

**Jo Daviess County Planning Commission/Zoning Board of Appeals  
Minutes for Meeting  
At the Courthouse-7:30 PM  
January 26, 2005**

**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  
Terry Kurt, State's Attorney
- ✓ Andrew Sosnowski, Assistant State's  
Attorney
- ✓ Linda Delvaux, Building & Zoning
- ✓ Ron Mapes, Jo Daviess County Board  
Member

**Approval of Minutes:** A motion was made by Tom Heidenreich to accept the December minutes with the following changes (Bottom of Page 5):

- Will not be occupied full time and will need a place to stay
- Cemetery that is in the front of the property is in need of fixing up

Seconded by Susie Davis      Voice Vote: All Ayes

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

**Unfinished Business**

None

**New Business**

**Peter & Carol Doris, owners,** requesting vacation of Lots 5, 6, & 9, Plat of Lots 10, 11, 12, & 13. Current Zoning Ag-1 General Agriculture District. All lots 40 acres and above Common Location: 661 Irish Hollow Road, Galena

**Steve Schmidt, surveyor representing owners**

- Proposed layout on top and what was previously approved in the middle and the last copy is what is proposed with aerial views
- Came forward because of a couple of different situations

- When the original subdivision came forward the Doris's were only living part time in the house on lot 6. Most of the farm buildings were on lot 9. The owners are thinking about selling the existing farm house and constructing a new house on another lot out here. They want to have all the farm buildings on the same lot. Want to reposition the lot lines between lot 6 and 9.
- Lot 5 was also changed to provide better access opportunities
- At the creation of lot 11 (existing house and out buildings) access opportunities needed to be created for the new lot 10.
- Talked with Steve Keeffer and Charlie Flynn for getting access up on top of the hill across from Cemetery Road. Thought we had pretty good site distance to access lot 10. Will specify that is where the access will have to be.
- Thought about the northeast quarter of the section Lots 12 & 13 being donated to DNR for recreation conservation. The problem is getting to the property. This is where the second access easement will be added. They positioned that along a high spot in Irish Hollow Road and that is why it does not follow the lot line. Had to have a wide easement because of the drainage way that is through the property for a large culvert tube. A design will have to be made for the tube for the amount of water that may go through the drainage way.
- The notch in lot 10 is the sediment pond to be added to Lot 11 to keep the uses together.
- Lot 12 and 13 may lose land on the northeast corner for the new highway. Access will not be allowed on these 2 lots from the new Highway 20. Will be about an 80 foot wall for the new highway.
- The accesses for Lots 1-4 have not been pinpointed. Lot 1 should be across from the easement to lots 12 and 13. Lot 4 would be across for the existing driveway for the farmhouse. Lot 2 and 3 would have to be looked at because of the placement. Lot 3 has the least frontage at 238 feet. May even add an easement for a shared access on Lots 2 and 3.

### **Public Testimony**

#### Charles Flynn, Rice Township Road Commissioner

- East side access is okay. West side accesses would be Lot 2 the same as Lot 1, put in an easement across Lot 1. Lot 3 & 4 would be across from the existing driveway for the farmhouse.

### **Public Testimony Closed**

### **Discussion:**

#### **Staff Report**

- Comprehensive Plan: The Comprehensive Plan Land Use Map would recognize this area to be designated as Agriculture. The Prime and Important Farmland Soils map would show this area to have fingers of important soils.
- Waste Treatment: Large lot acreage allows septic system options with room for replacement/expansion. No soil borings on file for this existing subdivision.
- Access Considerations: S. Irish Hollow is a seal coated township maintained road. The accesses indicated at the northern and southern end of the subdivision plat appear to have adequate sight distance.
- Other Considerations: This subdivision was created in 1997, approved by the Planning Commission in December 1996 and County Board approval in January 1997. The original request consisted of 534 acres more or less subdivided into 9 lots ranging in size between 40 and 180 acres. The zoning on these parcels remains Ag-1 General

Agriculture District. Petitioner has come forward to reposition some of the lot lines in the previously approved subdivision.

- Tom has concern about the access for Lot 2 and 3.
- Mel states that one more lot was created. Should be able to accomplish safe accesses.
- Tom asks about DNR possibly taking over the property to Lots 12 and 13. Are you considering looking at parking area for the recreation use? Steve Schmidt is not aware of any plans.
- Mel asks if the owners are aware of the fencing issues that could arise. Steve states that they have owned this property since the 1960's and are aware of the fencing law.

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

1. Parcels over 40 acres
2. Soil has not changed
3. Placing all farm buildings on same parcel

Seconded by Nick Tranel

Bill Tonne - amended his motion – Vacate Lots 5, 6, & 9 and Plating Lots 10, 11, 12, & 13

Seconded by Nick Tranel

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

**John Beegle, owner, and Karen Maloney & David Batka, contract purchasers,** requesting a Special Use Permit to allow for therapeutic riding, aquatic, small animal and music therapy center. Current Zoning: Ag-1 General Agriculture District. Common Address: 6831 W Blackjack Road, Hanover

**Karen Maloney & David Batka, contract purchasers**

- Purchased the property and there are no contingencies, my company, which was formed in 2003 – Carein' Connections will then take over the property. I love horses and children and would like to bring the two together to create a therapeutic riding center.
- I do domestic work on the streets in Cook, Kane, and DuPage Counties. I have a medical van, which I provide free access to medical services. I have four children and want my children to understand how blessed we are and give back to others that are less fortunate.
- Would like to build a Morton Building on the property with an indoor arena, aquatic center, and offices on one end, but all within one building. All riding will be done in the arena area.
- I live in St. Charles and would like to come out on Friday night and bring the horses and then have the center open on Saturdays. We also have 4 acres in the Galena Territory that we will be building on. I have been a pediatrician for 24 years. My idea is to talk to neurologists in Dubuque about the need for this type of therapy in the area. I am currently a member of the Board for Cerebral Palsy.
- I would like to target the people that do not have insurance and is difficult for them to get this additional care for their children. This will be a free service. I want my kids to understand, be

involved and working one on one with the underprivileged children (physically, mentally and emotionally challenged) is one way they can contribute.

- I am a Music Therapist, my father had a stroke and could not articulate, so I became certified through a company out of Utah and it is called the Listening Program, in order to help him. Part of what I am proposing is helping people that have problems with articulation, concentration, and autistic children with the music therapy. This is a one on one program in a sound proof room. The program is eight CD's that the children take one CD home each week and the program will run for eight weeks.
- The horse therapy will consist of 6 volunteers each Saturday, including a horse leader, two along side the horse for the safety.
- Considering approximately two children an hour and working a total of 5 hours on Saturday. The one on one is what matters it is not the numbers. I do not want to get so big and then lose why I started this program.
- I am 8 miles from Chestnut Mountain. I am not sure that their will be that much impact on the road. We have plenty of space for parking. We also have 4 acres in the Galena Territory and are intending on building there.
- We hope to have locals involved and volunteer.
- I am also a licensed dermatologist and have children that are still in school. Would like in 7 or 8 years to run this more frequent, but would still like to do have my kids involved.

## **Public Testimony**

### Dave Jansen, Galena Territory Owners Association General Manager

- Concerns are about the insurance - the scope of business makes a difference – we took in about \$350,000 last year and the insurance for the riding center was \$70,000.
- Concerned about the pool – will have to have a permit from the state
- I think many people from the Territory will come and volunteer.
- Mainstay in Richland Center in McHenry County is a therapeutic riding center – members of our association sponsor this riding center.

### Jim Otis, 8540 Diggin Hill Road, lawyer representing adjoining neighbors

- Have you or to the best of your knowledge ever done anything like this before?
  - Petitioner responds: no they have not.
- The corporation Carein' Connections Unlimited have they done anything like this before?
  - Petitioner responds: no they have not.
- Do you have a written long-range plan or business plan for the proposed use?
  - Petitioner responds: no not directly, not as far as the location. My husband and I will build this and will not depend on funding at all.
- Do you have a budget for the proposed use?
  - Petitioner responds: no
- Do you have a cash flow projection?
  - Petitioner responds: we know what the Morton Building will cost.
- Do you have record as to what the sources of the funds personally or for the corporation?
  - Petitioner responds: this will be all personal funds. I did not bring that with me, but I can provide that.
- Have you done a systematic market survey to see what the public need is for this use?
  - Petitioner responds: we have not done that.
- My clients are concerned with the long-term implications of this.

Allen Trebian, 2434 S Irish Hollow Road, neighbor

- How far will the building be off the road?
  - Petitioner responds: David states that we are planning on putting the building toward the front of the property. We have not finalized a place for the building with Morton Builders yet.
- What is the size of the building?
  - Petitioner responds: 140 x 70 arena with a 60 x 40 office area and 36 x 60 area
- Parking what are you planning on with 20 clients, are you planning on 30 cars?
  - Petitioner responds: we are putting all the parking on the property. The clients will be coming and going all day so we would not have 20 clients there at once.

Jim Otis

- What are we doing with the Special Use Permit in an Agricultural District?
  - Linda Delvaux, Zoning Officer responded: this will be a therapy center, not just about horses or music. There is nothing in the Ag District that provides for a therapy center specifically. When the petitioner came forward with the proposed use it was determined that it would best fit coming forward under the Agricultural District Special Uses # 36. Stating in part: Other rural business uses not specifically listed above, when found to be compatible with the established uses on adjoining property. That is why we are here tonight under a Special Use in the Agriculture District.
- This term is not anywhere in the ordinance and therefore should be asking for an amendment.
- I will submit to you that under the #36 Special Use that this request is not a business; they are providing the service for free, they are giving the property to a non-for-profit corporation. This may be a hobby, but no budget, no business plan, no long range plan, no cash flow, and no market study; where is the business?

Andrew Sosnowski, Assistant States Attorney

- I believe that this request fits under # 36 under Special Uses in the Agricultural District.
- I disagree with Mr. Otis. This qualifies under a business; stating that all non-for-profit agencies are not businesses would be a fallacy.

**Public Testimony Closed**

**Discussion:**

**Staff Report**

- Comprehensive Plan: The Comprehensive Plan Land Use Map would recognize this area to be designated as Agriculture. The Prime and Important Farmland Soils map would show this area to have fingers of important soils.
- Special Development Considerations: Down the center of this parcel is a ridgeline, consideration should be given when developing this area. The DNR owns approximately 700 acres to the east and south of this property. There is a mix of a few residential areas along with the Ag and the DNR property.
- Waste Treatment: Soil borings completed 10/23/2003 on the twenty acre parcel. Two sites were identified for a conventional drainfield. Expansion room is available. Septic system size would be based on expected number of employees and clients.

- Access Considerations: There appears to be adequate sight distance for access.
- Other Considerations: Parking areas are not shown on the site plan; requirements would vary depending on the maximum number of people the facility is expected to serve and how many full or part time employees. Music therapy is mentioned, but, it is not told whether it is intended to be inside, outside or possibly both, which would bring into consideration, buffering. Site plan doesn't indicate any kind of housing for on-site management is this proposal for a day camp type of situation or is housing an issue?
- Nick asks are you intending on doing this year round.
  - Petitioner responded; yes it will be year round, I would like to run three eight week sessions and see how this is working. The arena will be heated either with a drop ceiling or by radiant heaters.
- How many clients will you anticipate when at full capacity?
  - Petitioner responded; maybe 5 hours and will have a shallow pool about 12 x 24 that will be heated with no diving board. Plan about 20 people a day maximum throughout the day. The small animals will be dogs most likely.
- Bill asks would this be utilized by the physically challenged only?
  - Petitioner responded; it can be used by physically, emotionally or any kind of challenged individual that could benefit from the therapy. It is not my intention to ship kids in; I would like to work with kids locally.
- Bill asks have you contacted anyone locally to see if the need is here?
  - Petitioner responded; if you build it they will come. I did not know what the outcome of this meeting was going to be so I did not want to get people excited about this and then get shot down tonight. The name of the place will be Arena of Dreams. Everything that we have done has been successful and I do not doubt that this will also succeed. I am also a volunteer for a society in Maple Park.
- Bill asks if you would know the logistics and have a business plan for this use?
  - Petitioner responded; we will buy the land on February 10<sup>th</sup> and then will donate that land to my company and the insurance will be through the NARHA (North American Riding for the Handicap Association) for the horse back riding. My company will assume all the liability; I have been in business for 10 years.
- Bill states that we care about businesses in the rural area, not having a plan on paper and just starting out can be difficult. If they build it and they will come can be our downfall according to our Comprehensive Plan if we randomly build. We are concerned with a vacant building on 20 acres with large parcel and Ag land in the immediate area.
  - Petitioner responded; I will get any information that you want.
- Mel states that we want you to be successful.
- Bill states that we provide some of the services in the county already and would be competing with them in some way. You may want to touch base with some of those services to get information. These services may be more beneficial in a community rather than 8 miles out of a community. The uniqueness is the horses and the liability that may be a stumbling block. The best location may not be in this location. What is the cost of the insurance; the company will be paying for the liability?
  - Petitioner responded; the insurance is purchased through NARHA at a reduced cost.

- Linda asks about the livestock, are you intending on bringing in the livestock or boarding them onsite?
  - Petitioner replied; they will bring the horse with them when they come out to work. We also have 4 acres in the Galena Territory, and would eventually have horses at that location and someone to care for them there.
- Susie wants to clarify the issue of concern that the use may be here one day and gone the next.
- David Batka states that he spoke with Steve Keeffer and he would recommend moving the entrance to the left or further west for the access and we have agreed to do that.
- Tom states that he supports Linda's decision because it works under the # 36 in the Special Uses under the Agricultural District. I think this works in an agricultural area, but they are also planning on putting up an agriculture building similar to others in the area. I don't think we want to direct that use toward residential or otherwise.
- Tom states that when the petitioners were asked by Jim Otis about their cash flow statement, sources of funds, budgets, business plans I can not remember the last time or if we have done a special use where we have required any of that information. We have required bonding as a source of funds. I would recommend to the other members that we not require that, but we have been given that information before as part of the proposals in the past. A bond was required previously for other things such as infrastructure and reseeded. We can not ensure success, but we can ensure completion of the project.
- Mel states that this is not a rezoning; this is a special use in an agricultural district.
- Mel states that many of the questions and concern that are being shown is that normally when a special use comes forward they provide more information than just the property and a drawing of a Morton Building. We have to look at different aspects such as parking, traffic safety, ingress and egress, lighting, sound, and buffering from neighbors. Why do you feel this is an ideal place or location for this particular use?
  - Petitioner responded; (David Batka) we looked at other properties, but this property was open and is what we needed, we have facilities near, such as Chestnut Mountain. It is also our personal preference because we like the Galena area. Had talked to the director of Cerebral Palsy to get some direction if this location would be good, and he said that there are people out there. (Karen Maloney) states that I have an Illinois License and would like to stay in Illinois. I do not want this to be huge. I will get whatever numbers or information that you want. We were not sure how much to invest in this to move forward because we were not sure if we were going to get the permit.
- Bill states that we will need more information to make a decision. – Budget, business plan, maybe other place for this use – commercial park district and rent the building and see how it works, the liability issue and the insurance quote
- Susie states that we are looking at the special use, not telling them how to run their business, it sounds like she knows what she is doing – we have to decide if we have enough information in front of us to make a decision or will we need more information brought forward. I think we need numbers, and any information that pertains to the special use and not a budget.
- Bill adds to the information to bring back – use assessment – support for the need
- Petitioner states that she does not doubt that this will work.
- Mel agrees with what Susie stated. We will need to know the impact on the area
- Karen asks can I build this building without this special use?
  - Mel responded; you can build an Ag building on this property without us seeing the financial end of the project.

- Tom states we should come to an agreement of the appropriateness of this use in this location.
- Bill states this will be a non-for-profit corporation and that is open to the public and I would like to see financial information.
- Susie does not agree with providing the budget for the request.
- Andrew Sosnowski, Assistant States Attorney states that it will be up to the board to what evidence is required to support that this is a business use. The petitioner is willing to provide that so I don't know if that will become an issue.
- Comment allowed after public testimony by Jim Otis stating the Ordinance describes an official dictionary for definitions that are not defined in the Ordinance. Would be willing to give the only copy to the Assistant State's Attorney. This is not a business by any means.
- Andrew states looking under Article XV under Rules and Definitions 15.1 Section B (9) Terms not herein defined shall be defined as specified in Webster's New Collegiate Dictionary – 1986 Edition. - Looking at other business definitions I am confident with my opinion.

A motion was made by Tom Heidenreich to continue to next month stating the following:

1. Hours of operation
2. Site Plan – driveway entrance, parking area, lighting, signage and the lighting for the signage
3. Numbers – clients and volunteers
4. Needs assessment/business plan – support for the request from local agencies
5. Septic and well information – Heather Miller
6. ADA – handicap facilities

Seconded by Nick Tranel

Voice Vote: All Ayes

### **Reports and Comments:**

Welcome our new Assistant State's Attorney – Andrew Sosnowski

Dave Jansen states that some non-for-profit corporations are eligible to pay taxes to federal and state.

Ron Mapes states that the County Board is planning on appointing one alternate Zoning Board/Planning Commission Member. If you have any questions or comments contact Merri Berlage, County Board Chair.

Ad-hoc rezoning meeting is scheduled for February 17, 2005 at 7:00 p.m. in the County Board Room

Nick Tranel made a motion to adjourn at 9:30 PM. Susie Davis seconded the motion. Voice Vote: All Ayes