

**Jo Daviess County Planning Commission/Zoning Board of Appeals
Minutes for Meeting
At the Courthouse-7:00 PM
December 30, 2008**

Call to Order: Mel Gratton called the meeting to order at 7:00 p.m.

Roll Call Present:

Planning Commission:

- ✓ Melvin Gratton
- ✓ Susie Davis
- ✓ William Tonne
- ✓ Nick Tranel
- ✓ Dave Jansen
- Karl Lawfer (Alternate)

Staff & County Board Members:

- ✓ Steve Keeffer, Highway Engineer
- ✓ Sandra Nolan, JDC Health Dept.
Terry Kurt, State's Attorney
- ✓ Linda Delvaux, Building & Zoning
- ✓ Ron Mapes, JDC Board Member
- ✓ Marvin Schultz, JDC Board Chair

Approval of Minutes: A motion was made by Nick Tranel to accept the November 19, 2008 minutes. Seconded by Bill Tonne Voice Vote: All Ayes Mel Gratton - Abstain

Mel Gratton swore in all who might want to testify on any request this evening.

New Business

Joseph & Deborah Borsdorf, owners and Tabatha Lancaster, applicant, requesting rezoning from Ag-1 General Agriculture District to R-1 Rural Residential District to allow for a non-agriculture residence. Common Location: East Airport Road, Stockton

Staff Report

- Comprehensive Plan: The Comprehensive Plan would indicate this parcel to be in the Agriculture Preservation area 1, and is shown to have important farmland soils with areas surrounding it as prime farmland soils. The Comprehensive Plan would also state the following:
 - E. Residential UsesIn Jo Daviess County the demand for rural residential development has increased greatly over the past few decades.
 1. Benefits:
In part – Economic benefits include the growth of the construction industry, job creation in the trade/design sector, and an increase in the tax base. Social benefits accrue simple from the infusion of more people, there are cash benefits to farmers who are able to sell land for residential development. Along with rural residential development comes the demand for support services, such as tilling and mowing, home maintenance services and additional support to local restaurants and retail businesses.
 2. Problems:

In part – Loss of farmland for any future agricultural use is perhaps the major concern. Nuisance conflicts with agricultural uses are often noted, rural residential growth increases the cost of providing services, proliferation of septic systems and aesthetics of the area.

XI. Goals and Objectives

In part – Recommend directing development to centers where infrastructure and services already exist, or can easily be provided, this helps to maintain the vitality of the county’s communities. Preserve productive farmland, and the open areas of the county.

- Waste Treatment: Preliminary soil borings were performed on 6/28/04 for a previous proposed subdivision in this location. Borings indicated that a conventional system sized at 400 square feet per bedroom could be used on lot 3 of this subdivision, which corresponds to most of the 6 acre parcel in this request. Additional soil boring information would be needed after the house site is determined due to transitional soils on this property.
- Access Considerations: This request was part of a five lot subdivision proposed in 2004. While the 2004 rezoning/subdivision was ‘pulled’ before being brought before the planning commission, this one lot rezoning request could eventually evolve into a similar multi lot development so the 2004 access considerations are still pertinent and that text follows in its entirety. “This proposed five lot subdivision is to be accessed off of Willow Road and Airport Road. The two access points on Willow Road will serve 2 lots, and are shown as existing entrances. The northern Willow Road entrance is currently used as a field entrance. The southern Willow Road entrance does not appear to have been used for some time, as evidenced by the fact that there is no gate in the fence that would allow it to be used. There is one existing entrance on Airport Road, and two new entrances will have to be constructed to access the remaining lots. The Wards Grove Highway Commissioner has reviewed the entrances, and has no problems with the concept, but would like the developer to clear the brush along the lot frontages to improve sight distance, which is a reasonable request. Once the brush is cleared, there will be adequate sight distance on the Airport Road entrances. As proposed, this subdivision will require the construction, and update of five residential entrances. An interior road system will have less impact on the current County and Township highways.” The highway commissioner has requested that the brush be removed, which is still a reasonable request.
- Other Considerations: A LESA has been done and resulted in a score of 213. This parcel is partly wooded with a small drainage way to the back of the property. At one time the current owner used this property to pasture livestock. The State of Illinois owns approximately 300 acres just south of this request, Wards Grove Nature Preserve. There are several different uses within a mile radius. There is adjacent farmland and a couple of livestock operations in the area. There are three parcels within 1 mile of the request that are zoned residential, which have been previously approved by the ZBA and County Board ranging in size from 3 to 16 acres. Willow Grove subdivision is approximately .6 miles south of the requested parcel. The City of Stockton is

approximately 2.6 miles northwest.

Paul Brashaw, surveyor representing petitioner

- I would normally not come forward with a request of a LESA score of 213, but given the nature of the zoning approvals in the past in the area, they have been less than a mile and a half. White/Simmons 3 acres - LESA 202, Pierce over one mile and a half away 2 acres– LESA 217, Kehl –3 acres out of 16 acres. There are parcels in the area with houses that have been there prior to zoning. Would like to build a house on this site and will not take any property out of farm production.

Jansen asks about the northern most part of the property if that will stay in production or not.

- Paul Brashaw states that the large tract of land was split up and Mr. Borsdorf kept 40 acres and to get that acreage they needed to take a small portion of the farm ground. The small portion is currently out of production because it is fenced off from the neighboring farmer

Public Testimony

Richard “Dick” Curtis, 235 West Mapes Avenue, Stockton

- Hold a hunting lease on an 18 acre wooded lot. You cannot hunt within 300 yards of a house.
- Reads a letter from Carson Yeager, adjoining property owner – forestry plan, Concerned about decrease in the value of his wooded property, County should develop an area planned for rural development. Object to the request.
- Wonder where this will stop for development, why not buy a lot in Stockton, you have city water, sewer, garbage pickup, roads to handle traffic and plenty of lots available.

Linda Delvaux states the law of hunting from the Department of Natural Resources.

Hunting near inhabited dwellings – It is unlawful to hunt or allow a dog to hunt within 300 yards of an inhabited dwelling without first obtaining permission of the owner or tenant of the dwelling. Except: While trapping, hunting with bow and arrow, or hunting with shotgun using shot shells only, or on licensed game breeding and hunting preserve areas, on federally-owned, and –managed lands, on Department-owned, -managed, -leased, or –controlled lands and areas operated under a Waterfowl Hunting Area permit, a 100 yard restriction shall apply.

Mike Forbrook, 1364 Yorkshire Lane, Carol Stream IL 60188

- Own 20 acres of property across the road from this request. This property is used for hunting deer. This could be a problem with the permitted use of my property if this parcel were to be built on, which would depreciate the value of my property. I am also in the forestry program.

Tonne asks Mr. Forbrook if the house to the west is an issue for your property for hunting

- Mr. Forbrook states that property does not pose an issue for his property because he does not hunt on that east end of his property.

Jansen asks Mr. Forbrook if he has permission from the neighbor to discharge firearms during deer season.

- Mr. Forbrook states the neighbor hunts his own property, but I do not have

written permission from the neighbor, but I could obtain it.

Davis asks where the DNR property is.

- Mr. Forbrook states that on the south side of the road, is mostly Wards Grove Preserve.

Paul Brashaw, surveyor representing petitioner

- Carson Yeager and Mr. Forbrooks property may be built on if they were prior to zoning correct.

Linda Delvaux states that I have not researched those properties. If they would qualify as a Lot of Record they would be entitled to a single family home.

Jansen asks if the applicant would be willing to give written permission to the people to be able to hunt.

- Tabbatha Lancaster states that I would have no problem with that.

Marshall Schubert, 13759 East Airport Road, Stockton

- My concern is also the hunting rights. I don't believe this will stop with just one lot. Talks about the issue of hunting within Illinois and if the other property is to be built on then that would eliminate my property from being hunted on unless they were to give me permission.
- Concerned that the property owner previously came through with a rezoning request on this same parent parcel requesting 5 or 7 lots, if approved it could facilitate more zoning requests in the area. There are other subdivision and places to build. All the other houses in the area were built prior to or replaced existing homes.
- Read a letter from Ron Nadig, adjoining property owner, who is opposed to the request – conflicts of farming and residential concerning fencing, crop spraying, manure hauling and late night work and hunting rights concern.

Doug Weltzin, 2893 South Willow Road, Stockton

- Water runoff concerns onto his property. Concerned if additional housing is placed on this property. For the hunting I believe I would be out of the 300 yards, but still a concern. Other concern is that I drive semi trucks and could potentially have 4 semis coming in and out of the property at all hours of the day. We make noise because we have a drag car and other cars that we get ready and it may be late at night making noise. Concerned with having the sheriff called when he is making this noise and the semis coming in and out.

LeDon Trost, 426 North Willis, Stockton

- Concerned that if this house is approved then he can see more houses being requested. The area is very pristine and beautiful. The existing houses on the properties in the area have been existing and replaced older homes.

Dean Tillis, 3028 South Golf Road, Stockton

- Father of the applicant
- I sympathize with the others about the concern of hunting because it is hard to find areas to hunt on. The 300 yard issue is relevant in the area with the existing houses. My daughter would not have a problem with the hunting. She does not desire to live in town; she grew up on a farm. I cannot vouch for other property owners that may be there in the future. She would build a stick built home, by a contractor with over 40 years experience, well maintained home and was taught to take care of property.

Marshall Schubert, 13759 East Airport Road, Stockton

- If this goes through and he wants more would it go through the same process.
 - Gratton states they do have to go through the process and it is not guaranteed

Mike Forbrook, 1364 Yorkshire Lane, Carol Stream IL 60188

- She states that she would give permission to hunt, but what happens when she sells the property and the next person does not give permission, there is no security.

Paul Brashaw, surveyor representing petitioner

- The other parcels could conceivably be built on and they may take away hunting privileges, due to the DNR 300 yard regulation. I also hunt and appreciate the difficulties in finding a good place to hunt, in other regards you need to respect the landowners and obtain permission.

Public Testimony Closed

Discussion:

- Tonne states that in the 14 years in doing this, hunting has never come up before. LESA scoring system is a tool. 200 is a general indication that you are in an area that is sensitive. Tonne would like to know what part of the LESA elevated the score.
 - Delvaux states the LESA score is broken down into 2 different sections Land Evaluation and the other is Site Assessment Factor. Land Evaluation deals with productivity of the land itself. This parcel actually falls within the average productivity of the county with 64 out of 100 points. The Site Assessment is where the score adds up – distance from community service 15 top score, transportation accessibility (type of road access) 12 points out of 15, availability of central sewer (not available within 1 ½ miles) 10 out of 10 points, availability of public water (not available within 1 ½ miles) 10 out of 10 points, consistency with county and city plan (not consistent) 20 out of 20. That total was 149 out of 200.
 - This is more than 1.5 miles from a community, Comprehensive Plan encourages development adjacent or within 1.5 miles of a Municipality. The agriculture land around the request adds points to the LESA as well.
- Gratton states that hunting is a market in this county and what will a rezoning do to property values on those pieces of property. This may devalue property in the area if this were to be rezoned and we need to take that into consideration. We need to be concerned with future development that may be requested. LESA score does not distinguish between what is growing on the property, only what soil is beneath.

- Jansen states that hunting land is important, from a realtor stand point. A landowner can grant permission to hunt, but, landowners change throughout time and not all are willing to grant that permission. Everyone has property rights, what dominates? I am struggling on this one.
- Tonne states that the land values regarding hunting are a concern. LESA score is a tool not hard and fast.
- Davis states that Willow Road and Airport Road would mostly be traveled and they are good roads and this is a beautiful area. The negatives for this are roads traveled over 4 miles to town, Airport Road does not have much building, Willow Road has mostly existing homes, if this goes through then we will probably have more requests in this area.
- Tranel states that there are other parcels in that area that if this goes through could potentially be requested for homes and would change the look of the area.
- Gratton talks about the woodland and the mature hard woods on this property and the need to preserve these. Talks about a property that had a waterway through the property and the Zoning Board recommended denial, but the County Board approved the request. LESA score is a guide, but over 200 it does raise a flag.

A motion was made by Nick Tranel to recommend approval with the following conditions:

1. Neighboring parcels and their divisions in the area

Motion failed no second

A motion was made by Bill Tonne to recommend denial stating the following:

1. LESA score 213
2. Testimony regarding infringement on hunting activities for neighboring properties
3. Contrary to the Comprehensive Plan we heard testimony about nuisance conflicts with agriculture uses and other uses in this area.
4. Watershed area
5. Property values affected
6. Over 1.5 miles from Village of Stockton
7. Distance from services – city water & sewer

Seconded by Dave Jansen

Roll Call: Dave Jansen – Aye
 Nick Tranel - Aye
 Bill Tonne - Aye
 Susie Davis – Aye
 Mel Gratton – Aye

Reports and Comments: Presentation by Beth Baranski on the Greenways and Trails.
 Welcome Sandra Nolan from the Environmental Health Department.
 Nick Tranel made a motion to adjourn at 9:30 PM. Susie Davis seconded. Voice Vote: All Ayes