

**Jo Daviess County Planning Commission/Zoning Board of Appeals**  
**Minutes for Meeting**  
**At the Courthouse-7:30 PM**  
**March 23, 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 Nick Tranel to accept the February minutes  
Seconded by Susie Davis      Voice Vote: All Ayes

Public hearing and recommendation on an application by Jo Daviess County for various text amendments concerning Guest Accommodations has been continued.

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

**Unfinished Business**

**Michael & Natalie Gulotta, 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: 10-A-62 Cardinal Court Apple Canyon Lake

**Michael Gulotta, owner**

- The issue was the driveway grade, which we reviewed the retaining wall issue and would make a less safe situation. The wall would be 4 to 7 feet high. The 10% grade is being misapplied when considering the certain circumstances with this property and will lead to an erroneous and unfair denial
- The Jo Daviess County website states that another objective of the board is to be fair to applicants and treat each applicant on its own merit; quote "Every application is different and

must be reviewed on its own merit. You can be assured that your application will receive the attention and the fair and honest review it deserves,” I feel my application and set of circumstances are different and should be judged on their own merits and not lumped with past applications and decisions. These circumstances should be given the attention they deserve and not ignored.

- Petitioner had contacted three nearby counties and they inspect each property individually.
- The main concern is the emergency vehicle access. I have two fire chief stating the driveway presents no safety issues. The house is only 50 feet from the cul-de-sac and has a close and direct walkway to the home. My second point is that the driveway grade not be applied when there is relevant, credible, and valid evidence that safety is not an issue with my set of circumstances. Referenced the language in the Development Guidelines for Special Use Permits for Guest Accommodations and Guest House/Homes paragraph 3. Apple Canyon Lake Fire Station is only 4 blocks away, which takes 60 seconds to drive. The fire hydrant in the front yard will make the fireman’s job easier and more effective. A+ Reservations, rental agent, is only 2 blocks away. My third point is to not ignore the special attributes that my property has that uniquely enhances the safety. On reviewing the language of the Jo Daviess Development Guidelines it would appear the board has trained themselves to apply the 10% access road guideline in a general fashion, but to be fair and judge my application on its own merit with special circumstances and attributes of my property should be seriously considered. I would hope the solid credible, relevant, and logical points and evidence that some or all the board members will come to a fair decision on my application.

### **Public Testimony**

None

### **Public Testimony Closed**

### **Discussion:**

- Mel states that he has explored other options
- Tom ask if Mr. Gulotta quotes the Development Guidelines as they are written
  - Linda Delvaux verified that he did quote the Development Guidelines as stated.
- Mel states that would it be fair to state that in many of these situations that the driveway is the access road and they are synonymous in many situations.
  - Linda states that is how you have treated it.
- Mel states there are two sides to this. In fairness to you we need to look at both sides. You mentioned fairness and the precedence that has been sited here. I personally think that we as board members that have visited 50 to 100 or more sites have looked at driveways and have a better idea of assessing and comparing whether or not this is unique and if it compares to all the other requests. Two things to keep in mind; one Guest Accommodations Guidelines and secondly Special Use Guidelines and Standards that we apply whether it be for transient rental or any other purpose. We apply these standards uniformly and across the board as to not treat any one individual differently. There are many that feel they are unique. We have required people to bring the driveway up to the standards. We as the board need to look at the big picture as we apply all the standards.
- Michael Gulotta states that the whole essence behind paragraph number 3 on the Development and Guidelines is for safety emergency vehicle access. If I have a cul-de-sac that is 50 feet from my home and between the cul-de-sac and my home is a fire hydrant that fire truck would prefer to be close to the fire hydrant. They would not think of my driveway as there access.

- Bill states that emergency access is not only applied to fire and other emergency vehicles. In the Ordinance is the driveway part of the Life Safety Code that is referenced?
  - Linda states that you have also taken into consideration the renters that will be occupying the house. The Life Safety Code does not deal with driveways and grades.
- Bill states that you used the word consistent in the same paragraph as with considering the request on its own merit. We need to be consistent when we see each request. The driveway grade is what it is from request to request then we have to be consistent as we see it, not consistent on its own merit, whether driveway grade or septic or any other guideline. Other people will drive down the driveway, not only emergency vehicles and that has also been why we apply the 10% grade.
- Mel states to make a decision would be contrary to the other applications that we have had would be an arbitrary and capricious application of this use if we would approve this.
- Susie states that we also have an issue with the septic replacement area.
  - Heather Miller states that due to the Apple Canyon Lake 100 foot setback we do not have replacement area.
- Mr. Gulotta states that he did not explore deeper into the septic issue because it did not seem to matter because of the driveway grade. I do have some solutions that I could explore.
- Tom states that you did research in other counties ordinance to access guidelines.
  - Mr. Gulotta states that three nearby counties do not have a grade number and he asked how they know the driveway is safe. They go to the property, review it and if they see a problem or a potential issue they discuss and come up with possible solutions for the problem.
- Tom states that we have a reason for the 10% grade in the ordinance because Jo Daviess County is a unique county that has many hills and many potential dangerous driveways and commend our ambulance and fire districts for purchasing vehicles they need to get into those tough situations, but we needed some guidelines and the 10% grade seemed to be it.
  - Mr. Gulotta states I have safe access for fire vehicles according to the fire chiefs and my whole point is when I applied the emergency vehicle access is met by my property with the 10% grade via the cul-de-sac.
- Tom states that the fire department is not the only emergency vehicle entering the property. Ambulances will access your property
  - Mr. Gulotta states that there is a gentle slope walkway from my front door 50 feet from the cul-de-sac.
- Bill states that renters will also use the driveway access. Part of the ordinance is to have off-street parking, which you have to pass through the 15% grade to get to the parking requirement
- Tom asks if there is room for the expansion area for the septic.
  - Heather Miller states not taking into account the lake 100 foot setback, which is 4 times greater than the state setback from water.
- Mr. Gulotta talked to Bob Mader, Building Inspector for the Apple Canyon Lake, and he came up with 3 solutions; one if in the future the septic would fail replace in the existing location using newer technology, secondly have done preliminary discussions of establishing cluster systems on one lot where ½ dozen homes would share the septic, and finally utilize the greenway.
- Bill asks if a sand filter system would work in this situation.

- Heather states that would be possible if they are willing to give in the greenway and the 100 foot lake setback.

A motion was made by Susie Davis to deny the request stating the following:

1. Addressing the Special Use Standards #1, 3, & 4, Standards Not Met

Seconded by Bill Tonne

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 driveway would impair and endanger the public health, safety, morals, comfort or general welfare; Standard Not 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

**The normal and orderly development may be affected by the parking and access grade; Standard Not Met**

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

**The property will not have adequate access and parking; Standard Not 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.

**In all other respects the request should be able to conform to all applicable regulations of the R-P District**

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

**New Business**

**Larry & Leisa Hubb, owners,** requesting a 15 foot variance from the required front yard setback of 110 feet from the centerline of the county maintained road. Current Zoning Ag-1 General Agriculture District. Common Location: 1437 S Willow Road, Stockton

Larry Hubb, owner

- The current old farm house is in need of repair such as the foundation is breaking and would cost a substantial amount of money to fix.
- Would like to build a new house in the same location as the existing house, but a ranch style instead of the 2 story house, that is why I need to go closer to the road. There is a machine shed to the rear of the house that I need to maintain 35 feet to come around with a truck and trailer.
- I will have 72 feet from the edge of the ditch to the front of the home. I am not at a corner or blocking any views. I am going from a 2 story home to a 1 story home. The old home is 115 feet from the center of the road.
- The septic is on the south side of the house and the well is on the north side of the house. I realize that I have to add on to my septic system that is not a problem.

**Public Testimony**

None

**Public Testimony Closed**

**Discussion:**

**Staff Report**

- Comprehensive Plan: the Comprehensive Plan does not address Variances.
- Wastewater treatment: Existing septic system installed in 1977 (Roger Hubb). System has a 1250-gallon tank and 245 lineal feet of drainfield. System is undersized for a three-bedroom house. Field would require upsizing for the new house.
- Access Considerations: This proposal will not affect the current access.
- Other Considerations: The County Zoning Ordinance would require front yard setbacks to be sixty (60) feet from the property line or one hundred ten (110) feet from the center line of the right-of-way, whichever is greater. Petitioner is tearing down existing home and would like to place the new home closer to the front of the lot than the ordinance would allow. The majority of the property is used in the farming

operation. The logical placement of the home would be in the general area of the existing home. The farm buildings along with the septic tank and well placement make the house placement difficult.

- Bill asks how long they have owned the farm and how old is the house.
  - Mr. Hubb states that they bought the farm 2 years ago from his father and the house is over 100 years old. Also states the machine shed that is restricting him toward the front setback was constructed in the early 1970's.

A motion was made by Bill Tonne to approve the requested variance as indicated on the site plan with the 15 foot variance stating the following:

1. Locked between the well 9 feet to the north and the septic system 11 feet to the south for the house placement

Seconded by Nick Tranel

Mel Gratton read the standards for Variance

D. **Standards for Variance**

- (1) The Zoning Board shall not vary the regulations of this Ordinance, as authorized in Paragraph A above, unless it shall make findings based upon the evidence presented to it in each specific case that
  - (i) The plight of the owners is due to unique circumstances; **Standard Met**
  - (ii) The variance, if granted, will not alter the essential character of the locality; **Standard Met**
- (2) In determining whether the strict application of the Zoning Ordinance creates practical difficulties for, or imposes a particular hardship on, an applicant for a variance, the Zoning Board shall consider the extent to which the following facts have been established by the evidence:
  - (i) The particular physical surroundings, shape, topographical condition of the specific property involved would result in a particular hardship on the owner, as distinguished by a mere inconvenience, if the strict letter of the regulations were carried out

**This property could not meet the stricter guidelines and pose a hardship. The placement of older buildings restricts the placement of the house; Standard Met**
  - (ii) The conditions upon which the petition for variance are based are unique and would not be applicable, generally, to other property within the same zoning classification

**This property is unique in this county in the way that it sits; Standard Met**
  - (iii) The purpose of the variance is not based exclusively upon a desire to obtain higher financial return on the property

**The variance is for the petitioners use and not financial gain;  
Standard Met**

- (iv) The alleged difficulty or hardship has not been created by any person presently having an interest in the property  
**Existing hardships have not been created by the petitioner;  
Standard Met**
  
- (v) The granting of the variance will not be materially detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located  
**It will not affect neighboring properties; Standard Met**
  
- (vi) The proposed variance will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets, or increase the danger of fire or endanger the public safety, or substantially diminish nor impair property values in the neighborhood  
**It will not impair light and air to adjacent property or increase congestion on the roads nor will it impair property values;  
Standard Met**

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

**Dave & Cathy Lewis, owners, and Barry Petersen, contract purchaser,** 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: 17 Harbor Drive (TB 6 Lot 31) Galena Territory

Barry Petersen

- I currently own the house as of March 11, 2005
- The driveway grade does not meet and he is working with MSA Professional Services to modify the driveway grade to meet the 10% grade. 6 parking spaces are in place for the parking. The septic system is undersized and will have to install a sand filter system

**Public Testimony**

Phil & Lisa Thompson, vacant lot to the north 15 Harbor Drive

- We currently live on Clark Lane in the Galena Territory and have that listed for sale and once that sells our intentions are to build on the vacant lot north of this request Lot 32. We have lived in the Galena Territory for 10 years and have had experience with rentals. Have had more traffic generated and noise from the rentals. There are 11 more properties beyond this property and ends in a cul-de-sac. The home values increase as you get closer to the lake views.
- No shrubbery is in place toward the vacant lot to the northwest. Their back yard will be my back yard. Will probably live in the home we intend on building until we die. Do not want

weekend rental people next door. They will most likely utilize the outdoor activity areas rather than indoors because it is not a very big house.

- Concerned with adequate parking. Initially when we moved here we had encountered a neighbor that rented to family and friends and many had parties and many vehicles on the property and that left a sour taste in our mouth.
- Having a rental next door does decrease the value of the land and our home.

#### Dennis Blanchard, Lot 29 21 Harbor Drive

- Two lots south of the requested lot.
- Read a letter submitted by Diane and John Hackett – Owners of Lot 30, 19 Harbor Drive to the south of the requested property. Could not attend due to medical appointments. The Hacketts would like to object to the request for transient rental. Purchased the property to eventually occupy it as our full-time residence based upon the surrounding Harbor Drive area. The increased use of rentals has made it difficult to sell a contiguous home as well as reduces the market value. We frequently see 7 to 10 automobiles parked at other 4 bedroom rentals. Concerned with parking on the road causing unsightly and hazardous situations. The natural foliage growing on the property does not provide a privacy bearer to the adjoining properties. The small home will then increase the exterior use and generate noise pollution to surrounding properties. Exterior examination shows that the windows may not be code compliant in the bedrooms. Deeply disappointed with the possibility that this request will be approved. We strongly urge the Zoning Board to deny the request.

#### Barry Petersen

- Have no intention to upset or offend anybody. Had the idea that many homes in the Galena Territory are in the rental program.
- House is 3300 square feet and was intended for five bedrooms when built and also be used as a rental home.
- The concerns on the screening issue can be dealt with as I have the same concerns. Would be willing to lower the number of bedrooms to limit the number of occupants. Would be mainly used for my family and during the summer would I be working out of the home. If noise does become a problem I will work to try and eliminate that.

#### Ralph Hernandez, Batavia Illinois and owns home at 32 Lookout Trace

- I own a home in the Galena Territory and have a rental across the street, to the right of my property and two houses down. The rental across the street is a two or three bedroom and does not have a problem, but the home to the left of my property has at least four or five cars a weekend and tends to be very noisy. It does make a difference on the size of the home and the occupants.

#### Joyce Blanchard, 21 Harbor Drive Lot 29

- Have saved and worked very hard to find a place that will have peace and tranquility and then when we found out this home was to become rental, the owners do not have a say all the time as to who rents the home. Opposed to the request.

### **Public Testimony Closed**

### **Discussion:**

#### **Staff Report**

- Comprehensive Plan: Although the Comprehensive Plan does not address transient rental directly it does support tourism.
- Waste Treatment: Existing septic system installed in 1989 for a four-bedroom house. By current code, the system is sized for a three-bedroom house. Soil borings completed 02-28-05. Borings revealed that an upgrade to five bedrooms would require a sand filter system with chlorination. Space is available on the lot for the upgrade with expansion room.
- Access Considerations: The existing driveway grade is 12.8%, and there doesn't appear to be any simple remedies to make it less. There is adequate parking.
- Design Considerations: This is a request for a 5-bedroom rental on approximately 1.24 acres. The home was built prior to 1995.
- Other Considerations: House placement on the lot has allowed more than adequate setbacks from lot lines. Greenspace to the rear with a vacant lot to the north and an occupied home to the south. The outdoor activity area appears to be to the rear of the house with existing adequate screening.

Please note the following:

The Jo Daviess County Zoning Ordinance states that no ordinance granting a special use permit shall be valid for a period longer than twelve (12) month from the date of such ordinance unless the erection of a building or structure is started or the use is commenced within such period. As with all Guest Accommodations, window egress and hardwired smoke detector standards will have to be met in order to be licensed as well as other guidelines and standards stated in the Guest Accommodations Ordinance.

- Heather states the septic information he stated is correct
- With the reconfiguration of the driveway Steve Keeffer states that the parking is still sufficient
- Linda states that on four bedroom request occupancy would be two per bedroom plus an extra two totaling 10 people, a five bedroom would be allowed 12 people maximum. The maximum number of vehicles at a five bedroom home would be six vehicles. If there are more than six vehicles and parked on the road right-of-way the home would then be in violation of the Ordinance.
- Tom asks if you have any hard evidence that the rental homes decrease the value of homes or land next to it or in the area.
  - Lisa Thompson states that I will do my research on that and bring it back next month if you would like. Is there an opportunity to come back with documented evidence
- The public can not request a continuance for the petitioner.
- The septic system and the driveway grade can both be corrected to meet code.
- The existing screening consists mainly of dead elms that will need to be removed. If this were to be approved screening on both sides of the home especially along the outdoor activity areas to the back will need to be approved.
- Mel states that Harbor Drive does not have any other rentals on the road and we need to apply the standards to the request.
- Susie states the lot is a good size and the house is large. Screening was a concern when she reviewed the home. Septic is not an issue, but still needs to be brought up to code, driveway has been addressed and can be made to meet the code.
- Mel asks is this the proper size home on this size of a lot for the request, with outdoor activity area to the rear which is greenspace.
- Bill comments on the property values

- Tom points out that the Galena Territory is a resort area with many properties somewhat like this one.
- Tom states the request meets the standards

A motion was made by Nick Tranel to approve the request with the following conditions:

1. Submit landscaping plan to be approved by the Zoning Officer for screening to be at least 6 feet in height on both sides of the home
2. Additional septic to be installed
3. Driveway to meet the 10% grade standard

Seconded by Tom Heidenreich

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 with the additional screening to be provided; 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 will have adequate access and parking; 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: Tom Heidenreich – Aye  
Nick Tranel – Aye  
Mel Gratton – Aye  
Bill Tonne – Aye  
Susie Davis – Aye

**Ralph & Linnea Hernandez, owners,** requesting rezoning from Ag-1 General Agriculture District to R-1 Rural Residential District on a 2.06 acre parcel for a single homesite. Common Location: Derinda Road, approximately 6 miles south of US Highway 20

Ralph Hernandez

- Bought the 88 acre farm about 2 years ago and intend on building a home on the farm in the future. The 2 acres were across the road that came with the property. We really do not need the property, but it does have road access and would be great for a single-family home. It would be a win-win situation because I would generate money for my future home and the additional home on this rezoned land would generate tax money for the county. The only thing going against it is the good farmland that is there, but the 1.3 on the other side of the road is in CRP and not incorporated in the total 88 acres.

**Public Testimony**

None

**Public Testimony Closed**

**Discussion:**

**Staff Report**

- Comprehensive Plan: The Comprehensive Plan would indicate this parcel to be on the border between the Agriculture Preservation 2 area and the General Agricultural area and is shown to have large pockets of prime farmland soils.
- Waste Treatment: Soil survey indicates soil suitable for a conventional septic system on this parcel. No soil borings completed on this parcel. An existing field entrance and the road right-of-way limit available area for the septic system.
- Access Considerations: There is an existing access to this parcel with adequate sight distance.
- Other Considerations: A LESA score was done and resulted in a score of 212. Derinda Road is a County maintained road. There are larger Ag parcels adjacent with a few residential parcels sprinkled around. The City of Elizabeth is approximately 5.8 miles northwest. This is a parcel that has been divided off of the larger parcel by the road. The property is in CRP until 2007. After setbacks are in place and the utility easement taken into consideration, the buildable area of the lot is very defined

- The 2.6 acres is the yellow boundary line including the right-of-way and also has an easement across the property to make a very defined area for a home to be placed
- 60 from the right-of-way, 20 feet from the side property line, and 40 feet from the rear property line and that would give the area for the home which is very small.
- Fayette soils on the buildable area for the septic and access is adequate
- How much rural residential is in the area? Tom states that the general trend is agricultural area with farmsteads.
- The property has good soils and a LESA score of 212.
  - Ralph Hernandez states the only thing against the request is the good farm ground.
- Bill states that the parcel is surrounded by agricultural area and would set a precedent by approving this request

A motion was made by Mel Gratton to recommend denial stating the following:

1. Predominantly agricultural area with limited residential in the area
2. Buildable area is very small when setbacks are applied and the setbacks for the placement of the well and septic
3. LESA score of 212
4. Working against the Comprehensive Plan and the distance from the municipality

Seconded by Bill Tonne

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

**Ray Fruhauff, owner, & Timothy & Kelli Wand, contract purchasers,** requesting rezoning from Ag-1 General Agriculture District to R-1 Rural Residential District on a 10+- acre parcel to allow for multiple homesites. Common Location: Directly east of Deer Run Estates off of (Old) North Cross Road.

Kelli Wand, contract purchaser

- Two existing subdivisions in the area of this property: Deer Run Estates and Wienen Estates
- Spoke with Dan Cole, Road Commissioner and stated that he will chip seal the road and make a cul-de-sac at the end. The recommendation for access is only have two to serve the parcel. The parcel has wooded area which can not be utilized as good agricultural area and the intention is to keep as many trees as possible. The homes constructed would be about 2,500 to 3,000 square feet on two acre lots.

### **Public Testimony**

Ray Fruhauff, 2420 N Cross Road

- States that he was confronted by the Road Commissioner at that time when he bought the property that it is not a public road. They were collecting Motor Fuel Tax on the road then and still are today.

John McNeely 2291 N Cross Road Parcel # 106-04

- Main reason bought the lot in Deer Run Estates was because agriculture was to the rear of the property. The old North Cross Road is just a two track dirt road and just this winter it was plowed for the first time after the property was listed for sale
- Object to the request for homes to be built on that property. The Comprehensive Plan states that the intention is to maintain as much agricultural land as possible in the county. The property is within the 1½ miles of Galena and as I understand the City of Galena needs to also approve this.
- Not thrilled about the traffic being on two sides of my lot. Comments on the number of cars that will be traveling on the road

#### Phil Schuller 11638 W Cross Road

- Own the property to the lower right of the proposed rezoning. Concern is the water runoff from the homes. The bank there is very steep and wants to make sure there is water management in place.

#### Steve McIntyre, buyer's agent

- The productivity index is 69.8 when the county average is 77.1. It is adjacent to other residential uses. Most soils are suitable for conventional fields. Ample consideration is being done for the road issue.
- Was Galena able to respond to the request?
  - Linda Delvaux states they had no **comment** to the request.

#### Chuck Edmonds, 12181 W Cross Road

- Live to the northeast of the proposed property. Soil erosion and water control are a concern along with the natural spring on the property line. Is there a plan for water retention basin or soil erosion due to the slope of the hillside?
  - Mel states it will depend on the magnitude of the development and what is required.

#### Lester Johnson, Soil & Water Conservation District

- There should be some standards indicating what the planned subdivision is going to be.

#### Tom Richardson, 11943 W Red Gates Road

- Concerned with the cul-de-sac that may be installed and the traffic that will be on the road and would the township consider putting the road back the way it was with the loop.

### **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 pockets of important farmland soils. The Comprehensive Plan would encourage development adjacent to or within a mile and a half of a municipality.
- Waste Treatment: Soil survey indicates soil suitable for conventional septic systems. No soil boring submitted. Areas under the over-head-lines should be avoided for septic systems to prevent utility equipment traffic over the drainfield.

- Access Considerations: Access to the parcel is via a low maintenance township road. The road should be improved if it is to be used for residential access.
- Other Considerations: A LESA was done and resulted in a score of 146. This parcel is adjacent to Deer Run Estates and within a mile and a half from the City of Galena. The City of Galena's Plan Area Proposed Land Use Map shows this area as wooded lands. The area would lend itself to residential use, but, the topography of this parcel would make the development of multiple residential lots difficult at least. The City of Galena has no comment on this request.
- Mel states that we are only looking to see if this parcel is to be rezoned or not to residential
- The access is the old North Cross Road which will be maintained by the township. The section of the road that extends on to the property adjacent subdivision lots have not been vacated that we have recorded
  - Nate Kiefer, MSA Professional Services states that the road was not vacated and the public does have a right through the lot.
- Linda states that if they rezone the whole 10 acres they can split this in two parcels for two home sites, but if they split any further then they would have to come forward for subdivision. Petitioner's concept plan is to create five two acres lots for homes.
- Trend of development in the area may show that it is appropriate to rezone the property.
- Bill states that he is in favor of the request even though potentially could have two five acre parcels and believe can handle the septic and the runoff.
- Tom asks about the width of the road. Do we have clear access to this property? If the township owns the road then they can impose that on the property owner of the lot in Deer Run Estates.
  - Steve Keeffer states he thinks the northern part of the road was part of Deer Run and incorporated in that, but south of that it was not incorporated in the Deer Run Estates therefore could not be parceled out. The proposed property does have access. The cul-de-sac would be taken out of the 10 acre parcel.

A motion was made by Tom Heidenreich to recommend approval stating the following:

1. Low LESA score of 146
2. Subdivided land adjacent to the request
3. Trend of development in the area
4. Within 1½ miles of Galena, they have no **comment**

Seconded by Nick Tranel

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

**Rusty & Melinda VanRaalte, owners**, requesting rezoning from Ag-1 General Agriculture District to R-1 Rural Residential District a 2+-acre piece out of a 20+- acre parcel for a single homesite. Common Location: 1.4 miles west of Schapville on Schapville Road.

Rusty VanRaalte, owner

- Bought the property about four years ago
- Bought a home from Dave Dittmar that we intend on moving onto this property. The home is a two bedroom ranch home. The land where the house sits currently will be turned back into agriculture. We also intend on putting a two stall garage attached onto the house.
- Share the access with the neighbor to the rear

### **Public Testimony**

Leonard Davanzo, Harwood Heights, adjoining neighbor with same access

- It will be nice to have neighbors and we do have an easement through the property

### **Public Testimony Closed**

### **Discussion:**

#### **Staff Report**

- Comprehensive Plan: The Comprehensive Plan would indicate this parcel to be in Agriculture area and shows it to have small strips of important farmland soils.
- Waste Treatment: Soil borings completed 8/14/04. Suitable soil was located for a conventional septic system. Expansion room is available on the 20+ acre site.
- Access Considerations: There is an existing access to the property with adequate sight distance. Topography, vegetation, and roadway alignment limit the number of other access opportunities.
- Other Considerations: This area is primarily Agriculture with few residential uses nearby. A LESA score was done and resulted in a score of 142. The Galena Territory and Apple Canyon Lake are both within 5 miles of this request.
- Mel asks about the road and septic if that be incorporated in the two acres to be rezoned
  - Rusty VanRaalte states that the septic and driveway were to be incorporated, but it looks as though they are not, we are not changing the driveway.
  - Heather Miller states that the septic field does not have to lie within the two acre rezoned property because he owns the surrounding property.
  - Linda states that if he splits off the two acres they would have to come forward with subdivision
- Bill states low LESA score, contiguous residential, not very good agriculture ground
- Linda asks the petitioner about the travel trailer and if that is there for storage.
  - Petitioner states as soon as we get the home on the lot we are removing the travel trailer

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

1. Low LESA score of 142
2. Complies with the Comprehensive Plan
3. Contiguous residential
4. Low productivity
5. Suitable septic for conventional system

Seconded by Tom Heidenreich

Roll Call: Bill Tonne – Aye  
 Susie Davis – Aye  
 Tom Heidenreich – Aye

Nick Tranel – Aye  
Mel Gratton – Aye

**DSW Investments, LLC, (Donald & Sandra Wiene), owners,** requesting rezoning from Ag-1 General Agriculture District to R-1 Rural Residential District on a 5+- acre parcel for a single homesite. Common Location: At the intersection of Elizabeth/Scales Mound Road and Georgetown Roads.

Donald Wiene, owner

- When I bought the Wurster farm this 5.77 acres came as an option to buy. I sold the entire Wurster farm and would like to get this parcel rezoned to residential for a home. Subdivision down Elizabeth Scales Mound Road. Access would be the best off Georgetown Road. The home site would probably be up toward the road, but I am not sure.
- Tom Golden did the whole property for the soil borings.

**Public Testimony**

None

**Public Testimony Closed**

**Discussion:**

**Staff Report**

- **Comprehensive Plan:** This parcel is within the mile and half of the City of Elizabeth. The Comprehensive Plan would encourage development adjacent to or within the growth zone of a municipality. This would also help to insure the vitality of our communities and the close proximity would encourage the use of community infrastructure.
- **Waste Treatment:** Soil borings completed 3/10/05 on this parcel. Suitable soils for a conventional septic system were located on the west end of the lot near Georgetown Road. The soil investigator recommends further borings once a house site is chosen. Expansion/replacement area is available on the parcel.
- **Access Considerations:** Although this parcel has frontage on both Georgetown Road and Elizabeth Scales Mound Road, it should be limited to the lesser traveled Georgetown Road. There is adequate sight distance onto Georgetown Road for an entrance.
- **Other Considerations:** There is a mix of uses in the area; Ag with a few smaller residential parcels in the area. The City of Elizabeth is within approximately a mile to the southeast, Fasko's Subdivision is to the south and an existing kennel adjacent to the south. The front part of this parcel appears to have been cropped, with a few trees and a drainage area to the rear. A LESA was done and resulted in a score of 179
- Mel comments on the road alignment for Route 20. The realignment of Route 20 will not affect, but the realignment of Elizabeth Scales Mound Road will affect this request. They have not finished Phase 1 of the study to start protecting the corridor. The protecting of the corridor will happen when they complete Phase 1 and will be within a couple months, after that any improvements will have to be submitted to IDOT.
- Bill states that 3.5 acres out of the 5 acres may not be affected by the Highway realignment provided there is access to the property. If the building is not in the right-of-way would be better.

- Donald Wiene has concern with Georgetown Road and if that will be a through road.
- Steve Keeffer states the road that is shown on the plan is Elizabeth Scales Mound Road.

A motion was made by Nick Tranel to recommend approval for the request stating the following:

1. Access will be off Georgetown Road
2. Within one mile of the Village of Elizabeth
3. Contiguous to subdivision
4. Soil boring look favorable

Seconded by Susie Davis

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

**Duane & Debora Wiene, owners,** requesting rezoning from Ag-1 General Agriculture District to R-2 Rural Residential District on a 135.8 acre parcel to allow for multiple homesites. Common Location: Directly west of Wiene View and Wiene View 2<sup>nd</sup> subdivision, off of High Ridge Road.

Nate Kiefer, MSA Professional Services

- When rezoning properties come forward they refer to rezoning, but with a proposal this large you need to have a concept plan for the subdivision.
- Requesting rezoning of 135.8 acres in Rawlins and Vinegar Hill Townships with access off High Ridge Road and is within 1.5 miles of Galena
- The rezoning is immediately west and adjacent to Wiene Views 1<sup>st</sup> and 2<sup>nd</sup>, which would be a natural expansion of the existing subdivision. Existing site is agriculture plus 73 acres is in the CRP program. The CRP land used to be pasture which indicates the farming value in the land. This property does have ridge tops on the property. Most of the property is sloping at about 50% average except on the ridge tops where it is very sloping. The most prevailing soil in the upper fields is Dunbar and Dubuque soil, which have very low productivity indexes. The rest of the soils consist of Palsgrove which has a moderate productivity index and small portion has Fayette soil, which has high productivity index. Total productivity index is below the county average for the parcel
- Rezoning to R-2 with mostly 1-2 acres lots and maybe some above 2 acres
- The proposed development for the land is for the growing demand for single family affordable lots in an area between Dubuque and Galena. In Phase 2, lots have been selling about one per month and have five lots remaining out of 19 in Phase 2. The new subdivision Phase 3, the northern part, would be about 29 lots and Phase 4 would be about 32 lots about 1-3 acres in size. These lots would be similar in size to Phase 1 & 2.
- The project is on a large scale. Planning inside the boundary will ensure that all phases will work together in regards to safe access, proper drainage, and appropriate boundary buffering. We are planning the whole parcel not just part of it.
- Phase 3 will be accessed off the existing roadway on Stephanie Court. The extension of the road will be designed to meet grade requirement

- Phase 4 the southern part access will consist of the Sproule Quarry haul road. The existing road was built to meet Township standards for future use in the subdivision. The road has been surveyed for the horizontal and vertical alignments. Minor adjustments to the roadway will need to be made to meet County standards. They will have to do work to the grading of the road to meet the grade requirements. The 1<sup>st</sup> thousand feet has been seal coated and the rest is gravel, 20 feet wide which will need to have 3 foot shoulders on each side.
- The Sproule's will eventually abandon the haul road when IDOT constructs the frontage road off High Ridge Road. The roadway will then be turned back over to the Wiene's for their use. The new highway will have an on and off ramp in a clover at the intersection and the people will not have access on the highway, they will have to use the frontage road. The Wiene's have agreed to not petition for the subdivision of Phase 4 until the haul trucks are not running on that road.
- Private septic systems are a concern; 2/3 of the lots will need alternative waste system the other 1/3 will have conventional drainfield systems. Would like to if the rezoning passes; septic and house placement will then be shown on the subdivision plat.
- Greenspace and buffering will be included in the subdivision with setbacks to help preserve the timber. The property does have open areas to other properties.
- Stormwater provisions will need to be taken into consideration due to the steepness of the property – average on the property is 15%. Will need a good erosion control plan for this project. Will need to get an NPDES permit. All County Ordinances for stormwater will be followed in the design and construction of this project. Have already sent to Illinois Historic Preservation Association (IHPA) and DNR stating that no historic properties are within this project. The DNR state that there are no endangered species in the proposed rezoning area.
- The well will be abandoned that is located on the southeast corner of the property.
- Utilities and easement will be in place to incorporate if need be, public utilities and sanitary sewer system on the west end of the property, which will need a lift station.
- City of Galena stated they have no objection to the rezoning.

## Public Testimony

Roger Bussan, represent Craig Bussan which is an adjoining landowner to the request

- Main concern is the quarry road. Can I see the agreement that was made by Sproule and Wiene?
- Mel Gratton states that if it has been recorded then you can view that at the Recorder's Office
- The quarry road is placed about 300 yards east from where my father agreed to have it placed. That is an issue.
- Nate Kiefer states that the agreement is the same agreement as the Bussan's have with Sproule's, but the names are switched. I believe there was a map attached and showed where they were thinking of putting the road. Once the frontage road is complete then Sproule will abandon the road and have the abandoned road surveyed and that will be the final location of the road.

Theresa Riniker, adjoining landowner

- We are not surprised the request is coming forward, but we are not thrilled with the development, particularly the issue with the sand filter systems. Fencing will be a concern as well, we currently do not have cattle located on our property, but we plan on having cattle next year. We have many hunters that come onto our property. Some of them have permission

others do not, but our concern is having the houses on top of the ridge when the hunters are in the bottom shooting.

- Mel asks about the livestock operations around the perimeter of the request.
- States that she is going to sell a farmer about 40 acres and then he will rent the pasture for running cattle on the property.

#### Nate Kiefer

- Talks about the fencing on the boundary of the property. There will not be an association for the greenspace area.

#### Lester Johnson, Soil & Water Conservation District

- Question about the greenspace concept – are they easements that are enforced on people’s property
- May think about having a property owners association or public space. Walking trails and area may pay off for the property. What are the outlots used for?
  - Nate Kiefer states that the outlots can not be utilized, the one outlot was intended to access phase 3 from phase 2, but did not work as proposed because of a major drainage way. The outlots are going to be sold to existing phase 2 owners. The setbacks will be in place to enforce greenspace, which will not be enforced unless a homeowners association is formed, which they are not intending on doing. They will label the greenspace by setback lines for structures. Would increasing the rear setbacks have the same effect as the buffering between the farming operations and the residential lots?
- We should not have the greenspace area because no one is there to enforce that.
  - Nate Kiefer states that the plat is evidence for the homeowners to file suit with their neighbors.

#### Dave Jansen, General Manager GTA

- Neighbors do have the right to enforce covenant and restrictions. The likelihood of that is minimal because of neighboring disputes. Associations are good to have.
- Comment on the trail system is that they are very popular

#### Kris Kirkpatrick, Conservation Foundation

- In phase 3 lots 11, 12, 17, & 18 could be the lots that are greenspace. They are lacrescent soils that are very well drained. They have natural cedar growth. The prairies increase the value of the land.

#### Matt Wiener

- There are subdivisions that are higher end that have an association, but these lots that are for your average families that do not want to pay an association fee every year.

### **Public Testimony Closed**

### **Discussion:**

#### **Staff Report**

- Comprehensive Plan: The Comprehensive Plan would indicate this parcel to be in the Agriculture Preservation area 2, and is shown to have mostly important farmland soils with small pockets of prime 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 simple from the infusion of more people, there are cash benefits to farmers who are able to sell land for residential development. Along with rural residential development comes the demand for support services, such as tilling and mowing, home maintenance services and additional support to local restaurants and retail businesses.

### 2. Problems:

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

## XI. Goals and Objectives

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

- Waste Treatment: Soil Survey indicates one-third of the lots would be served by conventional septic systems and two-thirds by sand filters. No soil boring information has been submitted yet. Lot 24 of phase 4 is divided by the existing haul road, and a septic system could not be installed in the compacted road area.
- Access Considerations: This proposed development will utilize extensions of existing roadways, and consequently no new access point will be required.
- Other Considerations: A LESA has been done and resulted in a score of 168. This currently appears to be in either row crops or hay. There are several different uses within a mile radius of this request. There is adjacent farmland, residential and an operating quarry within ½ of a mile of this request. A corner of this requested parcel is within the City of Galena's mile and half growth area. The City has looked at this request and has stated that they have no objection to the reclassification of this property. This parcel has an existing subdivision development adjacent and this would appear to be a logical expansion of the adjacent residential. There is currently a haul road through this property being used by the Sproule Quarry off of Route 20. This use is not compatible with the requested residential use. It is understood this is not a permanent haul road, but, nonetheless it is currently in place and being used as such. As with any development erosion, drainage, State and County permitting should be given consideration
- Bill asks about the fencing issue. Many different homeowners with contiguous farming operations.
- Mel asks about the alternative septic systems. We have been under the impression that you need about 4 feet of soil for conventional systems. How important is that buffer between the soils. Do these systems lend themselves to affordable housing?
  - Heather Miller states that she came up with the same information as Nate Kiefer, the 1/3 and 2/3 split for system types. The four foot separation is written in the State Code for crevice limestone and that is what we are dealing with.

The sand filter is what replaces that four foot separation. Peat modules do the same as a sand filter. A sand filter can run three times more than a traditional system in cost. Many factors can drive up the cost for a sand filter. All are approved by the State Code.

- Tom states I look at the issue of who owns what part of the fence.
- Nate Kiefer states that as the time of preliminary and final plat we will know if Galena will enforce their subdivision ordinance at that time.
- Mel asks is there an alternate access across any of the existing property to serve this phase three.
  - Nate states that it is challenging, but I think that it has been worked out; it is just a matter of getting it built. The traffic flow will increase on the through subdivision road, but the Wiens' wish to keep the access away from the farmstead. Minimize the accesses off High Ridge Road.

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

1. Logical extension of Wiens View 1<sup>st</sup> & 2<sup>nd</sup> Subdivision
2. LESA score of 168

Seconded by Tom Heidenreich

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

**Reports and Comments:**

Nick Tranel made a motion to adjourn at 12:00 PM. Susie Davis seconded the motion. Voice Vote: All Ayes