

A motion was made by WEGLEITNER, seconded by PETERS, to postpone action due to public opposition. The motion carried by the following vote: 4-0.

Ayes: 4 - BOLLIG,PETERS,WEGLEITNERandAUDET

Excused: 1 - KNOLL

[11423](#)

PETITION: REZONE 11423
APPLICANT: JAMES JELINEK
LOCATION: 89 WINNEBAGO DRIVE, SECTION 36, TOWN OF ALBION
CHANGE FROM: SFR-08 Single Family Residential District TO HAM-R Hamlet Residential District
REASON: need for a reduced minimum setback for the rear yard

In favor: James Jelinek

Opposed: None

A motion was made by WEGLEITNER, seconded by AUDET, that this Zoning Petition be recommended for approval. The motion carried by the following vote: 4-0.

Ayes: 4 - BOLLIG,PETERS,WEGLEITNERandAUDET

Excused: 1 - KNOLL

[11424](#)

PETITION: REZONE 11424
APPLICANT: JOHN J TAHIER
LOCATION: NORTH OF 2934 COUNTY HIGHWAY W, SECTION 6, TOWN OF CHRISTIANA
CHANGE FROM: SFR-1 Single Family Residential District TO RR-2 Rural Residential District
REASON: zoning compliance to construct a single family residence

In favor: Jim Lowrey

Opposed: None

A motion was made by WEGLEITNER, seconded by PETERS, that this Zoning Petition be recommended for approval. The motion carried by the following vote: 4-0.

Ayes: 4 - BOLLIG,PETERS,WEGLEITNERandAUDET

Excused: 1 - KNOLL

[11425](#)

PETITION: REZONE 11425
APPLICANT: KELLER FAMILY FARMS LLC
LOCATION: SOUTH OF EAST PERRY CENTER ROAD, SECTION 12, TOWN OF PERRY
CHANGE FROM: A-1EX Agriculture District TO A-4 Agriculture District and CO-1 Conservancy District
REASON: dividing land for farming and hunting purposes

In favor: Tim Keller

Opposed: None

A motion was made by WEGLEITNER, seconded by PETERS, that this Zoning Petition be recommended for approval as amended. The motion carried by the following vote: 4-0.

1. A deed notice shall be recorded on Lots 1 & 2 to prohibit residential development.

Ayes: 4 - BOLLIG,PETERS,WEGLEITNERandAUDET

Excused: 1 - KNOLL

[11426](#)

PETITION: REZONE 11426
APPLICANT: RICHARD A FIZZELL
LOCATION: EAST OF 895 STORYTOWN ROAD, SECTION 17, TOWN OF OREGON
CHANGE FROM: FP-35 Farmland Preservation District TO RM-8 Rural Mixed-Use District
REASON: creating one residential lot

In favor: Richard Fizzell
Opposed: None

A motion was made by PETERS, seconded by WEGLEITNER, that this Zoning Petition be recommended for approval as amended. The motion carried by the following vote: 4-0.

1. A deed restriction shall be recorded on parcel 0509-173-8060-6 to prohibit further residential development on the remaining agricultural zoned land. The housing density rights for the original farm have been exhausted.

Ayes: 4 - BOLLIG,PETERS,WEGLEITNERandAUDET

Excused: 1 - KNOLL

[11427](#)

PETITION: REZONE 11427
APPLICANT: JEFFERY S MOERKE
LOCATION: EAST OF 4509 STATE HIGHWAY 73, SECTION 4, TOWN OF DEERFIELD
CHANGE FROM: FP-35 Farmland Preservation District TO RR-4 Rural Residential District
REASON: shifting of property lines between adjacent land owners

In favor: Jeff Moerke, Kyle Nelson, Lori Tetzloff, Adam Hetninhah
Opposed: None
Zoning Administrator Lane expressed concerns that the proposal conflicted with the Town Comprehensive Plan policies.

A motion was made by WEGLEITNER, seconded by PETERS, to postpone action to allow time for the applicant to revise the proposal to meet Town Comprehensive Plan policies. The motion carried by the following vote: 4-0.

Ayes: 4 - BOLLIG,PETERS,WEGLEITNERandAUDET

Excused: 1 - KNOLL

[11428](#)

PETITION: REZONE 11428
APPLICANT: TARA L RINDY
LOCATION: 418 PEERLESS ROAD, SECTION 25, TOWN OF PRIMROSE
CHANGE FROM: RR-2 Rural Residential District TO RR-4 Rural Residential, FP-35 Farmland Preservation District TO RR-4 Rural Residential District
REASON: shifting of property lines between adjacent land owners

In favor: Tara Rindy and Dave Heinz
Opposed: None

A motion was made by WEGLEITNER, seconded by AUDET, that this Zoning Petition be recommended for approval. The motion carried by the following vote: 4-0.

Ayes: 4 - BOLLIG,PETERS,WEGLEITNERandAUDET

Excused: 1 - KNOLL

[11429](#)

PETITION: REZONE 11429
APPLICANT: TOWN OF MEDINA
LOCATION: VARIOUS LOCATIONS, WITH IN, TOWN OF MEDINA
CHANGE FROM: FP-35 Farmland Preservation District TO RM-8 Rural Mixed-Use District
REASON: zoning change initiated by Town for zoning compliance

In favor: None
Opposed: None

A motion was made by WEGLEITNER, seconded by PETERS, to postponed action until the Town Action is received. The motion carried by the following vote: 4-0.

Ayes: 4 - BOLLIG,PETERS,WEGLEITNERandAUDET

Excused: 1 - KNOLL

[11430](#)

PETITION: REZONE 11430
APPLICANT: CRAIG R FONZEN
LOCATION: 2410 BADGER LANE, SECTION 36, TOWN OF MADISON
CHANGE FROM: SFR-08 Single Family Residential District TO GC General Commercial District
REASON: expanding commercial site by purchasing a portion of two adjacent residential properties

In favor: Luke Fonzen and Aaron Martinek
Opposed: None

A motion was made by PETERS, seconded by AUDET, that this Zoning Petition be recommended for approval. The motion carried by the following vote: 4-0.

1. Screening shall be provided along the east property line pursuant to Dane County Code of Ordinances Section 10.102(12).

Ayes: 4 - BOLLIG,PETERS,WEGLEITNERandAUDET

Excused: 1 - KNOLL

[11431](#)

PETITION: REZONE 11431
APPLICANT: MADISON GAS & ELECTRIC COMPANY
LOCATION: 5723 US HIGHWAY 51, SECTION 17, TOWN OF BURKE
CHANGE FROM: UTR Utility, Transportation and ROW District TO AT-35 Agriculture Transition District
REASON: land to be used for solar array farm

In favor: Michael Allen, Todd Montevideo, Dave Merrit
Opposed: None

A motion was made by WEGLEITNER, seconded by PETERS, to postpone action until Town Action is received. The motion carried by the following vote: 4-0.

Ayes: 4 - BOLLIG,PETERS,WEGLEITNERandAUDET

Excused: 1 - KNOLL

[CUP 02472](#)

PETITION: CUP 02472

APPLICANT: MADISON GAS & ELECTRIC COMPANY

LOCATION: 5723 US HIGHWAY 51, SECTION 17, TOWN OF BURKE

CUP DESCRIPTION: Solar Array Farm

In favor: Michael Allen, Todd Montevideo, Dave Merrit

Opposed: None

A motion was made by WEGLEITNER, seconded by PETERS, to postpone action until Town Action is received. The motion carried by the following vote: 4-0.

Ayes: 4 - BOLLIG,PETERS,WEGLEITNERandAUDET

Excused: 1 - KNOLL

[CUP 02468](#)

PETITION: CUP 02468

APPLICANT: RACHEL HALVERSON AND TRIERWEILER CONSTRUCTION

LOCATION: 1320 E CHURCH ROAD, SECTION 30, TOWN OF CHRISTIANA

CUP DESCRIPTION: temporary concrete batch plant

In favor: Nick Petit

Opposed: None

A motion was made by PETERS, seconded by AUDET, that this Conditional Use Permit be approved with 13 conditions. The motion carried by the following vote: 4-0.

- 1. The conditional use permit shall be for temporary batch concrete production. The Conditional Use Permit (CUP) shall expire on December 31, 2019. Equipment associated with the use may overwinter on the property until the spring of 2020.**
- 2. The facility and business shall comply with the site plan and operations plan (application narrative), as submitted.**
- 3. The CUP is subject to all applicable standard conditions found in section 10.101(7)(d)2a.**
- 4. The applicant shall submit an erosion control plan covering the entire CUP area for the duration of operations, and receive approval of an erosion control permit prior to commencing extraction operations.**
- 5. The applicant shall apply for and receive all other required local, state and federal permits.**
- 6. The operator shall develop and operate the site according to the site/operations and plan submitted with the application.**
- 7. Hours of operation shall be limited to 6am-8pm, weekdays. Operation outside these hours, including weekend and nighttime operation, shall be permitted if required by WISDOT for work associated with project #s 1007-11-79 or 1007-11-80.**
- 8. If the operator wishes to have bulk fuel stored on site, the operator should provide a plan for spill containment that meets state regulations.**
- 9. The operator shall require all trucks and excavation equipment to have muffler systems that meet or exceed then current industry standards for noise abatement.**
- 10. The operator shall meet DNR standards for particulate emissions as described in NR 415.075 and NR 415.076.**
- 11. Concrete trucks shall be prohibited from using East Church road except from County Highway W to the driveway of the subject property.**
- 12. Applicant shall review the road with the town's public works director.**
- 13. The Zoning Administrator or designee may enter the premises of the operation in order to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation. Unless the operation is in reasonable compliance with these terms of this approval, such approval is subject to amendment or revocation.**

Ayes: 4 - BOLLIG,PETERS,WEGLEITNERandAUDET

Excused: 1 - KNOLL

CUP 02469

PETITION: CUP 02469
APPLICANT: JENNIFER AND ANTHONY JAKACKI
LOCATION: 5116-5118 EASY STREET, SECTION 35, TOWN OF VIENNA
CUP DESCRIPTION: allow an accessory building up to 16 feet in height

In favor: Tony Jakacki
Opposed: None

A motion was made by WEGLEITNER, seconded by PETERS, that this Conditional Use Permit be approved with 2 conditions. The motion carried by the following vote: 4-0.

- 1. The conditional use permit shall be for an accessory building taller than 12'.**
- 2. The building shall comply with the standard conditions found in section 10.101(7)(d)2a.**

Ayes: 4 - BOLLIG,PETERS,WEGLEITNERandAUDET

Excused: 1 - KNOLL

CUP 02470

PETITION: CUP 02470
APPLICANT: GLACIAL DRUMLIN HOUSE LLC
LOCATION: 4466 WIND CHIME WAY, SECTION 11, TOWN OF COTTAGE GROVE
CUP DESCRIPTION: transient or tourist lodging

In favor: Richard King
Opposed: Concerns were sent in via email (see registrants)

A motion was made by PETERS, seconded by WEGLEITNER, that this Conditional Use Permit be denied. The motion carried by the following vote: 4-0.

- 1. Applicant has not demonstrated efforts to maintain the safety or welfare of the neighborhood. Testimony of numerous neighbors describe events where neighbors have worried for the safety of themselves and their property. Applicant is not on site on nearby to ensure that renters are not endangering neighbors with speeding or behaviors.**
- 2. Outdoor sexual activities, uncontrolled fires, fireworks have interfered with neighbors' ability to enjoy their own properties.**
- 3. The conditional use permit is not consistent with surrounding uses and impede values or salability of surrounding properties.**
- 4. The septic system is sized for 3 bedrooms, the applicant has it advertised, and applied for a transient/tourist house rental of 6 bedrooms.**
- 5. The property is served by a shared drive. Rental parking spills over onto the driveway and could impede emergency services to all three properties.**
- 6) The applicant has a long history of notices of zoning violations that have gone unheeded, and he has also not followed applicable building permit requirements.**

The proposal does not meet Standards 1 through 6 of the standards to obtain a conditional use permit.

Ayes: 4 - BOLLIG,PETERS,WEGLEITNERandAUDET

Excused: 1 - KNOLL

[CUP 02471](#)

PETITION: CUP 02471
APPLICANT: JOSEPH C DISALVO
LOCATION: 7079 FRENCHTOWN ROAD, SECTION 22, TOWN OF MONTROSE
CUP DESCRIPTION: allow accessory building up to 16 feet in height

In favor: Joe Disalvo
Opposed: None

A motion was made by AUDET, seconded by PETERS, that this Conditional Use Permit be approved with 2 conditions. The motion carried by the following vote: 4-0.

- 1. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan and phasing plan.**
- 2. New and existing buildings proposed to house a conditional use must be constructed and maintained to meet the current requirements of the applicable sections of the Wisconsin Commercial Building Code or Uniform Dwelling Code.**

Ayes: 4 - BOLLIG,PETERS,WEGLEITNERandAUDET

Excused: 1 - KNOLL

E. Zoning Map Amendments and Conditional Use Permits from previous meetings

[11392](#)

PETITION: REZONE 11392
APPLICANT: RICHARD L GRAMS
LOCATION: 271, 272, AND 279 COUNTY HIGHWAY BB, SECTION 12, TOWN OF DEERFIELD
CHANGE FROM: RH-1 Rural Homes District TO RH-2 Rural Homes District, A-1EX Agriculture District TO RH-2 Rural Homes District, A-1EX Agriculture District TO A-2 Agriculture District, RH-1 Rural Homes District TO A-2 Agriculture District, A-1EX Agriculture District TO A-4 Agriculture District
REASON: shifting property lines of existing lots and creating one agricultural lot

A motion was made by PETERS, seconded by AUDET, that this Zoning Petition be recommended for approval as amended. The motion carried by the following vote: 4-0.

The zoning shall be amended as follows:

- Lot 1 – 16.1 acres – RM-16**
- Lot 2 – 1.5 acres – RR-1**
- Lot 3 – 2.1 acres – RR-2**
- Lot 4 – 27.5 acres – RM-16**

Ayes: 4 - BOLLIG,PETERS,WEGLEITNERandAUDET

Excused: 1 - KNOLL

[02450](#)

PETITION: CUP 02450

APPLICANT: DEFOREST, VILLAGE OF

LOCATION: 4209 ANDERSON ROAD, SECTION 9, TOWN OF BURKE

CUP DESCRIPTION: amend conditions for an existing communication tower

A motion was made by WEGLEITNER, seconded by PETERS, that this Conditional Use Permit be approved with 4 conditions. The motion carried by the following vote: 4-0.

- 1. The primary use of the telecommunication equipment permitted under Conditional Use Permit No. 2450 shall be for the transmission and reception of wireless communication and data equipment.**
- 2. The height of telecommunication antennas shall not exceed 1082 feet above mean sea level (AMSL) unless approved by the Dane County Regional Airport and the FAA.**
- 3. Collocation sites required hereunder shall upon request be made available by the holder of Conditional Use Permit No. 2450 for the mounting of technologically compatible antenna arrays and equipment at the prevailing market rate in the region and upon contractual provisions which are standard in the industry.**
- 4. Failure to comply with any of the aforesaid conditions shall be grounds for the committee to immediately revoke Conditional Use Permit No. 2450.**

Ayes: 4 - BOLLIG,PETERS,WEGLEITNERandAUDET

Excused: 1 - KNOLL

[CUP 02456](#)

PETITION: CUP 02456
APPLICANT: DENNIS V NOLDEN
LOCATION: IMMEDIATELY EAST OF 484 FRITZ ROAD, SECTION 30, TOWN OF MONTROSE
CUP DESCRIPTION: 250' communication tower (lighted)

A motion was made by WEGLEITNER, seconded by PETERS, that this Conditional Use Permit be denied. The motion carried by the following vote: 4-0.

Finding of Fact:

- 1. As detailed in the RF engineering report, the applicant has failed to substantiate justification for the proposed new fixed wireless tower based on the requirements of the county ordinances.**
- 2. The applicant has not provided substantial evidence demonstrating that the proposed use satisfies all requirements and conditions required by county ordinance.**
- 3. The applicant has failed to evaluate the feasibility of collocation on the existing communication tower located within the applicant's search ring.**
- 4. The proposed installation of a 255' lighted communication tower would be inconsistent with town/county comprehensive plan policies. Plan policies encourage maximizing coordination of communication infrastructure (collocation) and place an emphasis on protecting agricultural land and rural character. The proposed use would convert agricultural land to a nonagricultural use and the required lighting on the tower would negatively impact the rural character of the town. The tower is proposed in designated farmland preservation area. As noted above, options for collocation exist but have not been considered. As such, the proposed conditional use is neither reasonable or appropriate considering alternative locations are available.**
- 5. The application fails to meet Standards 2 and 6 of the standards of obtaining a conditional use permit.**

Ayes: 4 - BOLLIG,PETERS,WEGLEITNERandAUDET

Excused: 1 - KNOLL

F. Plats and Certified Survey Maps

[2019 LD-009](#)

Certified Survey Map - Steinhauer
Town of Springdale
Staff recommends approval of the land division.

A motion was made by PETERS, seconded by WEGLEITNER, that the Land Division be approved. The motion carried by a voice vote, 4-0.

[2019 LD-007](#)

Land Division Waiver - Town of Perry
Ch. 75.19(1)(k), 75.19(1)(o) Street rights-of-way width

A motion was made by WEGLEITNER, seconded by AUDET, that the Land Division waiver to allow for the future road right-of-way to be slightly less than the required 66' in certain areas be approved. The motion carried by a voice vote, 4-0.

[2019 LD-008](#) Preliminary Plat - Kennedy Hills
Town of Cottage Grove
Staff recommends conditional approval

A motion was made by WEGLEITNER, seconded by AUDET, that the Land Division be approved with conditions. The motion carried by a voice vote, 4-0.

1. Compliance with the Dane County Comprehensive Plan is to be established.
2. The public park land appropriation requirement is to be satisfied (private park land does not satisfy this requirement).
 - The amount of land to be provided shall be at least 1,750 square feet of land for each proposed residential dwelling unit within the plat. 16 lots = 28,000 s.f.
 - Outlot 2 shown as park 96,305 s.f., (no indication of it being dedicated to the public)
3. All public land dedications are to be clearly designated "dedicated to the public."
4. Comments from the Dane County Highway department are to be satisfied:
 - ROW is acceptable as shown.
 - Type B2 intersection with passing lane needed in Phase 1.
 - Provide detail of pond outlet with respect to impact on County ROW. Due to past water issues at this location a drop inlet with discharge at grade may be required.
5. Utility easements are to be provided.
 - Easements across lots or along rear or side lot lines shall be provided for utilities where necessary, shall be at least 6 feet wide on each side of lot lines
6. All streets shall be graded and surfaced in accordance with plans, specifications and requirements of the Dane County Highway Commission and the Town of Cottage Grove.
7. Dead-end streets shall not be permitted without suitable turn-around. Appropriate arrangements shall be made for those parts of temporary turn-arounds outside of street right-of-way to revert to the abutting property owners at such time as streets shall be extended.
8. Comments from the Dane County Surveyor are to be satisfied:
 - Conestoga Trail is planned to continue south through the adjoining lands to the north and terminate at the intersection with Scenic Oak Drive. This is acceptable; however, Scenic Oak Drive may not continue to the north beyond that intersection, per chapter 76 of the Dane County Ordinances. An additional road name will be required for one of those segments.
 - Where a street maintains the same general direction except for curvilinear changes for short distances, the same name shall continue for the entire length of the street.
9. All street names shall be consistent with chapter 76 of the Dane County Ordinances.
10. Compliance with Ch. 14.45 DCCO, Erosion Control Plans is to be established, prior to any land disturbance.
11. Compliance with Ch. 14.46 DCCO, Stormwater Control Permit is to be established, prior to any land disturbance
 - Storm water drainage facilities of a size and design that will adequately accommodate design volumes of flow and which will present no hazard to life or property shall be installed in accordance with plans and specifications approved by the committee.
12. An Owner's approval certificate is to be included and contain the following

language:

- As owners we certify that we caused the land described on this certified survey map to be surveyed, divided, mapped and dedicated as represented on this certified survey map. We also certify that this certified survey map is required by sec. 75.17(1)(a), Dane County Code of Ordinances, to be submitted to the Dane County Zoning and Land Regulation Committee.

13. All owners of record are to be included in the owner's certificate. A certificate of consent by all mortgagees/vendors shall be included and satisfied if relevant.

County records indicate the following owners:

- KENNEDY HILLS LLC

14. The required approval certificates are to be included.

- Town of Cottage Grove
- Village of Cottage Grove (extra-territorial jurisdiction)
- Dane County Treasurer
- Dane County Zoning and Land Regulation committee

G. Resolutions

H. Ordinance Amendment

I. Items Requiring Committee Action

J. Reports to Committee

K. Other Business Authorized by Law

L. Adjourn

A motion was made by WEGLEITNER, seconded by PETERS, to adjourn the June 25, 2019 Zoning and Land Regulation Committee meeting at 8:22pm. The motion carried unanimously.

Questions? Contact Roger Lane, Planning and Development Department, 266-4266, lane.roger@countyofdane.com