

**Jo Daviess County Planning Commission/Zoning Board of Appeals  
Minutes for Meeting  
At the Courthouse-7:30 PM  
February 22, 2006**

**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
- Dave Jansen (Alternate)

**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 Bill Tonne to accept the January 25, 2006 minutes with the following changes; page 4, (ii) The dairy farm setup is unique; Standard Met

Seconded by Tom Heidenreich Voice Vote: All Ayes

Public hearing and recommendation on an application by Jon & Molly Kreiss, owners, requesting a Special Use Permit to allow for a single-family home to be used for transient rental. Current Zoning: R-P Planned Residential District. Common Address: 1 Oakmont (ER3 Lot 4), Galena Territory has been continued

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

**Unfinished Business**

**Galena State Bank & Trust Company as Trustee under Trust No 586, (Marvin Hartz), owner,** requesting a supplemental special use permit to allow for the substantial expansion of Eagle Ridge Realty. Common Address: 5148 US Highway 20 West, Galena

### Jim Cox, representing owner

- Submitted site plan with the removal of the road entrance to Highway 20, retention pond area included where the road entrance use to be.
- 2.57 acre parcel, 3200 square foot 2-story commercial building that is 50 years old and in poor condition. Propose to build a 5100 square foot building. Has been a commercial site for over 14 years. Not feasible to renovate or repair the building because it sits within the setback and would just be another add on to the back. We have tried to talk to the neighbors around us, Galena Territory Property Owners Board and Longhollow Point Resort Board. We submitted our plans to them and asked for their input and we have changed a few things from their suggestion. Galena Territory supports the changes and wants to make sure they have the sewer hookups, architectural shingles, and meet all county requirements for construction. Talked with Mike Guthrie from Longhollow Point and they were concerned the road was to close to the retaining wall and so we have moved the driveway back from that.
- Benefits from the change will be the old building will be removed and a new more attractive building will be built, new building will be set back further from the road, and the removal of the entrance off Route 20. The property currently does not have downward lighting and we will be installing downward lighting. Preserve as many trees along Route 20 as we can. We propose to plant at least 13 more trees to the back side of the property to shield from Longhollow Point.

### **Public Testimony**

#### Marty Johnson, 28 Vista Ridge Drive, GT

- Questions the acreage and the definition of a zoning lot and a lot of record. Taking out the right-of-way drops the lot down to about 1.25 acres.
  - Linda states that I have reviewed and consider the legal description for the lot and did take out the road right-of-way, but do not agree to taking out the remaining land across the road. The lot coverage then came up to 60%, not exceeding the standard of 70%.
  - Bill asks about the lot and if any dispute about the lot lines.
  - The lot is the parcel, but I did take out the area of the right-of-way in the figures.
- The total acreage 12 years ago was 33 acres now it is 2.57 acres. The impervious surface on the lot is a concern, may want to talk about changing the requirement. Consider lowering the percentage for the impervious surface.
- My information is based on the first submittal for the request. Twenty five trees are to be removed; Tapley Woods is less than 1.5 miles for the request which is a historic site. Refers to the Commercial District setbacks for green space should be 10 feet versus the two to three feet proposed.
- Refers to 13.7 C (3) Adversely affect rare or irreplaceable natural resources. The trees are a natural resource and they are irreplaceable. Safety of the access is no longer a concern because the access from Highway 20 will be removed. Storm water plan has not been submitted or area provided. Concern with how the water will get to where they have just proposed to put the retention basin. Utilities Inc will be providing hookups. Grading requirement does not meet ADA requirement. When this area was zoned in 1996 this part of the site was low density and had 9 stalls for parking. All the area of the building used for commercial use needs to be figured for the parking count. Concerned with the retaining wall.
- Building requirement for a basement requires two exits if over 1500 square feet.
- Was not contacted back from the petitioner after sending his concerns to them.

- Concerns are the loss of mature trees on the site during and after construction.

Jim Cox

- Would like to apologize to Marty because he did not receive the information that he sent. We addressed anybody that came to us and their concerns.
- We need to find an area for the water from the newly developed area to go. We are trying to keep the water from draining to the retaining wall toward Longhollow Point.
- We have 20 parking spots on the site. Tried to keep the parking from the entrance off Longhollow Road.
- Longhollow Point constructed the retaining wall, but they both own at different points along the retaining wall
- Will be taking down a number of trees on the site, but we will be protecting toward the highway. We will be putting up a tree barrier along the greenspace area to shield Longhollow from looking directly at the building. The number of trees that are mature would be about half of the 25, but some have been storm damaged previously and need to be taken out. Three trees are up against the current building or through the roof.

Adam Johnson, Architect

- Was not aware of the 10 foot green space requirement.

Mike Guthrie, Manager at Longhollow Point Resort

- Presented plans to our Board of Directors and addressed our concerns of the retaining wall. Concerns of the Board of Directors are the trees, lighting and if that would be down lighting, and aesthetic appeal of the exterior of the building. Feb 8<sup>th</sup> Board of Directors met and did not want to give there blessing on the project, but wanted to see additional information for the project if required.

Chuck Schmidt, 443 Glendale Road, Roselle & Longhollow Point Unit 1310

- Original purchaser in Longhollow. I was told that this area was to be greenspace. The commercial area is to be to the southern part of the RP development. 31.02 acres is to be greenspace.
  - Mel states that you can not impose a greenspace on an existing business.
- When they build a new building it should go to greenspace.
  - The whole property is not under one ownership, but doesn't mean that it is not part of the RP Planned Development

Tom Nack, representing Eagle Ridge Inn & Resort

- Object to the request because this is the doorway to the Eagle Ridge development. They see this as a major detriment to the character and value of their entire community. This type of development needs to be done quite sensitively. Would like to have an opportunity to see what is making up the application for the request. Covers the special use standards. General purpose of a special use is to consider the impact on the neighboring land verses the public need for the special use at this location. I don't believe that there has been any evidence that there is a public need for the special use at this location. What is the extent of the impact of the neighboring land? The standards need to be met in order to make a recommendation for the request. In the general area there have been vehicle accidents more so than any other specific place. I do not believe that it is our responsibility to provide that information. Drainage and

other safety issues need to be addressed. Highway 20 at this location gives everyone a scenic experience when driving through and do not want to compromise that experience. Concern with the issue of drainage. The ingress and egress are in question with the grades. I am not clear as to what exactly the impervious surface area is. Talks about the use exceptions. Is this a necessary need or desirable for the public? The information such as impact on traffic and other issues need to be on paper.

- I thought the residential home was allowed to be used for real estate office and then eventually in another phase if expanded to be provided in another area of the development.
  - Mel asks if in the Eagle Ridge expansion if they provided all that information.
- Would like to have an opportunity to look at that information so we could compare to what Eagle Ridge did.

#### Jim Cox

- I did take plans to the Eagle Ridge Inn and they said they already saw them. The traffic problems, IDOT says we have to remove the entrance from Highway 20 and we are going to do that.

#### Paul Brashaw

- What impact will this have on the creation of jobs as this goes forward? Will have more space for agents and hiring in the coffee shop.

### **Public Testimony Remains Open**

#### **Discussion:**

##### **Staff Report**

- Comprehensive Plan: This special use commercial entity is a part of the Longhollow Planned Residential Development and is adjacent to the Galena Territory. The Comprehensive would support planned developments and the supporting uses.
- Waste Treatment: Building will be connected to central sewer. A private well currently serves the office. The café will require a food establishment permit and annual water testing.
- Access Considerations: Access will be off of Guilford Township maintained Longhollow Road. The current access has adequate sight distance. IDOT has indicated that the current highway 20 access will have to be removed.
- Other considerations: The existing building to be replaced currently houses Eagle Ridge Realty and Amber Creek Rentals, and has traditionally been used in this fashion. The requested use will be adding a small retail coffee shop, which will act in a supporting manner to the offices and to the surrounding Longhollow development.
- Design Considerations: With the entrance to the Galena Territory and the Longhollow development both being adjacent, attention should be paid to ensure runoff doesn't become an issue due to the increased impervious surface. Petitioner has indicated they will replant trees since they will lose some during construction. An erosion control plan should be adhered to during construction. Any additional lighting should be directed down so as to eliminate any unnecessary illumination of the area. The Zoning Ordinance will require 3 parking spaces for every 1000 square feet of floor area. This project is approximately 5000 square feet of floor area and will need at least 15 parking spaces provided. As with all projects disturbing an acre or more, an NPDES permit must be procured from the E.P.A.

- Mel asks if any water retention studies have been done and if an erosion control plan will be submitted
  - Jim Cox states that Tom Golden has been working on that. Plan is to lower the building about 4 feet and will create a better drainage.
- Bill asks about the dumpsters and air conditioning units
  - Jim states that some will be on the roof, but we now have an area behind the back of the building where we can shield them with a fence or screening.
- Tom asks about the trees and where he was counting
  - Marty Johnson states I was just counting in the developed area
- Linda states that Marty was referring to the Commercial District with the 10 ft. concern and this is an RP District. This is a supplemental special use.
- Bill asks about the removal of trees between Longhollow Point and the new building.
  - Jim Cox states that currently there are only about two trees of any size that are between the buildings. We are hoping the appearance between the buildings will be better.
- Bill asks Marty Johnson where his concern of tree removal was
  - Marty states that the concern is on the whole parcel
- Tom asks what kind of trees will be replacing the removed trees.
  - Jim Cox states that he is not sure what type of trees or shrubs will be replacing
- Mel asks about the grade requirement
  - Steve states that I do not have a grade requirement; we do use 10% for public roads in a new subdivision. The proposed grade on the parking lot designated ADA on the old plan was about 18% and on the revised drawing it is about 14%. On a parking lot you do not want a 14% grade. This would be compared to the Irish Cottage Motel parking lot. When you get a parking lot over 5% then you get car doors shutting by themselves.
- Bill questions the grading, topography, detention of runoff, number of parking spaces, tree species to be planted
- Areas of concern that need to be addressed are trees that are to be removed, remained and those that will be planted, a landscaping plan, drainage concerns with topography of the site with slope of parking and driveway, number of entrances and exits to the basement
- Bill asks about the acreage of the parcel. In a commercial they ask for 3 acres. If an expansion of a special use is done then does it have to comply? We are short of the 3 acres. We need a legal interpretation on that.
- The impervious surface area meets the standards.
- Mel asks the usage of the lower level.
  - Jim states that it is used for storage, if we use the lower level then we would need an elevator and they do not want that.
- Tom states that public testimony was directed to section 13.7 C (3) and (4) from the Zoning Ordinance. The trees have been discussed and I am sympathetic to oak trees, but they are natural resources, but I am not sure that they are rare or irreplaceable. They do have to address the scenic value of the area.
- Susie comments on the greenspace issue
- Linda states that this property is still part of Longhollow development and has the greenspace provided in that area.
- Bill asks about the time frame for receiving the new information. Do not want the information the night of the request.

- Mel states that it should be the discretion of the petitioner if they can not get it by the next meeting then they would have to ask for a continuance.

A motion was made by Bill Tonne to continue the request with the following requirements to be provided:

1. Landscaping plan – trees to be removed, remain, and will be planted
2. Drainage concerns – Storm water Retention Plan and an Erosion Control Plan
3. Topography of the lot with grades of parking and driveway area and where they are located
4. Number of entrances and exits from the basement
5. Three acre limitation addressed by State’s Attorney
6. Section 13.7 C (4) of the Zoning Ordinance needs to be addressed

Seconded by Tom Heidenreich

Voice Vote: All Ayes

### **New Business**

**William & Anne Sullivan, owners, Jennifer Sullivan, petitioner,** requesting a Special Use Permit to allow for the use of an existing building as a retail greenhouse/nursery under Article III, Section C. Special Uses (19) Greenhouses, wholesale and retail. Current Zoning: Ag-1 General Agriculture District. Common Address: 5350 S Derinda Road, Elizabeth

#### **Jennifer Sullivan, petitioner owner**

- Would like to maintain as much agriculture on the property as possible. This year we will be buying 60% or more of what we will sell. I would like in the future 80% of what we grow to be sold. Nothing will be taken out of production. Access has been addressed and we have done much excavation to get the drainage toward the pond to utilize for the irrigation system. Additional parking area would be where the old house was located. I don’t know if we will have the need for the additional parking. The parking by the barn was about 68 feet by 62 feet. There will be a public bathroom going in. Would like to be open April to October and maybe even December. Would like to be open dawn to dusk.

### **Public Testimony**

Terry Beyer, 5713 S Derinda Road, Elizabeth

- Would you be hiring anyone
  - Jennifer states that she would like to hire one or two before the end of the year.

### **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. This request is utilizing an existing farm structure, the Comprehensive plan would support the refurbishing and reuse of old existing structures.

- Special Development Considerations: This parcel is surrounded on all sides by Agricultural property and is just outside the mile and half area of Elizabeth.
- Waste Treatment: Septic system for the existing barn installed September 21, 2005.
- Access Considerations: The proposed greenhouse site currently has access from Derinda Road which is a county highway. The access sight distance is more than 500 feet.
- Other Considerations: Greenhouse's are a permitted use in an agriculture district. The wholesale/retail sale part of this request has been the trigger for the special use (Article III, Section C. Special Uses, (19) Greenhouses Wholesale, retail). A parking area would need to be established for the public use. Any signage will have to comply with the standards listed in Article X of the County Zoning Ordinance.
- Bill asks about handicap parking and bathroom
  - Linda states that she talked with the petitioner and they are aware they would have to be handicap accessible.
- Mel asks about traffic generation.
  - Jennifer states that she does not see more than 10 people there at any one time. Would like to do wholesale, but need the retail to help keep going. Would like to see about 15 people at peak season throughout the day.
- Mel states this is the reuse of existing farm buildings.
- Tom asks about signage
  - Linda states that the signage would have to conform to the Zoning Ordinance for on premise signs. Would not be allowed to have off-premise sign, only option would be TOD sign via the state or county highway department.
  - Jennifer stated that she would conform to the Zoning Ordinance requirements. Would not have any reason to light a sign.
- Bill asks about time frame
  - Jennifer states she would like from 7:30 a.m. to 7 p.m.

A motion was made by Tom Heidenreich to approve the request stating the following:

1. Signage complies with the Zoning Ordinance
2. Hours of operation are from 7 am to 7 pm
3. Parking area is available and identified
4. Down lighting on signs if needed
5. Will be some part-time help
6. Agricultural related
7. Standards have been met

Seconded by Nick Tranel

Mel Gratton read the standards from the County Zoning Ordinance that need to be addressed.

**Standards** – No special use shall be recommended for approval by the Planning Commission unless the Commission shall find:

- (1) The establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare

**The request does not endanger the public health, safety, morals, comfort or general welfare; Standard Met**

- (2) That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or substantially diminish and impair values within the neighborhood

**This use will not diminish the enjoyment of the properties in the immediate vicinity or temporarily impair the values with the neighborhood; Standard Met**

- (3) That the establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district

**Development will not be effected; Standard Met**

- (4) That adequate utilities, access roads, drainage, and/or other necessary facilities have been or are being provided

**The property has adequate parking and access; Standard Met**

- (5) That adequate measures have been or will be taken to provide ingress and egress designated to minimize traffic congestion in public streets

**Ingress, egress are adequately provided; Standard Met**

- (6) The special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Planning Commission.

**Conforms to the applicable regulations of the district; Standard Met**

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

**Earnest Joe Roth, owner**, requesting a Special Use Permit to allow for an in-home business selling rifles, pistols, shotguns, ammo and other related small items, also drop off and pick up for repairs, under Article III, Section 3.2 (36). Current Zoning: Ag-1 General Agriculture District. Common Address: 2397 W Stagecoach Trail, Scales Mound

Daniel Roth, representing owner

- Previous gun shop on Council Hill went up for sale and he purchased this and would like to put this in his home. Traffic at the other location was no problem. Owner retired from Kelly's and attended the Illinois Law Enforcement in Pecatonica on guns and attended FBI course in Chicago. Would like to open a small shop where now he can't find a part time job, he is a disabled veteran. Talked with a company in Dubuque about the traffic generation and they have been in business for about 40 to 45 years and they say about two to three people a week

is good, this company does not have many guns. Previously used his property as a range and will no longer do that on his property.

## **Public Testimony**

### Neil Anderson, 1995 W Stagecoach Trail, adjacent property owner

- No problem with opening the gun shop, but the shooting we do not want because we have kids and cattle that go back behind his property. We have dug shells out of the trees in the back on my property. I do not know what the regulations are for shooting over property lines.

### Daniel Roth

- You can shoot 500 feet from the nearest house next to you. This is like a deer hunter not knowing where the bullet will go when he is deer hunting.

### Earnest Roth, owner

- The reason we do not want any shooting on the property is for insurance reasons.

### Keith Hesselbacher, 2456 Miller Ridge Road, Scales Mound

- My farm is about 250 to 300 yards south of the proposed property. If there is going to be absolutely no shooting from that property from this point forward that certainly would be a good situation. The topography of the ground would make it likely that it were to ricochet onto my property. Concerned if this were to be passed that the property values in that area were to decrease. Three residents in that area and if there was to be a subdivision near and having that gun shop in that area that would certainly decrease the value of that property for them. People have contacted me to buy property for a home site and if this business was in place then I believe the value would be decreased. Hoping that your considerations are for the safety of the area and is an important issue.

### Daniel Roth, representing owner

- This will be an in-home business. This will not be a large traffic area and will mostly be your local people. When certain areas have a duck fest he will take his guns and sell them there and then they will come and request others if need. Some of the shooting is not coming from his property it is other people on other property shooting.

### George Anderson, adjacent property owner

- Have the shooting concerns on the property
- Questions the agriculture zoning on the property
  - Linda states that this would be zoned agriculture but recognize that there is a residential use on the property
- Does this permit if granted stay with the house
  - Mel states that usually the special use runs with the land unless otherwise stated
- Questions the small items to be sold at the location and what is to be repaired.
  - Linda states the small items need to be accessory to the gun sales
  - Daniel also states that cleaning supplies for the gun repair or cleaning will be sold. The business will be in-home and in the basement.
- Concerned with saying local people only

### Jim Davis, Mayor of Scales Mound Village

- The village has not had an opportunity to have a board meeting since receiving the information for the request. Called some village board members and discuss the matter and does not seem to be an issue with the village and do recognize that home occupied business are important. Scales Mound does have zoning and we do address home occupied businesses in the village, but not outside of the village limits. We felt that it would not deter from the village or appearance of the village. We have no opinion on this request.

Paul Brashaw

- In favor of the request because there is nowhere close to buy ammunition without running to Dubuque.

Dave Tippet, 3929 NE Miner Road, Galena

- I am a volunteer fireman and concerned with having the things stored properly
  - Daniel states the material is locked in steel cabinets, will not have gun powder

Eric Train

- He will have to have a Federal Firearms License and register every weapon and ammunition that comes into the house.

**Public Testimony Closed**

**Discussion:**

**Staff Report**

- Comprehensive Plan: The Comprehensive Plan Land Use Map would recognize this area to be designated as Agriculture just adjacent to Agriculture Preservation 1 Area. This request is off of Stagecoach Trail which is considered to be a scenic route in the comprehensive plan. This request borders a commercial type use, which, is encouraged in the Comprehensive Plan to be adjacent or in existing communities. This request is just under one (1) mile from Scales Mound. I do not have a land use map that shows the municipalities plans within the mile and half area and at this time I have not received any comment from Scales Mound.
- Special Development Considerations: This request has two parcels to the west being used residentially and the property to the north, east and south are being used agriculturally.
- Waste Treatment: Existing septic system with new drainfield installed August 1997.
- Access Considerations: Access to the existing house is from county maintained Stagecoach Trail. The access sight distance is 500 feet.
- Other Considerations: This request is coming forward as a special use under Article III, Section 3.2, C. Special Uses, (36). Petitioner plans on using part of his existing home. A parking area would need to be delineated for the public use existing of four (4) spaces. On premise signage must comply with the County's Ordinance.
- Susie questions the extent of the repairs and what that entails.
  - Daniel states that people will fire the gun, but not want to clean, so this would be what he would do. He would take the gun to another place if any repairs were needed on the gun. Changed his basement into the area for the sale of items. Installed an entrance directly to his basement. Added another 20 feet to widen his entrance. No onsite firing will be on the property.

- Nick asks about the ammunition
  - Ammunition will be sold also and will be stored in locked cabinets. Will also carry cleaning patches and such.
- Tom asks if you need a license to sell guns and ammunition. Also when you apply for a license is there inspections to make sure things are stored properly.
  - Daniel states that to sell guns you need a license from the ATF. You need a FOID card to buy guns and ammunition. The ATF will do inspections during the year and surprise inspections.
- Bill asks about hours of operation. 9 am to 9 pm is that an option
  - Daniel states that we would like the option if somebody wants to make an appointment then that can be done. That time frame would be good.
- Mel asks if any other employees would be hired.
  - Daniel states no other employees would be hired.
- Mel states that if there would be firing on the property then they would lose the special use if that is stipulated and approved.
- Susie asked how long ago was the sheriff's department target practicing there.
  - Earnest Roth states about 5 years ago. I did about two weeks ago shoot a coyote on my property because it was terrorizing my cats.
- Susie asks if having a report on file with the Scales Mound Fire District of the inventory. Also questions if a vault is required or needed.
- No sporting goods or archery equipment.

A motion was made by Bill Tonne to approve the request with the following conditions:

1. No shooting on the property for any reason
2. Interior basement used for the in-home business
3. Hours of operation 9 am to 9 pm
4. Repairs would be done off-site, would be a location for drop off and pick up for repairs
5. Annual inventory report including where and how much ammunition and guns with any Emergency Services for this location
6. 1 employee only being the owner
7. Applicable licenses maintained and in compliance with the ATF
8. Parking area maintained
9. Items to be sold - guns, ammunition, and those items ancillary to that use such as cleaning supplies. No sporting goods sold
10. Storage and sale of items to be kept in doors
11. Locked and secure location for the guns and ammunition to be stored
12. No supporting evidence of diminishing property values if approved

Seconded by Mel Gratton

Mel Gratton read the standards from the County Zoning Ordinance that need to be addressed.

**Standards** – No special use shall be recommended for approval by the Planning Commission unless the Commission shall find:

- (1) The establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare

**The request does not endanger the public health, safety, morals, comfort or general welfare if the conditions are followed; Standard Met**

- (2) That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or substantially diminish and impair values within the neighborhood  
**This use will not diminish the enjoyment of the properties in the immediate vicinity or temporarily impair the values with the neighborhood. Will improve the safety in the area; Standard Met**
- (3) That the establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district  
**Development will not be effected; Standard Met**
- (4) That adequate utilities, access roads, drainage, and/or other necessary facilities have been or are being provided  
**The property will have adequate parking and access; Standard Met**
- (5) That adequate measures have been or will be taken to provide ingress and egress designated to minimize traffic congestion in public streets  
**Ingress, egress will be adequately provided; Standard Met**
- (6) The special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Planning Commission.  
**Conforms to the applicable regulations of the district; Standard Met**

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

**Robert Johnson for Johnson Rinn Development LLC, owners,** requesting rezoning from Ag-1 General Agriculture District to R-2 Rural Residential District for a 67.91 acre parcel. Common Location: Frontage on North Miner Road, just south of the intersection of North Miner Road and Stagecoach Trail.

**Robert Johnson**

- Part owner of this property and construction builder. Over the last ten years lots have not been added and the building has kept going so the lots are not available to buy and build on. Linda stated about 630 are available to build on. People may own the lot only for the amenities and not build on the lot, or people buy the lots on each side of their home to not have neighbors. You have builders that buy lots and have not built there spec homes on the lot. People come out and want to build a second home or retire and their first thing to do would be buy the lot, but not build for many years down the road. Today there are only 31 building sites that are

available for sale. These people that can't find a lot are frustrated and will move to another area. This is why we want to develop for people to have the available areas to build.

#### Nate Kiefer, MSA Professional Surveyors

- This property fronts on NE Miner Road, contiguous and immediately north of Thunder Bay Unit 3 of the Galena Territory. Three fourths of a mile west of the existing Cedar Hills subdivision, which was rezoned in 1999 to R-1 Rural Residential. Describes the area with relation to the Comprehensive Plan. The majority of the site is cropland with a small portion wooded. The topography of the property is characterized by a hillside that increases toward the eastern side of the parcel with an overall average slope of 12%. The productivity index for the cropland only is 84.6 and the county average is 88.1.
- The proposed project is for R-2 Rural Residential with 55 lots ranging from 1 acre to 1.9 acres. The lots will be served by an asphalt concrete roadway. A homeowners association will be established for the subdivision with covenants and restrictions. The lots will be serviced by private wells and septic.
- This will be contiguous to the Galena Territory, but not an extension. This will hopefully meet the growing demand for single family home in the general area of the Galena Territory. Keeping the growth near other similar zoning.

#### Robert Johnson

- There are 3,270 properties in the Galena Territory and 2,094 dwellings, leaving 1,176 lots that have not been built on yet. 650 of those lots are not intended to sell or build on or to build in years to come. There are a great deal of lots that are tied up and not available for new people to buy and build on. The total available lots on the market are about 31 lots to purchase and build on.

#### Pete Brennan, Coldwell Banker

- Live, play, and work in the Galena Territory and Galena. I am here to state what is available in property for sale. Five years ago there were 198 available lots at any given time; today there are 31 available lots. The price has gone from averaging \$36,000 a lot to over \$103,000. This shows the lack of affordable lots in the Galena Territory. There are less than a handful that are under \$50,000. In the last 12 months 175 lots have been sold in the Galena Territory.

#### Nate Kiefer, MSA Professional Surveyors

- This development is to look similar to the existing Thunder Bay Unit 3 in the Galena Territory. The development will feel more open and spacious at 1 acre or more than the Thunder Bay section that has some that are less than 1 acre. Taking a look at open space a 0.60 acre lot with a 2,100 square foot home would occupy about 8% of the lot, the proposed development with a 1 acres lot with a 2,100 square foot home would occupy about 5% of the lot. Homes would be clustered around the roads to give a more open feeling. The Comprehensive Plan encourages development near communities.
- The property is next to an elevated area as identified on the Comprehensive Plan map, but not in the elevated area. The roof lines of the proposed development will not protrude above the surrounding elevations. The highest elevation of the home site will be about 960 feet in elevation. The east edge of the property will have the highest homes. The highest point on the ridge top immediately east is 1,083 feet, the difference of 123 feet from the highest proposed home in the development. The Comprehensive Plan states that development on ridgelines and

knobs and mounds should be as unobtrusive as possible and rooflines should not protrude above surrounding elevations. Roadways and access drives should follow the contours of the land to keep the visibility. Cedar Hills Subdivision average house elevation is 1,130 feet, this would be about 170 feet above the elevation of the highest home in this proposed development. The highest home in Thunder Bay Unit 3 will be about 10 feet below the proposed developments highest home.

- Stagecoach Trail is a scenic route and will be buffered by pasture land about 200 to 500 feet by a neighboring owner. The new and existing tree plantings will provide a screening along Stagecoach Trail. Developers would like to fill in the gaps with additional trees to make a screen. To the west would need more screening because not much is provided on the west end. The combination of deciduous and coniferous trees will be planted.
- The site is steep generally for agricultural uses. Access has been established of NE Miner Road. Determined 500 feet of site distance can be achieved at the proposed location. The roadways will follow the contours along the hillsides and comply with the county standards. The three properties to the south and east have an easement to access there property and that would remain as is. They would not access any lots off this easement roadway. The owner is willing to work with Guilford Township to better NE Miner Road for shoulders and improve ditches at his frontage property.
- Soils seems to be good for a conventional septic system, some will be required to have a curtain drain because of wet soils. Tom Golden is working on the soil suitability. 38 of the lots will be served by conventional septic systems with little or no soil restrictions and 12 lots will need some planning to be served by conventional fields and 5 lots will require alternative septic systems (sand filters). Setback lines are shown to keep a spatial buffer from the agriculture to the residential. Homeowners association will provide enforcement of the building setback lines and restricted usage areas. Property to the south is planned residential and the remaining surrounding is agriculture. No intensive livestock feeding facilities adjacent to the site. Illinois Fencing Law will be addressed by assigning fence maintenance to the Homeowners Association. Storm water provisions and drainage are a concern because this area does drain in to a tributary that drains into Lake Galena. TR 55 manual is used for civil engineers for storm water management for runoff. When applying the TR55 manual the number is 75 for ag land and for 1 acre of residential land the number is 68. This states that less runoff is generated from residential than Ag land. Erosion control plan will be used during construction phase of the project. Drainage easements will be labeled on the final plat. Willing to work with soil and water on erosion control measures. Would conform to the required permitting for disturbance of land and water management. Archeological study states that there are no historical concerns as of phase one. Will be setting up an architectural review committee to address any issues of drainage. The individual home site foundations may need drains.
- Natural Resource Inventory report stated that a possible mine could be in the area. Tom Golden has a mining degree and is researching the mining in the area. During investigation there seem to be no shafts or crevices on the property.
- Private wells and septic systems are proposed at this time. Utilities Inc provides water to the Galena Territory and RHMG states that the Thunder Bay 3 water area will need to be upgraded for the 456 future customers in their own development. Utilities Inc state that at this time the facilities will not be adequate to serve their users. Connecting to the central water system in Thunder Bay 3 is not ideal due to not having enough water pressure and capacity for

the current owners and would not meet the current IEPA standards. The site topography and layout would lend to be served by public utility if they were to become available.

- The Comprehensive Plan designated this area as an Ag area and not an AP area. The screening buffers will address the conflicts between the agriculture and the residential. Would think this is a good location of being next to another development that offers services and facilities. Access has changed from the existing entrance because of the 500 feet requirement. Staff states that there are 630 buildable lots in the Galena Territory, but they are not all available for sale to build on. Refers to the LESA score that was done and some questions may be lowered because of information provided tonight, the number of available lots was lower than what the Staff provided and the water available to the site is within a ¼ of a mile, but it would need to be upgraded to meet the need.

## **Public Testimony**

### Paul Brashaw, 4413 W. Stagecoach Trail, Galena

- Live about 1.5 miles from this project. This project is about 3.5 miles from the edge of town, 5.5 miles from ambulance services. I am an EMT for Galena Ambulance and Scales Mound Fire Department secretary. There will be steep grades on the roads, and that will impact the services during the winter months. When you drive over Tippet hill on Stagecoach Trail the first thing you see is this farm field. You can not screen the road when traveling east on Stagecoach Trail over Tippet hill. Benefits of the higher tax base always don't get to the place it is needed or could it ever. The neighbor did rezone part of his property, but you do not see his place, or Dave Tippet's shed that is across the road from his house. The Comprehensive Plan does have provisions for development that generate jobs and sales tax. This project will provide for temporary construction jobs and developer will benefit from this project. The LESA score was over 200 and this project is over 3.5 miles from town. This is a dense project. There are no greenspace provisions for this project. I do not see the need for this development.

### Chad McCartney, 3977 NE Miner Road, Galena

- Owns 15 acres adjacent to the request. If this does get passed, what keeps me and other neighbors from dividing property for subdivision? The view is irreplaceable. They say the soil tests are below average, but they are not making any more farm ground.

### Dave Tippet, 3929 NE Miner Road, Galena

- I own property around this property; my house is in the Galena Territory. I have mixed feelings on this request. I probably have the oldest farm in the county, but I also have the most to gain out of the deal and the most to lose. I felt it was important to not put a house on another piece of property and that is why I bought a lot in the Galena Territory. The project looks good, but the water runs downhill and I am downhill from the request. There is greenspace in the Galena Territory, but there are no provisions for greenspace, this is high density. When traveling Stagecoach Trail east toward Scales Mound this hill is the third highest point in Illinois. Do I want to see homes from this view, I am not sure. We are taking farm ground out of production and concerned with having 55 wells drilled.

### Chad McCartney, 3977 NE Miner Road, Galena

- If there are wells drilled for every house who determines if the water table can handle them.

### Paul Brashaw, 4413 W. Stagecoach Trail, Galena

- If there are 55 wells drilled and central water is available then who would pay for the extension of the water main to serve the 55 homes. Are the homeowners willing to abandon the existing wells they have? The only time they will want to hook up is when their well is failing and an emergency hookup will be needed.

Robert Johnson

- Part of the project is to tap into the community well. We have not gotten an answer back from the utility company as to what we will have to do to hookup on central water.

Dave Tippet, 3929 NE Miner Road, Galena

- Talked about widening the roadway, but the whole issue is NE Miner Road. If we add 55 houses on that road then we would be having more accidents than what we already have. I would not want someone to take the frontage of my property to benefit another development, my property values or me.

Steve McIntyre, realtor

- States that there are 84 parcels available of those there are 27 that are greater than 40 acres, 28 are in the Stockton Blackhawk Bluff Subdivision so really there are about 29 parcels for sale in Jo Daviess County. This is only listings in the MLS; there are others that have listings that are not included in this figure. It is getting more difficult to find parcels of land to build on other than at the Lake or the Territory.

Pete Brennan, Coldwell Banker

- The remaining 29 parcels that he is referring to are in three subdivisions – Coursen's Landing, Galena Scenic Meadows, and High Ridge Road.

Dave Jansen, Galena

- Last time I checked with Lakeside they had 45 vacant lots that are not part of the MLS.

Mary Kelly Train, Almost Heaven Rentals

- Change is very difficult, but Robert Johnson has built two houses for us and very pleased and I believe they will do the right thing for this area.

Lester Johnson, Soil and Water Conservation District

- Concerned with the easement for the access of the other property to the rear and south. We look for long term planning and there is a significant amount of acreage to the back of this property. The farm ground had to use grass waterways and could take those areas and make them greenspace or even easements.

Carma Weis, 5658 W Stagecoach Trail, Galena

- Sold the land to Bob Johnson and have no objection to the rezoning of the property.

Terry Beyer, 5713 S Derinda Road, Elizabeth

- Concerned with the food chain in America and concerned with taking agriculture out of production

Nate Kiefer, MSA Professional Surveyors

- Talks about the view traveling east and seeing this ridgeline. The need for the lots and the proposal is next to an existing developed area and that states that in the Comprehensive Plan. This is a very scenic area, but as you drive you see Tippets shed, the building on the McCartney property, and the homes in the Thunder Bay unit 3. This is tied into the same hillside where you can already see existing homes and buildings. Traveling toward Galena on Stagecoach in this area the road is much lower and the trees have grown up therefore you really can't see the field. Greenspace is different to everyone and I think the developer would consider greenspace, but would probably prefer to adjust the setback lines to create greenspace. There was concern on the improvements on Miner Road and this would only be on the existing right-of-way and also on the proposed development side to take down banks. The work with the Township and the developer seems to be a separate project from this proposal.

Robert Johnson

- Jeff Winders talked about cutting down the slope to be able to maintain with his equipment. Would be using the developer's equipment to shave down the bank and raise Miner Road to get better site. Jeff wanted to expand the road to the existing right-of-way and create a ditch line.

Dan Wiene

- Does the county have an area where they would prefer to have the development occur?

Jim Henig, Marengo, Illinois

- Partner of Mr. Rinn which is a partner of Robert Johnson. I have been involved in about 12 different subdivisions and we have the same three issues and you only have two here. You have water and roads, we have schools. You are going to have a lot of people moving out here and they will not have kids to generate for schools, but they will still need services and merchandise. The burden on the school is so minimal. The thing is if this is the right place. Bob would be a good lord of the land.

Ed Schamper, farmed the ground currently

- I use to rent the property in question. I was going to rent part of the property and make the hay, but there is other property available in a couple of years that will be coming out of CRP, but nothing right now.

**Public Testimony Closed**

**Discussion:**

**Staff Report**

- Comprehensive Plan: The Comprehensive Plan would indicate this parcel to be in the Agriculture area, and is shown to have fingers of important farmland soils. The Comprehensive Plan would also state the following:
  - E. Residential Uses
    - In 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 simply 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 report completed. The majority of the proposed lots could be served by conventional septic systems.
- Access Considerations: The property is accessed off of Guilford Township maintained Miner Road. The existing field entrance does not have adequate sight distance; however the proposed location of the subdivision road will have over 500 feet of sight distance.
- Other Considerations: A LESA score was done and resulted in a score of 202. There are several prominent mounds in the area along with the close proximity of the Stagecoach Ridgeline. While the comprehensive plan does not prohibit from building on high elevations, it does encourage development to be unobtrusive. This development is quite visible from Stagecoach Trail which is considered to be a scenic route in the Comprehensive Plan. Site visit revealed this to be a very scenic area and there is a mix of uses in the area since this request abuts the Galena Territory. Reports have indicated that the Galena Territory is approximately at 80% to 85% build out. There are approximately 630 what the Galena Territory Association would consider as buildable lots, yet available. At a current rate of 60 to 70 homes built per year, the Territory will achieve build out within the next ten years. As with any development erosion, drainage, State and County permitting should be given consideration.
- Bill asks about the LESA score that was given and would his information change any of the questions.
  - Linda states that the availability of zoned land could affect the score because I did give that question the maximum score of 15 because of the Galena Territory adjacent, Cedar Hills Subdivision and the City of Galena within the five mile requirement. The availability of public water was scored at the lowest score thinking they were going to hookup on to Utilities Inc.
- Bill asks what is available of other property other than in the Galena Territory.
- Bill questions the R-2 in this location. Good presentation of what would be if we get past this stage. I do not see the justification that it is located next to the Galena Territory; the Galena Territory is a grandfathered RP district. The RP has a lot more greenspace than the R-2 district. The R-2 does belong closer to town. Huge concerns with the road and increase in tax costs. JDC is unique and we need to protect the good soils and ridgelines.
- Susie states the LESA was over 200, surrounded by agriculture, concerned with the water availability, questions what the Galena Territory views on this request, drainage does go down

to the creek and eventually goes to the North Bay of the Lake Galena, density of the septic and wells that will be located on the property and groundwater contamination, water quality and sedimentation in Lake Galena. The character of the area with that view can not be replaced. Along Stagecoach Trail that is a 2<sup>nd</sup> growth tree line, it would be better to get that growth out of there. This property is surrounded on three sides by agriculture and the nuisance of odors from the farm equipment, spraying of fertilizer, the issue of traffic, and recreational vehicles that are used. There may be a need for the lots, but not at this location. The Comprehensive Plan speaks to saving the scenic areas and farm ground and rural area.

- Tom states that we can not stop development, but we can direct it. Is this the appropriate place for an R-2 development next to a planned residential? Tom states that you should expand with similar growth. Doubt that sewer will ever get to this location, but water is a possibility. The Comprehensive Plan does address scenic areas.
- Nick states that we keep hearing that it is adjacent to the Galena Territory, but it is not an extension. This is very visible, NE Miner Road is a concern and the infrastructure for the development is yet to be confirmed. We need growth in the county, but may not be in this location.
- Mel states that the need is out there, but necessarily here is questionable. The district that this should be is questionable; one question we ask is if the Galena Territory came today would we approve it. We see the positive impact that it has done to the area. This is relatively good farm ground and this is what is in the area and we farm that ground; development is between the ridge and ditch because we would not want the development on the ridge line or in the ditch area. The question is if this would be obtrusive to the eye and that may be a subjective view. As you move the development up the hillside the soil changes and that would lower the LESA score, but can we hide the development. We have not approved anything that has a perfect infrastructure in the county because there are not enough dollars. The plan is good, but I have mixed feelings on the request. The R-2 district is dense.
- Bill states that the larger lots may be better, but R-2 in this location is questionable. The LESA is over 200. This is not in the contiguous growth area; this is an R-2 district, and losing farm ground.
- Susie asks about the water system, if they can not guarantee that they would provide water then the LESA score would be raised by 7 or 15 more points because it was scored stating it would have the water available.
- Mel asks Tom about the ag ground and if this ground would be ideal to farm.
  - Tom states this is average ground and large enough acreage to be farmed.
- Tom states that this is not an ideal place for R-2, but if came with whole farm with greenspace then it will have a different aspect and LESA score.

A motion was made by Tom Heidenreich to deny the request stating the following:

1. LESA score 202
2. Not the same development in the area and is incompatible with Comprehensive Plan
3. Larger cropland parcels in the area
4. R-2 District and more than three miles from a community, not in a contiguous growth area
5. Pressure on agriculture and infrastructure
6. Scenic aspect of the county

Seconded by Bill Tonne

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

**Reports and Comments:**

LESA information will be updated and mailed out this week.

Nick Tranel made a motion to adjourn at 12:30 PM. Susie Davis seconded the motion. Voice Vote: All Ayes