

Land Conservation Committee
November 15, 2010

Smart Growth Technical Advisory Committee Meeting Minutes related to **Nonmetallic Mining in Farmland Preservation Areas.**

Smart Growth Technical Advisory Committee
MINUTES
January 3, 2007 Meeting – 6:00 p.m.
County Board Room

Public Comment (8:09:01 to 8:25:26) Tom Amon, President of B. R. Amon and Sons mentioned he would like to have noted how many acres of mining are left in each site and he'd like to see planning for mineral resources in Walworth County. He stated they have sites that have five feet of gravel and some have 40. He stated soil maps for agriculture are not fully relied on for gravel sources and that mining sites are becoming more and more boxed in by development and roads. He mentioned it is complex on how to deal with economic and agriculture uses versus the mining resource potentials, growth issues and price of land issues. He explained that Waukesha County has huge stone and gravel resources available but cannot use them due to roads and subdivisions. He stated he knows where mining sites are and would be willing to share estimations and approximations. Mr. Frauenfelder asked Mr. Amon if he could provide information on areas that are not currently zoned for mineral extraction where mineral rights have been secured from the property owner. If this information becomes available, it can be identified on a map. Mr. Frauenfelder stated that many of the newer pit proposals are on prime farmland so in a way, preserving prime farmland helps to secure gravel pit sites for the future. Mr. Amon stated that it has to be near 40 to 60 acres or it is too small for a gravel pit, depending on the depth of the deposit.

Smart Growth Technical Advisory Committee
MINUTES
November 7, 2007 Meeting – 6:03 p.m.
County Board Room

Report on outstanding inventory items from previous chapters. Bill Stauber and Neal Frauenfelder (7:21:43 to 78:36)

Mr. Stauber explained that he made the changes requested by the committee on chapters one through six and these have been posted on the website. Items he is still waiting for include maps on sand and gravel extraction potential and existing bike trails. Mr. Frauenfelder explained that under State Law, NR135-56, Registration of Marketable Non-Metallic Mineral Deposits, claims are allowable on the mineral reserves, which precludes local zoning authority from rezoning the property where the claim was granted. The local zoning authority has 60 days to object to the filing if it is not properly zoned. Mr. Frauenfelder further explained that the Land Use office can provide the Regional Planning Commission with existing mineral sites but the owners of approved sites need to provide what level of extraction reserve areas are left in approved sites. Walworth County has M-3 Mineral Extraction District and requires a conditional use as well. The conditional use usually has a standard condition that the land be rezoned back to the appropriate district once the pit is exhausted and restored. If an owner sells M-3 property with a conditional use, the zoning and conditional use permit transfers with the land.

Smart Growth Technical Advisory Committee
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July 2, 2008 Meeting – 6:00 p.m.
County Board Room

Review and discuss making mineral extraction a conditional use in additional zoning districts – Neal Frauenfelder (8:17:57 to 8:27:18)

Mr. Frauenfelder explained that at the Town meetings it was mentioned to allow mineral extraction (clay and gravel pits) as a conditional use in A-1 zoning districts. The current process requires M-3 mineral extraction zoning district with a conditional use. When the mineral extraction is completed, the parcel has to be rezoned back into its original zoning district. The State Statutes have been amended to allow mineral extraction as a conditional use in the A-1 zoning district. This would expedite the process and would eliminate difficulty in getting the applicant to return the zoning back to its original district. The Towns would give up their ability to deny (veto) mineral extraction proposals through the current rezone requirement process. They could still offer their recommendation under the conditional use permit. Mr. Frauenfelder suggested if mineral extraction be allowed in the

A-1 zoning district as a conditional use that there be consideration given for a time limit for the extraction site. If it is to be more permanent in nature, 10 to 15 years, he suggests it require an M-3 zoning. The Technical Advisory Committee may wish to allow flexibility for greater setbacks, dependent on the surrounding land use. Ron Fero also recommended that there should be flexibility for lesser setbacks, dependent on the situation.

Summary of follow up action needed to be taken by TAC members. Neal Frauenfelder (9:01:38 to 9:05:17)

Mr. Frauenfelder reviewed the following list:

1. SEWRPC staff will be contacting each town to schedule a follow-up planning meeting to review the preliminary draft town land use plan. The preliminary draft town plans will be prepared based on the input obtained from the first round of town meetings.
2. Review with your Town Board and Town Planning Committee plan recommendations coming out of town land use plan meetings as reviewed at the July 2, 2008 TAC meeting, i.e., Jefferson County exclusive agricultural preservation approach, making mineral extraction a conditional use in additional zoning districts.
3. Select one of the two population growth scenarios listed on pages 5 and 6 of Chapter VII or develop your own Town population projection.
4. Select one of the two employment scenarios listed on pages 7, 8 and 9 of Chapter VII or develop your own Town employment projection.

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5. If there have been any changes to your town's representative or alternate representative to the Smart Growth TAC Committee please have your town clerk inform Neal Frauenfelder.
6. Review the Revised Housing Chapter IX with Plan Commissions and Town Boards.
7. Be prepared to discuss establishment of criteria for A-1, Prime Agricultural Rezone Requests.

Smart Growth Technical Advisory Committee

AMENDED MINUTES

August 6, 2008 Meeting – 6:00 p.m.

Discussion and possible action on making mineral extraction a conditional use in additional zoning districts and giving the County Zoning Agency, with town approval, the ability to modify mineral extraction setback requirements up or down based on the specific site conditions – Neal Frauenfelder (7:09:10 to 7:21:38)

Mr. Frauenfelder mentioned this was handed out last meeting so participants would take the information to their Townships. It would allow mineral extraction as a conditional use rather than requiring a rezone. After extensive discussion, Chairman Kilkenny stated that the committee's consensus is to leave the mineral extraction process as it currently is. No motion was made.

Public Comment (7:35:39 to 7:49)

Richard Houck from Lyons Township stated that he's concerned about soil classes and rezone verbiage. The section that states Class I, II and III soils, but which are demonstrated to be unsuitable for agriculture due to erosion and other factors is what he's concerned about. This opens an opportunity for A-1 landowners who want to subdivide their A-1 property to use poor husbandry that would create excessive erosion and poor yields.

Tom Amon stated that the committee should consider mineral extraction project specific needs. He said borrow pits need to be expedited, especially in the future, and a suggestion is to define public welfare as sources of road materials for public projects. The Town of Burlington is anticipating on writing a rule that has an M exemption district that recognizes a permit can be given to go into a parcel without a rezone for temporary use. This would go through townships to make the decisions for temporary exemptions. Mr. Frauenfelder stated that mineral extractions predominantly occur in the prime ag category of the plan. Language could be added to the plan to say, "mineral extraction, when approved by the Town and the County will be considered compatible with the prime ag plan category, meaning the plan would not need changing if a rezone and/or conditional use is obtained." He further stated at this meeting that the Towns expressed preference for rezones so they continue to have authority to approve or deny the mineral extraction projects. He will return to the next meeting with more information on what the current ruling is for soil borrow sites.

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September 3, 2008 Meeting – 6:33 p.m.
County Board Room

Follow-up on mineral extraction discussion question regarding soil borrow and deposition sites- Neal Frauenfelder (8:17:50 to 8:31)

This was discussed at the last meeting where Tom Amon suggested that soil borrow pits be allowed without rezones. Mr. Frauenfelder explained that the current ordinance requires a rezone and conditional use for any soil extraction for highway projects. Only a conditional use is required when a site is used to put excess soil on. The question was whether or not the committee wants to differentiate between a gravel pit and a soil borrow. He said it is noted that the towns still want rezones for gravel pit extraction and for soil borrow pits.

Smart Growth Technical Advisory Committee

MINUTES

April 1, 2009 Meeting – 6:00 p.m.
County Board Room

Discussion and possible action on Chapter X “Agricultural, Natural, and Cultural Resources Element” Mark Bromley, Bob McIndoe and Bill Stauber, Chapter Review Work Group (6:13:44 – 6:25:54) Nancy Russell referred to the comment in bold writing at the top of page 8 where it refers to “...any use allowed under existing zoning.” She questioned if it meant any use whatsoever, or any use allowed under any zoning district. She said that after talking to Neal Frauenfelder, the intention of the work group was that it be any use allowed under the specific zoning identification. She wondered if it needed clarification. Mr. Bromley suggested wording as ‘Under the zoning in effect as to that parcel’ and thought that would eliminate the ambiguity. She then went on to page 10, also in the bold section, and suggested the same wording as discussed on page 8. And on page 11, item 4 regarding mineral extraction, Ms. Russell said it was her understanding that the County Zoning Agency would require rezoning back to the original zoning following reclamation. That is not stated in item 4. She thinks that should be so stated. Neal Frauenfelder said that the current gravel pit policies state that it should be rezoned back to the existing zoning district and that is usually a condition of approval of new gravel pit operations. Nancy Russell’s suggested wording for Item 4 would be, “The property will be rezoned back to the original zoning following reclamation”. She also pointed out removal of the last letter ‘s’ in the word conservations in the last line of item 5.

Comprehensive Plan Chapter XV. Intergovernmental Cooperation Element

Walworth County should continue to follow current procedures that provide for early town input on proposed rezones, conditional uses, land divisions,⁵ and zoning variances. These procedures include:

- *The County requires an applicant for a rezone or conditional use to approach the concerned town plan commission/town board to ascertain the town's position on the proposal. The County must have the town's decision on the proposal prior to a County hearing on the matter. According to State law, under town-county zoning, town governments have a direct voice in decision-making on proposed zoning amendments. Walworth County should also give serious consideration and due weight to town recommendations on proposed conditional uses within the respective towns.*
- *The County requires that an applicant for a land division obtain a decision from the concerned town and from any extraterritorial plat review authority before the proposed land division is submitted to the County for review.*
- *The County highly recommends that, while it is not mandated, an applicant for a zoning variance seek a recommendation from the concerned town board prior to the County Board of Adjustment hearing on the matter.*

5. Land divisions include reviewable certified survey maps, subdivision plats, and condominium plats.

**Comprehensive Plan, Chapter X
Agricultural, Natural and Cultural Resource Element**

Agricultural Resource Policies and Programs

The lands identified as prime agricultural lands and located within Farmland Preservation Areas will be retained in agricultural use and in related uses that are allowed as principal or conditional uses in the A-1 Prime Agricultural zoning district of the Walworth County Zoning Ordinance, with a minimum parcel size of 35 acres. The exceptions are:

1. Areas which may in the future be found to meet the criteria for rezoning from A-1 Prime Agricultural Land zoning district set forth in Table XX.X
2. Parcels which may be developed in accordance with the substandard lot provisions of the Walworth County Zoning Ordinance.
3. Areas which are proposed for agricultural manufacturing, warehousing, and marketing uses, (uses permitted in the A-4 zoning district) where the proposed use is compatible with adjacent agricultural areas and consistent with County and town goals and objectives. All such proposals will be subject to the County Zoning Ordinance. Such areas would have to be rezoned in to the A-4 Agricultural Related Manufacturing, Warehousing and Marketing district and receive a conditional use permit. Such uses, if approved, will be accommodated without amending the Walworth County Comprehensive Plan.
4. Areas which are proposed for mineral extraction use where the proposed use is compatible with adjacent agricultural use and consistent with County and town goals and objectives.
5. The development of lands identified as prime agricultural land for any use allowed under the zoning in effect for that parcel.