

Dane County



Minutes

Tuesday, January 27, 2015

7:00 PM

**City - County Building, ROOM 201
210 Martin Luther King Jr. Blvd., Madison**

Zoning & Land Regulation Committee

A. Call to Order

Chair Miles called the meeting to order at 7:10pm in Room 201.

Staff present: Allan, Everson, Kodl, Lane, and Violante.

Youth Governance Members present: Boyce, Wilke, and Wilson.

Present 5 - JERRY BOLLIG, MARY KOLAR, AL MATANO, PATRICK MILES, and BOB SALOV

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

No comments made by the public.

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

10787 **PETITION: REZONE 10787**
APPLICANT: BORNITZKE TRUST
LOCATION: 6685 COUNTY HIGHWAY TT, SECTION 28, TOWN OF YORK
CHANGE FROM: A-1EX Agriculture District TO A-2 (8) Agriculture District
REASON: separating existing residence from farmland

A motion was made by KOLAR, seconded by SALOV, that the Zoning Petition be recommended for approval. The motion carried by a voice vote.

In Favor: Joel Bornitzke

10788 **PETITION: REZONE 10788**
APPLICANT: TERESA M WITMER-KEAN
LOCATION: 9175 SPRING VALLEY ROAD, SECTION 20, TOWN OF BERRY
CHANGE FROM: A-1EX Agriculture District TO A-2 Agriculture District and RH-4 Rural Homes District
REASON: creating one residential lot and separating house from the farmland

A motion was made by BOLLIG, seconded by KOLAR, that the Zoning Petition be recommended for approval. The motion carried by a voice vote.

In Favor: Donald and Teresa Witmer-Kean, Town Chair Anthony Varda

10789 **PETITION: REZONE 10789**
APPLICANT: BRETT MARSH
LOCATION: 3883 OBSERVATORY ROAD, SECTION 21, TOWN OF CROSS PLAINS
CHANGE FROM: RH-2 Rural Homes District TO LC-1 Limited Commercial District
REASON: compliance for landscaping business on a portion of a parcel

A motion was made by KOLAR, seconded by BOLLIG, that the Zoning Petition be recommended for approval. The motion carried by a voice vote.

In Favor: Tommy Van Ess

CUP 2305

PETITION: CUP 2305

APPLICANT: BRETT MARSH

LOCATION: 3883 OBSERVATORY ROAD, SECTION 21, TOWN OF CROSS PLAINS

CUP DESCRIPTION: Allow business owner's residence on LC-1 zoned property

A motion was made by KOLAR, seconded by BOLLIG, that the Conditional Use Permit be approved with 3 conditions and contingent on rezone petition 10789 becoming effective. The motion carried by a voice vote.

- 1.The Conditional Use Permit is exclusively for a residence for the owner / caretaker of the contractor business located on the property.**
- 2.Contractor uses of the property shall occur in the existing accessory buildings. Any ancillary contractor uses shall be conducted in the rear yard of the property.**
- 3.Outside storage of materials is prohibited.**

In Favor: Tommy Van Ess

10791

PETITION: REZONE 10791

APPLICANT: RF FARMS LLC

LOCATION: 2567 STATE HIGHWAY 92, SECTION 13, TOWN OF BLUE MOUNDS

CHANGE FROM: A-1EX Agriculture District TO LC-1 Limited Commercial District

REASON: allow storage for general contracting company

Motion by Kolar, seconded by Bollig, to postpone action to allow the Town of Springdale to review the proposal.

Motion withdrawn.

A motion was made by SALOV, seconded by BOLLIG, that this Zoning Petition be recommended for approval as amended. The motion carried by the following vote: 3-2 (Matano, Miles Nay).

- 1. The Town of Springdale shall approve a certified survey map for the creation of a lot to access State Highway 92.**

In Favor: James Leuzinger

Ayes: 3 - BOLLIG,KOLARandSALOV

Noes: 2 - MATANOandMILES

10792

PETITION: REZONE 10792

APPLICANT: VIKE INVESTMENT GROUP LLC

LOCATION: EAST OF 3418 OLD STAGE ROAD, SECTION 36, TOWN OF RUTLAND

CHANGE FROM: A-1EX Agriculture District TO RH-1 Rural Homes District

REASON: creating 4 residential lots

A motion was made by BOLLIG, seconded by SALOV, that the Zoning Petition be recommended for approval. The motion carried by a voice vote.

In Favor: Theresa Vike

10793

PETITION: REZONE 10793

APPLICANT: STEVEN L FRAME

LOCATION: EAST OF 3625 RYAN ROAD, SECTION 30, TOWN OF VERMONT

CHANGE FROM: A-1EX Agriculture District TO A-2 (8) Agriculture District

REASON: creating two residential lots

A motion was made by KOLAR, seconded by BOLLIG, that the Zoning Petition be recommended for approval as amended. The motion carried by a voice vote.

1. The 18.6-acre remnant lands to the south of the proposal shall be added to the certified survey map as a third lot and be assigned the zoning district classification of A-4.

2. The final Certified Survey Map shall show the location and dimensions of building envelopes as depicted on the preliminary CSM.

In Favor: Steven Frame

10794

PETITION: REZONE 10794

APPLICANT: ROBY LYNNE ROGERS

LOCATION: 1445 KRABY ROAD, SECTION 6, TOWN OF CHRISTIANA

CHANGE FROM: A-1EX Agriculture District TO RH-1 Rural Homes District and A-4 Agriculture District

REASON: creating one residential lot and two small agriculture lots

A motion was made by SALOV, seconded by BOLLIG, that the Zoning Petition be recommended for approval as amended. The motion carried by a voice vote.

1. A notation shall be placed on the Certified Survey Map that identifies that there is a high water table on the property. The note on the Certified Survey Map shall state, " The basement slab elevation shall be no lower than 876 feet NAVD 88 due to the high water table in the area as per Dane County Zoning and Land Regulation Committee approval under Zoning Petition 10794."

In Favor: David Dinkel representing Roby Lynne Rogers

10795

PETITION: REZONE 10795

APPLICANT: HERFEL LIVING TR

LOCATION: EAST OF 1969 LOCUST DRIVE, SECTION 27, TOWN OF VERONA

CHANGE FROM: A-1EX Agriculture District TO A-4 Agriculture District

REASON: create parcel for acquisition by Verona Area School District

A motion was made by BOLLIG, seconded by KOLAR, that the Zoning Petition be recommended for approval. The motion carried by a voice vote.

In Favor: Jum Bricker representing Herfel Trust

10796

PETITION: REZONE 10796

APPLICANT: ZACH VANGORDEN

LOCATION: 9262 MOEN ROAD, SECTION 19, TOWN OF CROSS PLAINS

CHANGE FROM: A-1EX Agriculture District TO RH-3 Rural Homes District

REASON: shifting of property lines between adjacent land owners

A motion was made by KOLAR, seconded by MATANO, that the Zoning Petition be postponed until receipt of the Town Action Report. The motion carried by a voice vote.

In Favor: Zach Vangorden.

10804

PETITION: REZONE 10804

APPLICANT: LINNERUD FARMS LTD PARTNERSHIP

LOCATION: WESTERLY CORNER OF COUNTY HIGHWAY B AND COUNTRY CLUB ROAD INTERSECTION, SECTION 31, TOWN OF PLEASANT SPRINGS

CHANGE FROM: A-3 Agriculture District TO RE-1 Recreational District

REASON: compliance for existing structures and/or land uses-Veteran's Memorial Park

A motion was made by BOLLIG, seconded by KOLAR, that the Zoning Petition be recommended for approval as amended. The motion carried by a voice vote.

1. A deed restriction shall be recorded on the RE-1 zoned property to prohibit residential development.

In Favor: Sonny Swangstu

CUP 2303

PETITION: CUP 2303

APPLICANT: LINNERUD FARMS LTD PARTNERSHIP

LOCATION: WESTERLY CORNER OF COUNTY HIGHWAY B AND COUNTRY CLUB ROAD INTERSECTION, SECTION 31, TOWN OF PLEASANT SPRINGS

CUP DESCRIPTION: VETERAN'S MEMORIAL PARK

A motion was made by BOLLIG, seconded by KOLAR, that the Conditional Use Permit be approved with 6 conditions and contingent on rezone petition 10804 becoming effective. The motion carried by a voice vote.

1. Parking on the site be limited to no more than 50 spaces.

2. Buildings on the property be limited to one 10 X 12 accessory building to be used exclusively to store the equipment necessary to maintain the park.

3. The rezone shall not require the loss of a split for the applicant with the condition the property be a donation. Applicant shall be required to provide evidence of the donation within 90 days of the property transfer. Failure to do so will nullify the rezone.

4. Applicant shall submit a final site plan to be reviewed and approved by the Plan Commission and Town Board.

5. A conditional use permit will be granted for the property to light any flags other than the American Flag with the condition the flags only be lit from dawn to dusk.

In Favor: Sonny Swangstu

CUP 2297

PETITION: CUP 2297

APPLICANT: ST JOSEPH'S VENTURES LLC

LOCATION: 1906 W. BELTLINE HWY, SECTION 34, TOWN OF MADISON

CUP DESCRIPTION: cell tower

A motion was made by MATANO, seconded by KOLAR, that the Conditional Use Permit be approved with 20 conditions. The motion carried by a voice vote.

In Favor: Richard Rogers

1.The primary use of the communication tower permitted under Conditional Use Permit No. 2297 shall be for the transmission and reception of cellular/PCS wireless voice / data communications, and related telecommunications equipment.

2.The communication tower placed, constructed or modified under Conditional Use Permit No. 2297 shall accommodate the collocation of telecommunications equipment for at least two (2) additional telecommunications providers. The maximum height of the tower shall not exceed 150 feet above ground level.

3.The minimum of two (2) collocation sites required hereunder need not be available on the tower as initially placed, constructed, or modified, provided that the tower will support the later addition of the collocation sites as specified in condition #2, above.

4.Collocation sites required hereunder shall, upon request, be made available by the holder of Conditional Use Permit No. 2297 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.

5.The holder of Conditional Use Permit No. 2297 is permitted, if needed, to construct a building of no more than 14 feet in height (as defined in section 10.01 (8) of the Dane County Zoning Ordinance in effect in March 1997) and 314 square feet in floor area for use directly incidental and necessary to the use of the tower. Any other user collocating on the tower permitted herein is permitted to construct a building of no more than 14 feet in height (as defined in section 10.01 (8) of the Dane County Zoning Ordinance in effect in March 1997) and 314 square feet in floor area for use directly incidental and necessary to the use of the tower. Two or more users of the tower may build a single building with a floor area of no more than 314 square feet per user sharing the building. Buildings constructed or used by tower collocators shall be subject to all conditions established for Conditional Use Permit No.2297, including locational requirements contained in the site plan.

6.The holder of Conditional Use Permit No. 2297 shall, through ownership, lease, option or other means, at all times have the right to use the land associated with the permitted tower for uses related to the use of the collocation sites required hereunder, including the construction and use of buildings as permitted under paragraph 5 herein.

7.The final site plan(s) and design drawings dated 5/22/2014 and submitted with the CUP #2297 application materials, are fully incorporated herein and continued effectiveness of Conditional Use Permit No. 2297 is expressly conditioned upon compliance with those plans.

8.Upon written inquiry by the committee, the holder of Conditional Use Permit No. 2297 shall have the burden of presenting to the committee credible evidence establishing to a reasonable certainty the continued compliance with all conditions placed upon the conditional use permit. Failure to establish compliance with all conditions placed upon the conditional use permit shall be grounds for revocation of the permit. In the event the committee determines that

it is necessary to consult with a third party to ascertain compliance with conditions on Conditional Use Permit No. 2297, all reasonable costs and expenses associated with such consultation shall be borne by the holder of said conditional use permit. Failure to pay such costs and expenses or provide information requested by the committee shall be grounds for revocation of the conditional use permit.

9.The holder of Conditional Use Permit No. 2297 shall within 30 days of any collocation on the permitted tower provide the committee with written notification of the identity of the collocator and the nature of the equipment installed. Within 30 days of the date on which any collocated use ceases, the permit holder shall provide the committee with written notice of the cessation of such use. Any changes due to collocation or otherwise shall be reviewed by the Zoning Administrator prior to implementation to determine if permits are needed and to determine that such changes are in compliance with terms of the CUP and does not significantly alter the appearance or structural integrity of the tower approved and permitted under this CUP.

10.If at any time the communication tower permitted under Conditional Use Permit No. 2297 ceases to be used for the primary use, as identified in paragraph 1 above, for a continuous period of 12 months the permit holder shall, upon notification by the committee, dismantle and remove the tower. If the tower is not removed within 30 days of such notification, Dane County may enter upon the premises and remove the tower at the expense of the holder of the conditional use permit.

11.Prior to issuance of the requested conditional use permit, and as a condition of its continued validity, applicant shall provide Dane County with a bond, or evidence of an existing bond, in the amount of \$20,000 ensuring performance of applicant's obligation to remove any communication tower, array or any other equipment or structure placed or erected pursuant to the conditional use permit, including payment for such removal by Dane County or its agent, in the event the permit is revoked or the use permitted thereunder ceases for a continuous period of 12 months. Said bond shall expressly state that it will remain in full force and effect for a period of at least six months after the surety provides Dane County written notification of expiration or termination of the surety's obligation under the bond. Applicant shall remove any communication tower, array or any other equipment or structure placed or erected pursuant to the conditional use permit no less than 30 days prior to the termination or expiration of the bond required hereunder.

12.The applicant shall file a Notice of Proposed Construction on Form 7460-1 to the FAA to assure that the tower will not impact air traffic.

13.Contact with Wisconsin DOT Bureau of Aeronautics should be made prior to construction, if it has not already been done, to determine whether notification to that agency is required.

14.All tower components, appurtenances and transmission lines should be securely bonded and grounded to prevent RF interference caused by stray signals.

15.A Wisconsin-licensed Structural Engineer should approve and stamp the tower design, and certify that the tower can support up to three additional cellular/PCS voice / data antenna arrays.

16.The applicant shall utilize a galvanized or painted finish on the tower to minimize visual impact, if permitted by the FAA.

17.The applicant shall paint steel appurtenances the same color as the tower to minimize visual impact.

18.The tower lease area shall be surrounded by a security fence with fabric privacy screening.

19. Failure to comply with any of the aforesaid conditions shall be grounds for the committee to immediately revoke Conditional Use Permit No. 2297.

20. The existing US Cellular self-support lattice tower located on property at 1762 W. Beltline Hwy shall be removed within 90 days of completing construction of the new monopole tower. Evidence of the tower removal shall be provided to the Dane County Zoning Administrator within the 90 day period.

CUP 2298

PETITION: CUP 2298

APPLICANT: MIRNA PAREDES

LOCATION: 1010 FIEDLER LANE UNIT 20, SECTION 35, TOWN OF MADISON

CUP DESCRIPTION: daycare

A motion was made by KOLAR, seconded by BOLLIG, to take no action on the Conditional Use Permit. The motion carried by a voice vote.

The Committee decided to take no action on the Conditional Use Permit due to the limitation of authority regarding family child care home pursuant to Wisconsin Statutes 66.1017

In Favor: Leonor Dominguez Llanos

In Opposition: Vanika Mock

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

The committee contemplates a closed session for purposes of conferring with legal counsel for the governmental body who will be rendering oral or written advice concerning strategy to be adopted with respect to litigation in which the County of Dane is or is likely to become involved. The authority for a closed session for such purposes is s. 19.85(1)(g), Stats.

A motion was made by Supervisor KOLAR, seconded by Supervisor BOLLIG, to have the Zoning and Land Regulation Committee enter into closed session for purposes of conferring with legal counsel for the governmental body who will be rendering oral or written advice concerning strategy to be adopted with respect to litigation in which the County of Dane is or is likely to become involved. The authority for a closed session for such purposes is s. 19.85(1)(g), Stats. The motion carried by the following vote: 5-0.

Time: 8:41pm

Ayes: 5 - BOLLIG, KOLAR, MATANO, MILES and SALOV

A motion was made by Supervisor BOLLIG, seconded by Supervisor KOLAR, to have the Zoning and Land Regulation Committee exit out of closed session. The motion carried by the following vote: 5-0.

Time: 9:37pm.

Ayes: 5 - BOLLIG, KOLAR, MATANO, MILES and SALOV

CUP 2291

PETITION: CUP 2291

APPLICANT: WISCONSIN ELECTRIC POWER / ENBRIDGE ENERGY

LOCATION: 5635 CHERRY LANE, SECTION 14, TOWN OF MEDINA

CUP DESCRIPTION: pumping station for an existing petroleum pipeline

Motion by Kolar, seconded by Bollig, to approve the Conditional Use Permit with 6 conditions.

- 1. The pumping station shall be located and constructed as depicted in the presented plans.**
- 2. Enbridge shall be responsible for obtaining a road use agreement with the Town of Medina prior to the construction of the pumping station to ensure repairs for any damage to local roadways.**
- 3. A spill containment basin shall be constructed around the pumping station to handle a minimum of a 60 minute flow prior to the operation of the pumping station.**
- 4. The pumping station shall be designed and constructed to limit the operating noise to a maximum of 50 decibels dba as measured at property lines.**
- 5. Exterior lighting shall be down-shrouded to limit light pollution onto adjoining property.**
- 6. That Dane County be included as a named insured party of comprehensive Environmental Impairment Liability Insurance, purchased by the petitioner, to ensure enough resources to cover complete cleanup of a spill of crude or dilbit within Dane County. The Environmental Impairment Liability (EIL) insurance policy should be written by an A. M. Best rated "A" or better insurance company. The insurance policy should be in effect for each year that Enbridge Line 61 through Dane County is operated. The insurance policy shall have these coverage provisions**
 - a. Clean up expenses**
 - b. Bodily injury Liability**
 - c. Property damage Liability**
 - d. Natural resource damage**
 - e. Dane County should be named as an additional insured. The EIL policy should be primary and non contributory.**
- 7. That an independent and properly credentialed body evaluate the proposed retention area for two million gallons of spilled oil (one hour's worth as planned by Enbridge) including public health requirements and air quality requirements that assess the health risks of such a potentially massive volume of airborne toxin, and apply any and all appropriate Federal air quality standards.**
- 8. That an independent, and properly credentialed body assess the threat to surrounding wetlands posed by their proximity to the retention pond in the event of a major spill.**
- 9. Enbridge will make known to appropriate Dane County officials the composition of all dispersant agents used or planned to be used in cleanup of oil spills, of particular concern in waterways. (Composition of the dispersant should include the proper name of each chemical in the diluent, the proportion of each, and the Material Safety Data Sheet (MSDS) for each chemical should be provided.**

No action taken on motion.

A motion was made by MATANO, seconded by MILES, that the Conditional Use Permit be postponed to investigate the possibility of retaining an insurance expert, as well as an environmental risk assessment, for the purposes of determining the insurance needs of the proposal. The motion carried by a voice vote.

Staff was directed to consult with Dane County Purchasing and update the committee on the possible options for retaining an insurance expert as soon as possible. The committee chair will coordinate with staff regarding scheduling the CUP for a future work meeting.

44 attendees registered in support of the Conditional Use Permit.
132 attendees registered in opposition of the Conditional Use Permit.

F. Plats and Certified Survey Maps

2014 LD-056 Windsor Blue (final plat) - Town of Windsor, Section 30
(16 lots, 10.77 acres)
Staff recommends conditional approval.

A motion was made by KOLAR, seconded by MATANO, that the Land Division be approved with 12 conditions. The motion carried by a voice vote.

2014 LD-058 RF Farms proposed 2-lot CSM, Waiver application
Town of Blue Mounds, Section 13

A motion was made by Kolar, seconded by Bollig to postpone the waiver request.

The motion was withdrawn.

A motion was made by SALOV, seconded by BOLLIG, to approve the waiver request. The motion carried by the following vote: 4-1.

Ayes: 4 - BOLLIG, KOLAR, MILES and SALOV

Noes: 1 - MATANO

G. Resolutions

H. Ordinance Amendment

**2014
OA-059** AMENDING CH. 82, INCORPORATING THE TOWN OF MAZOMANIE
COMPREHENSIVE PLAN

A motion was made by Kolar, seconded by Bollig to recommend approval of Ordinance Amendment 59.
The motion was withdrawn.

A motion was made by MATANO, seconded by BOLLIG, to postpone the Ordinance Amendment to the February 10th meeting. The motion carried by a voice vote.

In Favor: Aaron Tigert, Town Supervisor Daniel Behringer

J. Reports to Committee

K. Other Business Authorized by Law

L. Adjourn

A motion was made by Supervisor KOLAR, seconded by Supervisor BOLLIG, to adjourn the meeting. The motion carried unanimously.

Time: 10:35pm.

NOTE: If you need an interpreter, translator, materials in alternate formats or other accommodations to access this service, activity or program, please call the phone number below at least three business days prior to the meeting.

NOTA: Si necesita un intérprete, un traductor, materiales en formatos alternativos u otros arreglos para acceder a este servicio, actividad o programa, comuníquese al número de teléfono que figura a continuación tres días hábiles como mínimo antes de la reunión.

LUS CIM: Yog hais tias koj xav tau ib tug neeg txhais lus, ib tug neeg txhais ntawv, cov ntawv ua lwm hom ntawv los sis lwm cov kev pab kom siv tau cov kev pab, cov kev ua ub no (activity) los sis qhov kev pab cuam, thov hu rau tus xov tooj hauv qab yam tsawg peb hnuv ua hauj lwm ua ntej yuav tuaj sib tham.