

**Jo Daviess County Planning Commission/Zoning Board of Appeals
Minutes for Meeting
At the Courthouse-7:30 PM
December 18, 2003**

Call to Order: Mel Gratton called the meeting to order at 7:30 p.m.

Roll Call Present:

Planning Commission:

- ✓ Melvin Gratton
- ✓ Susie Davis
- ✓ Tom Heidenreich
- ✓ William Tonne
- ✓ Nick Tranel

Staff & County Board Members:

- ✓ Steve Keeffer, Highway Engineer
- ✓ Heather Miller, Environmental Health
Glen Weber, State's Attorney
- ✓ Linda Delvaux, Building & Zoning
Merri Berlage, Jo Daviess County
Board Chairperson
- ✓ Marvin Schultz, Jo Daviess County Board
Member

Approval of Minutes: A motion was made by Tom Heidenreich to accept the November minutes
Seconded by Nick Tranel Voice Vote: All Ayes Mel Gratton - Abstain

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

Unfinished Business:

- Request R02-04, Tom Wiene - continued

Bryan & Colleen Foy, owners, requesting a public hearing and recommendation on an application
requesting a Special Use Permit to allow for a single-family home to be used for transient rental.
Address: 2 Longwood Court, Galena (ER 10 Lot 8)

This request has been continued to the next Planning Commission meeting in January.

Randy & Linda Wulff, owners, requesting rezoning 5.039 acres from Ag-1 General Agriculture District
to R-1 Rural Residential District to allow for a single family home. Location: 6315 E. Townsend Road,
Stockton.

This request has been continued to the next Planning Commission meeting in January.

Karen A. Elarde McCuaig, owner, requesting a public hearing and recommendation on an application requesting a Special Use Permit to allow for a single-family home to be used for transient rental. Address: 1102 Clark Lane, Galena

Dixie Wand, representing owner

- Previously rented the property and let the renewal license lapse
- Had put in a new septic and started clearing the brush in the front
- Just friends and family stay at the home currently

Public Testimony

Mel asks that there is a fire hydrant at the end of the property – that line could possibly go under that hump in the driveway. Does anyone know how deep that goes and what shaving the hump off might do to it?

Dave Jansen, General Manager GTA Owners Club

- There are no fire hydrants in the Galena Territory they are just flush drains for the water system. Does contain water at all times.
- Speed limit on that road is 55 MPH. Only the main roads have posted speed limits.
- Exposing that line to surface you are jeopardizing the line itself.
- Trees can be cut up to a maximum of 4 inches in diameter without getting a permit. Over that dimension you need to get a permit from the Galena Territory ARC. Would be difficult to get that approval to cut all the trees because the petitioner does not own the other lots. May be taken to the committee for review due to the possible traffic hazard.

Public Testimony Closed

Discussion:

Staff Report

- Comprehensive Plan: Although the Comprehensive Plan does not address transient rental directly it does support tourism.
- Waste Treatment: Septic system upgraded May 2003 for a four-bedroom home. Expansion area is available.
- Access Considerations: Sight distance off of Clark Lane is limited to 350 feet both ways. There are existing trees and brush that may be able to be removed to help create additional sight distance. There is room to make adequate parking available.
- Design Considerations: This is an existing 4-bedroom home on approximately 1.066 acres. This lot sits at the very edge of the Territory with three empty lots to the north and greenspace to the rear. The back and sides of the lot are very heavily wooded. The Wild Turkey Bed & Breakfast sits to the south of the request. There appears to be a knob in the driveway that would exceed the 10% grade standard.
- Other Considerations: This home was previously licensed as a Guest Accommodations (grandfathered). The license was not reapplied for, therefore was not reissued and the special use was lost.
- Steve Keeffer, County Engineer states that there is a hump in to the driveway and is clearly over the 10% grade. Doesn't seem to be that big of a deal to cut it out. Would recommend that the driveway improvement be included if approved.

- Steve states that if that is under that then you would want to have that below the frost line – 4 or 5 feet. You may have to lower that line. You may want to contact Territory Utilities.
- Mel asks Steve about the site distance for the driveway.
- Steve states that the vegetation may need to be trimmed to meet that 500 feet of site distance.
- Tom asks is it possible to get the site distance with only trimming trees on their property. Steve states that you may have to involve the Township if it runs in the right-of-way. 500 feet of site distance is what is needed for a speed limit of 55 MPH. You will have to definitely trim some trees across the road and even on the other property. Just some of the roads are posted in the Galena Territory.
- Parking requirements do not seem to be met and will need to be addressed
- Heather Miller states that the septic has been upgraded
- Nick states the first hurdle is the site distance and what may occur in the future with the development.
- On the lot to the north there is a foundation going in and may have opened up the site distance a little.
- Dixie asks if putting a sign “Private Drive” would that help the cause – Mel states that we have not made that type of exception before.
- May be able to make a horseshoe driveway where you could enter and exit at two different locations – Steve states that you may be able to do that, but you will still need to get the GTA ARC and the people that own those lots to agree to cut those trees
- The tree farm is further down the road from this request.
- Tom states that we can voice our concerns, but the petitioner is the one that needs to tell us if these certain things can be addressed and fixed.
- Bill states the distance to the lot line on the north lot line is 18 feet and the fact that another house is being built there. Is that a problem? The other house may cluster this house and may need to buffer this house from the one being built. Dixie states to the north are sliding glass doors and a patio – a graveled patio. This is around the back side of the house.
- Go back to the owner and have a drawn sketch of the exact measurements from the lot lines and the outdoor activity areas.

A motion was made by Nick Tranel to recommend a continuation to be determined for the Special Use Permit for transient rental having them address the following items:

1. Driveway down to 10% grade
2. Parking for 5 cars is needed with compacted gravel to County standards
3. 500 feet of site distance both directions
4. Like to see outdoor activity at least 50 feet from a property line and if not then screening of that outdoor activity area is needed.

Seconded by Bill Tonne

Voice Vote: All Ayes

Eric & Vera Thomasson, owners, Bryan & Angie Broshous, petitioners, requesting a public hearing and recommendation on an application requesting rezoning a 40 acre parcel from Ag-1

General Agriculture District to R-1 Rural Residential District to allow for 5 single family homesites. Location: Intersection of Schuller and Massbach Roads

Paul Brashaw, representing owner

- Surveyed 5 lots to be rezoned
- Within 2 miles of Stockton City limits
- Do have the aerial photography and the slopes of the parcels – 90 seems to be the fall from the southeast corner down to the waterways of the Plum Creek
- Brian has talked to the Road Commissioner and does not have any problem with the driveway locations along the road
- Received letters from the Road Commissioner, Fire Departments, School Districts, and Ambulance stating that this would not have an impact on their emergency services to provide coverage for this area
- Have a map showing within a mile and a half of this request show 90 plus residential sites – Golf course, Soulard Subdivision – 21 lots, various other parcels identified within a mile and a half of this request
- 7 to 10 farm operations in this area
- Came forward in June with a similar request about a ½ mile to the west on Massbach Road for a 10 acre parcel that was rezoned
- Thomasson’s are looking to sell property to get away from the capital gains and Bryan and Angie have contracted to purchase this 40 acre parcel. They feel that this parcel would be the best use for this property with the close proximity to Stockton and add to the tax base for this Township

Gene Broshous, representing owner

- 70 active residential sites that are for sale in the County on the western side and 8 on the eastern side of the County. They feel there is a need for these.
- The farthest west lot would access off S Schuller Road and the other lots would be accessed off E Schuller Road with two shared driveways.

Public Testimony

Russell Fraula

- Own four 40 acre parcels to the south of the request bounded to the north by Velma Fox and Dale Johnson and to the south by Dale Johnson and Jean Fox. Own the two lots to the south of the request
- This is primarily good farming area and would like to see it stay like that.
- Has CRP on one 40 acre parcel and lease the rest of the farm ground out
- We just had a big tax increase and it will just raise costs and add more kids to the school
- Thinks this would be bad for the area – more septic tanks and concerned about the water table
- Let it remain as agriculture
- Residence is in Joliet, Illinois

Mary Zimmerman,

- Own the lot to the south of the Thomasson’s on the opposite side of the road
- Did not buy to have extra cars running up and down the road (increased traffic)

- See number of houses in Stockton for sale and they can't sell those homes. Why create more?
- I will not stay if this property gets divided

Gene Broshous, representing owner

- The houses in town are not for everyone
- Need to call a guy tomorrow whether or not this will go forward to buy one of the lots

Lance Beaulien,

- Owns 170 acres 2 miles south of this request
- If this property passes will it automatically be sold – There is a contract to purchase
- If this does not go through then will it still be bought – They are still planning on buying this property.
- Talking about capital gains and trying to shelter them – with the new tax law having from \$500,000 to \$1,000,000 being tax free anyhow. They are not sheltering anything anyway. I am talking about the sale of a principal residence and also the one-time capital gains exemption.
- Eight acres is not farm ground – more of an estate rather than a farm and is the most fertile land in this valley

Julie Bruser, represent the Jo Daviess Conservation Foundation

- Rezoning this parcel would be a detriment to the County Comprehensive Plan
- This is Ag-1 land and the need to buffer farmland from residential areas is necessary.
- We should support the Comprehensive Plan and not rezone this property.

John Clark, 10143 S Massbach Road

- In addition to being a resident of the area I am also a MAI – Member of the Appraisal Institute. Here for more of personal feelings rather than an expert witness on value of property.
- My concern is the land is not contiguous to the Village of Stockton, which means it is a mile and a half or two miles away. What if someone with a property comes forward that is three or four miles out that wants to be rezoned.
- We did not move out here to have homes eventually built up to us. – Parcel we own is 40 acres – were permitted to build a home on that parcel.
- Would not favor this request for rezoning

Mike Wiedel, 8113 Krug Road

- Submitted a resume establishing credentials as a lawyer
- Owns property at Eden Road and Massbach Road – 220 acre parcel – within a mile and a half of the request
- Own and live on a 65 acre parcel at 8113 S Krug Road.
- Believe in agriculture preservation – highest priority of Ag preservation and according to the Comprehensive Plan – this project violates this plan, this type of request should be contiguous to other clusters. This is at least a mile and a half from the nearest cluster.
- This would be detrimental to the area and taking 40 acres out of cultivation which is currently in CRP for maybe 10 or 20 years – if you put 5 homes on this parcel it is forever out of agriculture use

- Thinks this project should be denied.

Jane Wiedel

- Live on the property for 27 years at Eden and Massbach Road and co own that 220 acre parcel with my brother

Russell Fraula

- Concur with Mike Wiedel and thinks that would be a floodgate. Would not want to go through a lot of urban sprawl

Paul Brashaw

- They are trying to provide housing for younger couples that can have a piece of property and still be a couple of miles from Stockton and make it affordable for people that can not buy the 80 acre parcel

Mary Zimmerman

- Has there been a study as to where these people are going to work, where are they coming from, or who are these people.
- Are they going to work in Stockton that it is necessary to live right there. I do not see that much industry or business in Stockton.

John Clark

- Have referred to the Comprehensive Plan and give credit to the people who developed that plan and they are much more aware of the type of properties and where they should be located. According to that plan this property is prime Ag and should remain the same.

Nancy Winter, lives at the corner of Massbach & Parker Road

- Also own farmland within the two mile radius of this request
- In favor of the Comprehensive Plan and to preserve the Ag land and financial character of this county. The eastern edge of the county is classified as prime ag ground
- Concern with the infrastructure for the township roads, fire, and police
- Submitted a letter written by Ken Beach a neighbor contiguous to the two mile radius of the request

Gene Broshous

- There are people interested in buying the small acreage, if they can't buy it in Jo Daviess County they will go somewhere else.

Public Testimony Closed

Discussion:

Staff Report

- Comprehensive Plan: The Comprehensive Plan would indicate this parcel to be in Agriculture Preservation area 1 and is shown to have mostly important soils with pockets of prime.
- Waste Treatment: Soil borings on the large lots were performed near staked house and septic sites. Lots 1-4 can be served by conventional septic systems

with curtain drains. Lot five would be served by a sand filter with a curtain drain.

- Access Considerations: Staff evaluated the site distance and would recommend shared driveways for lots 2&3 and lots 4&5 at the lot lines and would recommend lot 1's access be at least one hundred feet away from the intersection either on E. Schuller or S. Schuller Roads.
- Other Considerations: A LESA score was done and resulted in a score of 227. The productivity index came in at 97; the average for the County is 77. This is a forty acre parcel currently in CRP and has a little to no slope. The petitioners request is for five lots along a Township Road, Strip Development. There does not appear to be other residential parcels in the immediate area and consideration should be given to buffering between an agricultural and residential use.
- Four total rezoning requests – two approved and two denied within a two mile radius of this request. There was a request outside of the two mile radius that was recommended for denial by the Planning Commission, but County Board did approve the request.
- Stockton did not need to be notified so it was over the two mile radius from the request.
- Stockton Township did send a letter to the Building and Zoning Department and was submitted for record dated November 19, 2003 stating subdivision should be held at the five tracts of land and no further subdivision of the parcels, preference would be one access road on S Schuller Road to access all five lots or one access off S Schuller and two shared driveways off E Schuller Road and not one access for each lot. Received in the Building and Zoning Office December 2, 2003.
- There was a request just outside of the two mile radius that was recommended for denial by the Planning Commission, but the County Board did approve the request.
- Staff states that there is little to no slope, but Paul Brashaw states that there is a considerable slope to the property. The Soil and Water Report states that there is an average of 8% slope for the property. The slopes are C and D slopes.
- Bill Tonne states that we have looked at the financial standpoint and Ag preservation and we are a very unique County in Illinois. This is problematic with the Comprehensive Plan because it is not contiguous to other residential, LESA score, productivity index, and parcels are large. There are a number of homes for sale in Stockton, but the prime Ag does direct residential development for the vitality of small towns near those towns. This is fertile land and if we are willing to give this land up then what Ag land are we going to preserve. The LESA score is 227 for this request and one of the highest we have come across.
- Tom Heidenreich states that there are two issues and the first is; is this an appropriate place for this type of development and secondly; the issue of how it is laid out. The productivity of this parcel needs to be clear, I farm about 11 farms in the vicinity of Stockton and three within this two mile radius. These three farms are probably the most unproductive farms that I farm and I speak with some authority since I have been in the business for 40 years. So to call this land prime farm land is not accurate, it is some of the more important soils that we have in the county. The prime farmland generally around Stockton does not have this kind of slope and does not have this type of seasonably wet soils. Lester Johnson's soil report is accurate and is this appropriate place for this to be done. The general trend for Stockton seems to be to the south and the southwest. The ones located near the golf course are the most concentrated subdivisions around Stockton. All other things were prior to Zoning

- Bill Tonne asks what would we approve near here. The LESA score was under 200 slightly for one of the approved requests within the two mile radius. There are houses up the road which were near the other requests that were passed. This request is surrounded by Ag land.
- Susie Davis states that this is not contiguous to Village of Stockton, LESA score of 227, productivity index is above the county average, not prime, but has good soils, and setting a precedence if approved, this far out of the village limits.
- Mel Gratton states that he scored under the LESA and came up with a higher score. The number of lots that have not developed, but were created. Do not like to see larger tracts of land bought and then subdivided or broken into smaller tracts of land. When showed the map of homes by the petitioner, brought the question is there a need for this. The access points are a problem if asking for the five curb cuts. Someone in a rural setting having eight to 10 acres may be hard to maintain that large of a parcel or maintaining a fence to control livestock may be hard to do.
- Tom states that he had his wife do some research for the need of real estate property. Contacted the Freeport/Galena Board of Realtors. East – from Elizabeth to the north and east to the county line there were 8 lots for sale that are similar to this. From Elizabeth to the west to the Mississippi River found 70 lots for sale. Did include the lots at the golf course on the eastern side of the County. This is the first request for a subdivision of this sort on the eastern side of the county. All of those requests prior to that were grandfathered in. The thing to think about is the need for the greater good with the taking.
- Susie states that if it was in the contiguous growth area would be more likely to rezone this property.
- Nick Tranel states; do we work from this request back toward the village or do we start at the village and work your way out into the contiguous growth area.
- Bill states that the Comprehensive Plan and Zoning Ordinance work together.
- Steve Keefer states that shared driveways – two driveways for the four lots off E Schuller Road, would be appropriate and one from S Schuller Road– site distance is there
- Heather Miller states that there is expansion and replacement area available for septic.
- Tom did a LESA score also and was over the 200 mark
- Gene Broshous states that if you would move that on the other side of Massbach Road you could take 18 points off the LESA score.

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

1. The Comprehensive Plan in accordance with the LESA -227, no contiguous residences, productivity index – 97 – important soils; but not prime soil, preservation of Ag-farmland, and the pressures of rural development with regard to traffic and infrastructure.

Seconded by Susie Davis

Roll Call Vote: Nick Tranel – Aye
 Bill Tonne – Aye
 Tom Heidenreich – Aye
 Susie Davis – Aye

New Business

LeRoy & Lela Mae Hilby, owners, requesting approval on a rezoning of 2.12 acres from AG-1 General Agriculture District to R-2 Rural Residential District to allow for 2 single family home sites. Also, a recommendation on a 2 lot subdivision. Location: Illinois Route 84 North, just south of the Wisconsin State Line

LeRoy Hilby, owner

- 8909 IL RT 84 N, Galena
- Have talked to the neighbors and have no objection to this request
- Two pieces of property that are left and would like to develop the property
- Propose one driveway for two lots

LaVonne Deininger, representing the seller and the buyer

- The application for the driveway access are in the works with Fehr-Graham and Sproule Construction and do have a proposed layout with some questions and did talk to Rick Haas to get the access approved
- Between the properties there is a 66 foot right-of-way
- Each lot is approximately 1.06 acres, that would classify this as an R-2 request.

Public Testimony

Don Stark, Dodge Street, Galena

- Contract to purchase the south lot
- Places us between our parents – Hazel Green and Galena

Pam Stark, Dodge Street, Galena

- Contract to purchase south lot
- Her father-in-law has Alzheimer and can no longer drive and we would be two of three people who would drive them to appointments or shopping.
- My father had stomach cancer and had surgery this past summer so I take them to the doctor also.
- I grew up in Hazel Green and Don grew up in Galena and this is the first opportunity that we have had to move back home since her husband was in the military. This will be a good location for her husband to travel to Dubuque for work.
- Will not burden the school systems and good road
- Do love the country setting

LaVonne Deininger, represent the seller and the buyer of property

- There will not be additional access off the property
- Was contacted to look for property and this would allow the potential buyer to be out of town, but within close distance of family

LeRoy Hilby, owner

- Do not have any intentions to sell anymore property behind the property, but on the side road may sell 2 acres that someone has come forward and asked the owner to sell, but other than that no intention on selling any other property.

Public Testimony Closed

Discussion:

Staff Report

- **Comprehensive Plan:** The Comprehensive Plan would indicate this parcel to be in Agriculture Preservation area 2 and is shown to have important soils.
- **Waste Treatment:** Soil borings complete for lots 1 and 2. Both lots have suitable soil for conventional septic systems with expansion room.
- **Access Considerations:** As proposed, this development will require one new access onto State Route 84 in a location where there are already several entrances onto the highway from an existing 'strip development'. There is also the potential for two additional entrances onto the highway for each individual lot. Any new accesses will have to be granted by the state.
- **Other Considerations:** A LESA score was done and resulted in a score of 195. The soil books show this parcel to have mostly Downs and Tama soils. Each of these soils is shown in the Prime Farmlands Important Farmlands Illinois book to have productivity ratings from 139 to 149. This parcel is part of an 80+- acre farm. This parcel has little to no slope. Wiene View Second Subdivision located on High Ridge Road is approximately 3.5 miles from this request. The Furlong Subdivision is adjacent. If this parcel is rezoned there will be residential on either side, but will have agriculture uses behind and across the road.
- Site distance will be up to the State of Illinois for the access
- Heather Miller states that the septic should not be a problem
- Access is on the south end of the subdivided area for the back property. Property extends from side road to side road.
- Productivity index is high due to the highly productive ground – 115 the slope is not as great as the last requested. The LESA score is 195. Mel also scored the LESA and came up with a 181, because used Hazel Green within 1.3 miles as a contiguous growth area.
- Nick Tranel states that we should weigh this request different from the previous request heard. There is contiguous development to this property.
- Bill Tonne states that the side setback from the easement indicates 20 feet maybe should be 50 from the property line – or could possibly be an interior subdivision road and be setback 30 feet from the property line.

A motion was made by Nick Tranel to recommend approval of the rezoning and a 2 lot subdivision with the following changes:

1. Side setback toward the 66 foot right-of-way be increased to 30 feet from the lot line – South of Lot 2 and North of Lot 1

Stating the following:

1. Illinois Route 84 and the quality of the road is good
2. LESA score under 200
3. Within the mile and a half of Hazel Green, Wisconsin

Seconded by Bill Tonne

Roll Call Vote: Bill Tonne – Aye
 Tom Heidenreich – Aye
 Susie Davis – Aye
 Mel Gratton – Aye
 Nick Tranel - Aye

Reports and Comments:

Dave Jansen asks if the speed limit on Clark Lane is 45 MPH what would the site distance have to be. Steve Keeffer states that the site distance would have to be about 400 feet.

Referring to the request in Stockton, if we continue to allow small lots then we will have difficulty because every piece of farmland will be surrounded by houses.

Nick Tranel made a motion to adjourn at 10:00 PM. Susie Davis seconded the motion. Voice Vote:
All Ayes