

TOWN BOARD ACTION REPORT – REZONE

Regarding Petition # 11357

Dane County Zoning & Land Regulation Committee Public Hearing Date 11/27/2018

Whereas, the Town Board of the Town of Springdale having considered said zoning petition,

be it therefore resolved that said petition is hereby (check one): **Approved** **Denied** **Postponed**

Town Planning Commission Vote: 7 in favor 0 opposed 0 abstained

Town Board Vote: 3 in favor 0 opposed 0 abstained

THE PETITION IS SUBJECT TO THE FOLLOWING CONDITION(S) (Check all appropriate boxes):

- 1. *Deed restriction* limiting use(s) in the C2 zoning district to **only** the following: see attached minutes.
- 2. *Deed restrict* the balance of A-1 EX Agricultural Exclusive zoned land owned by the applicant from the original farm (as of date specified in the Town Plan) prohibiting non-farm development. Please provide property description, or tax parcel number(s):
- 3. *Deed restrict* the applicant's property described below prohibiting division. Please provide property description, or tax parcel number(s):
- 4. *Condition* that the applicant must record a *Notice Document* which states all residential development units (a.k.a. splits) have been exhausted on the property, and further residential development is prohibited under Town & County Land Use Planning policies. Please provide property description, or tax parcel number(s):
- 5. *Other Condition(s)*. Please specify:

Please note: The following space is reserved for comment by the minority voter(s), **OR**, for the Town to explain its approval if the decision does not comply with the relevant provisions of the Town Plan.

I, Susan Duerst Severson, as Town Clerk of the Town of Springdale, County of Dane, hereby certify that the above resolution was adopted in a lawful meeting of the Town Board on 11/26/2018

Town Clerk Susan Duerst Severson Date: 12/6/2018

DRAFT MINUTES OF THE SPECIAL TOWN BOARD MEETING REGARDING THE RESTRICTIONS AND CONDITIONS FOR CHESTNUT PROPERTY LOT 1 AND LOT 2, NOV. 26, 2018

IN ATTENDANCE: Town Chair Mike Fagan, Town Supervisor John Rosenbaum, Town Supervisor Richard Schwenn, (A quorum is present.) Landowner Dale Chestnut and Attorney Jushca E. M. Robinson, Leasee Ben Schafman and Attorney Jessica J. Shrestha, Dane County Zoning Administrator Roger Lane and Vicki Anderson, Deputy to the PC.

CALL TO ORDER: by M. Fagan at 8:30 a.m. in the Springdale Town Hall, 2379 Town Hall Road, Mt. Horeb, WI 53572.

NOTICE OF THE MEETING: pursuant to Wisconsin Open Meeting Law was confirmed. The final agenda was posted on 11/21/18 in the three customary locations in the Town of Springdale as required by law.

DALE CHESTNUT LANDS AND BASSETT LANDSCAPING INC./TWO BUSINESSES IN VIOLATION OF ZONING-REZONING #11357/GUST RD./SEC. 12:

BACKGROUND:

- a. Ben Schafman, one of three owners of Steven R. Bassett Inc., has been leasing a portion of Dale Chestnut’s property to operate his landscape business in violation of the C-2 zoning with restrictions on Chestnut’s property. C-2 business associated primarily with trailers is permitted on the land owned by Chestnut, lots 2 and 3 of CSM 6657. The restricted zoning covers a geographical area of two CSM lots totaling approximately 5 acres.
- b. Dale Chestnut– Double D Trailers, 2733 and 2737 Gust Road, received a zoning violation letter from Dane County Zoning, dated April 20, 2018 listing the various concerns: 1. Illegal land divisions dating back to Dec. 1996. 2. Areas of the property are not zoned for commercial activity. An area zoned A-1 has been used for expansion of the C-2 business. 3. The current C-2 zoning with deed restrictions became effective on Feb. 12, 1992 when the property was owned by Roger Gust and the zoning was deed restricted to limit the scope and size of the business for Roger Gust’s trailer business. The current land uses have been expanded upon without approval –for example, a landscaping business is operating on property restricted for the trailer business.4. The current trailer business has provided no screening of vehicles outside of buildings as required in the deed restriction. 5. Impervious surfaces have been added to the property without adherence to storm water management rules and regulations.

NEW INFORMATION:

Legal representation for Chestnut and Bassett, Inc.: The attorneys for Bassett Inc. and Chestnut attended the TB meeting. Jessica J. Shrestha, attorney with Wheeler, Van Sickle and Anderson, S.C. represents Bassett Inc. and Juscha E. M. Robinson, attorney with Pines Bach represents Chestnut.

Signed Grant of Easement and Joint Driveway Agreement dated 11/12/2018 between Richard L. Klinger III and Dale and Debra Chestnut.

Site Plan Chestnut/Bassett, Inc. Proposed dated 11/20/2018

Overview: To facilitate the discussion, Chair M. Fagan suggested that the deed restrictions for each property be discussed individually and a legal document for each property be filed separately. The Town Clerk will file online the Town Action Report required for rezonings with these minutes attached. The rezoning will be discussed at the public hearing at the Dane County Zoning Land Regulation meeting on Tuesday, 11/27/2018. Zoning Administrator Lane will be attendance to present the Town Board action.

MOTION FOR LOT 1

Double D Trailer

Dale and Debra Chestnut

MOTION: by Rosenbaum/Schwenn – In making the Motion to recommend approval, it should be stated that the Springdale Town Land Use Plan does not support commercial development, (C-1, C-2)* except in certain areas of Springdale. However, considering the long history of this parcel and the businesses of the current landowner and leasee, the motion is made to approve the C-2 zoning with all the restrictions recommended by the Town of Springdale Plan Commission with adjustments and additions today in cooperation with the parties involved and the help of Dane County Zoning Administrator Roger Lane.

*The Plan states: “Because heavy commercial and industrial uses are incompatible with the goals and policies of this Land Use Plan, the Town of Springdale shall not support rezoning to the C-2 Commercial District and the M-1 Manufacturing District.”

Motion to approve with deed restrictions below carried 3-0. 10:15 a.m.

DEED RESTRICTIONS FOR LOT 1

Background:

1. The PC requested that before approval of the rezoning by the TB the following outstanding issues were to be resolved.

- a. The site plan shall accurately depict the agreed-upon easement width and uses, maintenance, etc. (the 66’, 22’, or 33’ easement between Chestnut and Klinger) on Lot 2. On Nov. 12, 2018 a signed Grant of Easement and Joint Driveway Agreement was completed between Richard Klinger III and Dale and Debra Chestnut for the shared 22’ wide joint driveway.

b. The site plan shall indicate parking spaces for 20 employees for Chestnut's Double D Trailer business on Lot 1. A Site Plan Chestnut/Bassett Inc. Proposed dated 11/20/2018 was submitted to complete this requirement.

c. The site plan shall accommodate the requirements of erosion control and storm water management for both Lot 1 and Lot 2. Dane County Erosion Control and Stormwater Management professionals have been contacted to review the site plan.

Dale Chestnut reported on 11/26/2018 that no erosion control or storm water management requirements apply to Lot 1. The water drains off Lot 1 onto Lot 2.

Ben Shafman reported on 11/26/2018 that an initial, but incomplete, review of erosion control and storm water management requirements suggest that the area designated for Greenspace Area Turf Reinforcement Mat/Lawn on the site plan dated 11/20/2108 for Lot 2, may become a detention area if required.

2. Double D Services Inc. Operations Summary 2018 –as submitted by Dale Chestnut. “Double D Services is a trailer and truck equipment business. The scope of our operation includes the following: Service and repair of trailers, Sales of new and used trailers, Custom fabrication/manufacturing of trailers and truck equipment, Truck uplifting which includes the following: bodies and hoists, flatbeds, grain bodies, municipal patrol trucks, snow and ice control equipment (snow plows and salters/sanders), Snowplow sales and service, Salter/sander sales and service, Truck accessories – hitches, bed covers, step tubes, etc.”

Deed Restrictions for Lot 1:

1. The permitted uses for Lot 1 shall be limited to the following:

a. Repair, storage and service to all types of motor vehicles, trailers, machinery or equipment.

b. Sales or rental of used motor vehicles. Provided, however, a maximum of five (5) motor vehicles offered for sale or rental shall be permitted on the property at any given time.

(Note: To alleviate the C-2 business on Lot 1 from morphing into a used car sales lot in the future, the number of motor vehicles offered for sale or rental was reduced from ten (10) to five (5). Currently, Chestnut does not sell use motor vehicles.)

c. Manufacturing of truck trailers, equipment and general purpose trailers.

d. Sales or rental of new or used trailers and equipment of all types.

e. Primary business operations shall be limited to weekdays and Saturdays between the hours of 6:00 a.m. to 6:00 p.m. Business operations on Sunday may occur as needed due to weather or in the event of emergencies.

f. Landscaping shall be installed during the next available planting season in the approximate locations shown on the attached Exhibit B, site plan, and shall consist of a planted evergreen screen initially landscaped with four (4) foot tall evergreen shrubs. Such screenings shall thereafter be maintained.

(Note: The term “screenings” was replaced with the term ‘landscaping’ since the property is highly visible from different directions and a large amount of landscaping material would be required to constitute screenings. It was generally agreed that the intention is to improve the appearance of the business, in conformance with the previous zoning deed restrictions, since it is presently untidy and cluttered.)

f. On-site employees are limited to 20 or fewer, full-time or equivalent employees.

2. Except in the case of emergency or when necessitated by road work, any vehicle with a gross vehicle weight over 12,000 lbs., which is operated or used in connection with any commercial use of the Property permitted under these Restrictions, shall limit travel on Gust Rd. to between the location of the Property and County Highway PD. Gross vehicle weight means the weight of any truck or road tractor and its semi-trailer plus the load that the vehicle is rated to haul.

3. Any demolished vehicle shall be prohibited on the property unless it is stored in an enclosed building.

(Note: Once again the major point of the necessary deed restrictions was highlighted – Is there enough space for this business? The nature of the business includes long horse trailers, big snow plow equipment; and the area for Double D Trailer is decreasing with the proposed sale of Lot 2 to Bassett Landscaping, Inc. As Chestnut described his recent efforts to tidy up, the recent rains made areas muddy and he had less space to park the equipment. The goal is to make the business neat and tidy and avoid an undesirable property.)

4. Any vehicles, trailers or equipment stored on the property within the public view shall be stored in a neat and orderly fashion.

(Note: A neighboring property owner called into to Town officials to urge them to require the business to improve the appearance.)

5. On-street parking by employees is not permitted at any time. No parking or storage of vehicles, trailers or equipment is permitted within the street right-of-way.

(Note: On 11/26/2018 a white sedan was observed parking within the right-of-way, contrary to current requirements.)

6. The maximum height of any buildings shall be thirty-five (35) feet.

7. Outdoor lighting, except for required security lighting, shall be operational only during hours of operation. All lighting shall be shielded to prevent glare into the night sky or direct-beam illumination of neighboring residences. All new lighting fixtures shall be full cut-off fixtures which prevent all upward transmission of light. All night photo cell-controlled lighting shall not be permitted, however, motion-controlled switch-controlled security lights are acceptable. All outdoor lighting shall be in compliance with applicable county and town ordinances.

8. The 0.41 acre parcel currently zoned A-1 shall retain A-1 zoning and the uses shall be limited to access to the existing building only.

(Note: The deed restriction to limit the use shall be recorded with this land, which will be Lot 3 of the proposed CSM. The PC wanted to stress that no development or business of any kind shall be permitted; no storage, no parking, since the Springdale Land Use Plan does not support new commercial zoning in this area of Springdale. This will be discussed in more detail at the time of CSM review.)

9. Signage shall conform to the Town of Springdale Sign Ordinance and all state and county requirements.

10. The use of outdoor loud speakers is not permitted at any time.

11. The Waste Disposal Plan shall conform to that submitted on Oct. 8, 2018.

(Note: Zoning Administrator Lane requests that the document be attached to the submittal to Dane County Zoning.)

12. A statement “No further divisions for development of this Lot shall be permitted per the current Town of Springdale Land Use Plan and ordinances.”

13. Architectural review and approval by the Town of Springdale Plan Commission in accordance with the Town of Springdale Land Use Plan shall be required prior to constructing any improvements or remodeling of existing improvements, to ensure that the exterior appearance, design and character of the proposed improvements, including parking facilities, site plan, and signs, will maintain the rural quality of life throughout the Town.

(Note: Exhibit B, the site plan, shall be attached to the submittal to Dane County Zoning.)

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MOTION FOR LOT 2

Bassett Landscaping, Inc.

Agent Ben Schafman

MOTION: by Rosenbaum/Schwenn – In making the Motion to recommend approval, it should be stated that the Springdale Town Land Use Plan does not support commercial development, (C-1, C-2)* except in certain areas of Springdale. However, considering the long history of this parcel and the businesses of the current landowner and leasee, the motion is made to approve the C-2 zoning with all the restrictions recommended by the Town of Springdale Plan Commission with adjustments and additions today in cooperation with the parties involved and the help of Dane County Zoning Administrator Roger Lane.

*The Plan states: “Because heavy commercial and industrial uses are incompatible with the goals and policies of this Land Use Plan, the Town of Springdale shall not support rezoning to the C-2 Commercial District and the M-1 Manufacturing District.”

Motion to approve with deed restrictions below carried 3-0. 10:16 a.m.

DEED RESTRICTIONS FOR LOT 2

Background:

1. The PC requested that before approval of the rezoning by the TB the following outstanding issues were to be resolved.

- a. The site plan shall accurately depict the agreed-upon easement width and uses, maintenance, etc. (the 66’, 22’, or 33’ easement between Chestnut and Klinger) on Lot 2. On Nov. 12, 2018 a signed Grant of Easement and Joint Driveway Agreement was completed between Richard Klinger III and Dale and Debra Chestnut for the shared 22’ wide joint driveway.
- b. The site plan shall indicate parking spaces for 20 employees for Chestnut’s Double D Trailer business on Lot 1. A Site Plan Chestnut/Bassett Proposed dated 11/20/2018 was submitted to complete this requirement.
- c. The site plan shall accommodate the requirements of erosion control and storm water management for both Lot 1 and Lot 2.

Dale Chestnut reported on 11/26/2018 that no erosion control or storm water management requirements apply to Lot 1. The water drains off Lot 1 onto Lot 2.

Ben Schafman reported on 11/26/2018 that an initial, but incomplete, review of erosion control and storm water management requirements suggest that the area designated for Greenspace Area Turf Reinforcement Mat/Lawn on the site plan dated 11/20/2108 for Lot 2, may become a detention area if required.

2. Steven R. Bassett Inc. Operations Summary 2018 states the company is a complete Landscape and Tree Care Company primarily servicing Dane County as well as surrounding areas. Almost all business is conducted offsite on customers' property. (Note: It was clarified that the business done onsite involves office work and a single maintenance employee.)

Deed Restrictions for Lot 2:

1. The permitted uses for Lot 2. Uses shall be limited to the following:

a. Landscape contracting businesses.

(Note: It was explained that the business Bassett Inc. involves a tree business and landscape business, thus the plural term businesses is used. No additional buildings shall be constructed without application to the Town for an architectural review as required per the Town of Springdale Land Use Plan.)

b. Storage of construction equipment necessary for the operation of such onsite landscape contracting business.

c. Repair, storage and service to all types of motor vehicles, trailers, machinery or equipment used in connection with the operation of such onsite landscape contracting business.

d. Temporary outside storage of materials or supplies used by such onsite landscape contracting business in fulfilling its contracts.

e. Seasonal outside storage of nursery stock and plants.

(Note: The term 'onsite' was added to prevent other landscape contracting businesses from bringing their equipment to this site.)

2. Primary business operations shall be limited to weekdays between the hours of 4 a.m. to 8 p.m. Business operations on weekends may only occur as needed due to weather or in the event of emergencies.

3. On-site retail sales are prohibited.

4. All parking shall be setback at least 22 feet from the south boundary of Lot 2.

(Note: The 11/12/2018 signed Grant of Easement and Joint Driveway Agreement was completed between Richard Klinger III and Dale and Debra Chestnut and shall be recorded at Dane County Register of Deeds.)

5. Landscaping shall be installed during the next available planting season in the approximate locations shown on the attached Exhibit B, site plan, and shall consist of a planted evergreen row initially landscaped with four (4) foot tall evergreen shrubs to ultimately form a continuous hedge not less than five (5) feet in height. Such landscaping shall thereafter be maintained.

(Note: The term "screenings" was replaced with the term 'landscaping' since the property is highly visible from different directions and a large amount of landscaping material would be required to constitute screenings. It was generally agreed that the intention is to improve the appearance of the business, in conformance with the previous zoning deed restrictions, since it is presently untidy and cluttered.)

6. Pervious green space, which shall include a turf reinforcement mat, shall replace existing gravel during the next available planting season following the date of this Restatement in the approximate location shown on the attached Exhibit B, site plan. Such green space shall thereafter be maintained.

(Note: Ben Schafman reported on 11/26/2018 that an initial, but incomplete, review of erosion control and storm water management requirements suggest that the area designated for Greenspace Area Turf Reinforcement Mat/Lawn on the site plan dated 11/20/2108 for Lot 2, may become a detention area if required. He stated that the area would be adequate to meet the requirements.)

7. The total building footprint shall not exceed 35% of the area of Lot 2.

(Note: It was agreed that space is at a premium and the limitation on additional buildings and increase in building size to Lot 2 was volunteered by the landowner.)

8. A maximum of 28 employee parking spaces is permitted on Lot 2.

9. On-site burning is prohibited.

10. All signage shall comply with Town ordinances.

11. Except in the case of emergency or when necessitated by road work, any vehicle with a gross vehicle weight over 12,000 lbs., which is operated or used in connection with any commercial use of the Property permitted under these Restrictions, shall limit travel

on Gust Rd., to between the location of the Property and County Highway PD. Gross vehicle weight means the weight of any truck or road tractor and its semi-trailer plus the load that the vehicle is rated to haul.

12. Any demolished vehicle shall be prohibited on the property unless it is stored in an enclosed building.

(Note: Once again the major point of the necessary deed restrictions was highlighted – Is there enough space for this business? The nature of the business includes many trucks, employee vehicles, etc. The goal is to make the business neat and tidy and avoid an undesirable property.)

13. Any vehicles, trailers or equipment stored on the property within the public view shall be stored in a neat and orderly fashion.

14. On-street parking by employees is not permitted at any time. No parking or storage of vehicles, trailers or equipment is permitted within the street right-of-way.

15. The maximum height of any buildings shall be thirty-five (35) feet.

(Note: The landowner volunteered to limit the height of buildings to conform with the other landscaping businesses which are zoned LC-1.)

16. Outdoor lighting, except for required security lighting, shall be operational only during hours of operation. All lighting shall be shielded to prevent glare into the night sky or direct-beam illumination of neighboring residences. All new lighting fixtures shall be full cut-off fixtures which prevent all upward transmission of light. All night photo cell-controlled lighting shall not be permitted, however, motion-controlled switch-controlled security lights are acceptable. All outdoor lighting shall be in compliance with applicable county and town ordinances.

17. The Waste Disposal Plan shall conform to that submitted on Oct. 8, 2018.

(Note: Zoning Administrator Lane requests that the document be attached to the submittal to Dane County Zoning.)

18. The use of outdoor loud speakers is not permitted at any time.

19. A statement “No further divisions for development of this Lot shall be permitted per the current Town of Springdale Land Use Plan and ordinances.”

20. Architectural review and approval by the Town of Springdale Plan Commission in accordance with the Town of Springdale Land Use Plan shall be required prior to constructing any improvements or remodeling of existing improvements, to ensure that the exterior appearance, design and character of the proposed improvements, including parking facilities, site plan, and signs, will maintain the rural quality of life throughout the Town.

(Note: Exhibit B, the site plan, shall be attached to the submittal to Dane County Zoning.)

21. In the event Lot 2 ceases to be owned or operated by the Bassett Entities or, in the event Lot 2 is used by any person or entity other than as a landscape contracting business permitted under the restrictions above, then the use of Lot 2 shall be limited to the uses and subject to restrictions applicable to the Limited Commercial District (LC-1) under the Dane County Zoning Ordinance, Section 10.11 or its successor provision(s) and the Town of Springdale Land Use Plan. Prior to the sale to an unrelated third party, a petition shall be submitted to Dane County Zoning to apply to have the property rezoned to LC-1.

(Note: The intent is to return the land use to better conform to the Town of Springdale Land Use Plan for landscaping businesses. Since the historical zoning did not limit the number of employees, Bassett Landscaping, Inc. with 28 employees, is much larger in scope and intensity than the other landscaping business in Town with a limit of 10- 12 employees.)

ADJOURN: MOTION by Schwenn/Fagan to adjourn. Motion carried 10:16 a.m.