

# Walworth County Land Conservation Committee

## MINUTES

**DRAFT**

Monday, November 15, 2010 at 1:30 p.m.

Walworth County Board Room 114

Elkhorn, WI 53121

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The meeting was called to order by LCC Chair Kilkenny at 1:30 p.m.

Roll call - Committee members present included: Supervisors Hawkins, Kilkenny, Grant, Citizen Member Burwell, and USDA/FSA Representative Henningfeld. A quorum was declared.

County staff present – David Bretl, County Administrator; Michael Cotter, Director of Land Use & Resource Management (LURM); Louise Olson, Deputy Director, LURM; Fay Amerson, Urban Manager, LURM; Neal Frauenfelder, Sr. Planner, LURM; Matt Weidensee, Associate Planner, LURM; Deb Grube, Sr. Zoning Officer; and Joeann Douglas, Recording Secretary.

Also in attendance – Nancy Russell, Walworth County Board Chair; Greg Igl, USDA./NRCS; and Shirley Grant

Approval of the Agenda – **Supervisors Hawkins and Grant moved and seconded approval of the agenda. Motion carried 5-0.**

Approval of the Minutes – **Citizen Member Burwell and Supervisor Grant moved and seconded approval of the October 18, 2010 LCC meeting minutes as presented. Motion carried 5-0.**

Public Comment – None

Substandard A-1 Policy Review For Farmland Preservation Plan (FPP) – Fay Amerson reminded the committee members the Farmland Preservation Plan’s pertinent information is now on the county website including the draft, all meeting minutes pertaining to FPP, fact sheets and a link to DATCP. Ms. Amerson said during the discussion of the Farmland Preservation Plan there would be decisions the LCC would need to make based on the new FPP law, Ch. 91, and reviewing/reaffirming what has been done thus far on FPP and documented in the Smart Growth Plan.

Discussion followed of Ag resource policies and programs, and some of the exceptions of uses allowed in a FPP zoning district. Neal Frauenfelder provided insight of the FPP requirement for conversion fees and ways to minimize the number of A-1 rezones. Many rezones are on existing substandard parcels of A-1 land. For example, a 30 acre parcel is made up of 5 acres zoned C-2 and 25 acres zoned A-1. The 25 acres A-1 is already substandard. To divide the 5 acres of C-2 off would require a rezone of the A-1 substandard parcel to A-2 before dividing off the 5 acres of C-2 since they are considered one parcel. Even though the C-2 is standard, a rezone is still required. Supervisor Kilkenny said there was concern at the town level about getting rid of small A-1 parcels just because they are small. Supervisor Grant asked if this is policy, county ordinance, or state law? It is a county ordinance. Creation of substandard lots is not exclusive to A-1 zoning. Matt Weidensee continued with discussion of other parcels to help the committee understand the ramifications of the zoning policy. Previously the county allowed people to split off A-1 and call it a legal substandard parcel even though it wasn’t of record. However, the ordinance says you should not create a new lot. When the Zoning agency discovered these splits were being allowed, approximately 5 years ago, it was stopped. Deb Grube added the ordinance recognizes existing substandard parcels of record in the Register of Deeds Office on the effective date of the ordinance. The state defines parcels, but the county defines land use. Chair Kilkenny agreed that the state definition should not drive our land use policy. Mr. Weidensee suggested perhaps the smaller substandard parcels could be split off with some type of a conditional use with conditions attached. Chair Kilkenny said there could be a stipulation that all A-1 land must stay together as one parcel when

removing other zoning delineations like the C-2 in the example. Previously, there was nothing in the zoning code that allowed the zoning office to review parcel splits that were greater than 15 acres in size. Since then, the zoning code was amended to review all parcel splits. The subdivision control ordinance at the time said only parcels of 15 acres or less were reviewed. The question is, how to differentiate between legal and illegal substandard parcels. Deb Grube said this parcel split occurred in the mid 1990's before thorough reviews were being done and prior to amending the zoning code. Mr. Weidensee added that if changed policies allow someone to create a legal substandard parcel, other people may buy these illegal substandard parcels with the assumption they are buildable. Neal Frauenfelder added that this situation probably cannot be fixed with an ordinance change. When the county was zoned and mapped in the early 1970's, resource lines were followed to define zoning parcels rather than parcel lines. Example, woods got C-2 zoning, farm fields got A-1 or A-2, etc. That is the reason many parcels today have several zoning categories. Chair Kilkenny suggested using a type of farm separation that would separate out the non-farm zoning and combining and restricting all A-1 to remain intact and used or sold off for farming. Mr. Weidensee said the other concern with changing policy is that 15 townships are now comfortable with the comprehensive zoning amendment, all signed on, and are in agreement with the language of the zoning codes. If the county were to try to reinterpret the policy at this time, we would have to pass it by the townships first. Chair Kilkenny agreed with the ordinance change, but if it would allow the landowner more flexibility the townships would be in favor of the change. Fay Amerson said, this policy for substandard could be a recommendation in the farmland preservation plan. The FPP update should be an appendix to the Comp Plan. All the decisions about what is done with the final policy and ordinance changes come at a date when those changes are recommended. The FPP should just have the changes that are in Ch 91. The decision as whether or not that policy is adopted comes at a later date when you are doing the Comp Plan revisions. What needs to be decided for the FPP is: is this a policy that you recommend. Mr. Weidensee added that the one good thing about the policy is that it supports the land resource base that caused the A-1 to be A-1 in the first place and does not go away from the criteria of greater than 50% Class I, II, and III soils and is not being done because of the conversion fee, but rather the land use policy. **Chair Kilkenny entertained a motion to recommend language in the Farmland Preservation Plan that would permit the separation of legal substandard A-1 portions of lots subject to conditional use and deed restrictions. Seconded by Supervisor Hawkins. Motion carried 5-0.**

Criteria for Rezoning Land From A-1 – Neal Frauenfelder made the committee aware of the criteria used for rezones from A-1 land to another zoning district and any changes that may be needed to the Comp. Plan or the zoning ordinance because of SS Ch 91. The County standard already dealt with was using the criteria of greater than 50% Class I, II, and III soils for A-1 soils and has been placed in the Smart Growth Plan. The new state standards in Ch 91 that require action are as follows: In accordance with the Wisconsin Farmland Preservation Law, the proposed rezone out of a farmland preservation district may be approved by the County and Town only after findings are made based upon consideration of the following: a.) The land is better suited for a use not allowed in the farmland preservation zoning district; b.) The rezoning is consistent with the County certified comprehensive plan; c.) the rezoning is substantially consistent with the county certified farmland preservation plan; and d.) the rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use. Discussion followed regarding item d.) and the word "substantial". Mr. Frauenfelder said, as a county, we could be more strict, and wording in the County standard that states "the proposed land use should be compatible with the remaining prime agricultural land in the vicinity" could have a more restrictive statement added to it. **Supervisor Hawkins and USDA/FSA Representative Henningfeld moved and seconded to have the criteria for rezoning land from the A-1 Prime Agricultural Land Zoning District modified to reflect Farmland Preservation**

**Law sec. 91.48. Motion carried 5-0.**

Non Metasllic Mining Extraction – Conditional Use/A-1 Zoning Designation – Fay Amerson said they are responding to County Board Chair Russell’s suggestion and revisiting if non metallic mining in an agricultural preservation zoning district with a conditional use permit is allowed. Mr. Frauenfelder said that when it was previously brought up before the Smart Growth committee which is made up primarily of town representatives, the towns were not in favor of using a conditional use permit as the method. They felt the towns would lose their veto authority. Mr. Frauenfelder suggested contacting the towns to see if they changed their minds because of the conversion fee. In the Farmland Preservation Plan, the LCC should identify uses that they would recommend in A-1 lands and conditions of approval. Discussion followed. **Citizen Member Burwell and Supervisor Grant moved and seconded having staff send a letter to DATCP asking the questions they deem appropriate related to dealing with nonmetallic mining and the Walworth County Farmland Preservation zoning ordinance. Motion carried 5-0.**

WLWCA 2010 Auction Donations – Louise Olson said Dorothy Burwell will be attending the WLWCA conference. Ms Olson reminded the LCC silent auction items are still needed if they know of any person or business who would like to donate. Ms Olson has forms to use for donating an auction item. They should contact Dorothy Burwell if they do have any items.

Next Meeting Date – Monday, December 20, 2010 at 1:30 p.m.

Adjournment – **On motion and second by Supervisor Hawkins and Grant, Chair Kilkenny adjourned the meeting at 2:55 p.m. Motion carried 5-0.**

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Submitted by Joeann Douglas, Recording Secretary. Minutes are not considered final until approved by the committee at the next regularly scheduled meeting.