

**SAUK COUNTY BOARD OF SUPERVISORS  
CONSERVATION, PLANNING, AND ZONING COMMITTEE  
Tuesday, January 24, 2017  
County Board Room/Gallery, Sauk County West Square Building**

Conservation, Planning, and Zoning (CPZ) Committee members present: D. Polivka, E. Peterson, N. Johnson, M. Flint, C. Lehman, J. Dietz, S. Laubscher.

Absent: J. Ashford

Others present: D. Lorenz, G. Templin, S. Koenig, R. Zogbaum, P. Peterson, T. Liebman. See registration slips for those in attendance for public hearing.

At 9:00 a.m. Polivka called the Conservation, Planning, and Zoning Committee meeting to order and Templin certified to be in compliance with the Open Meetings Law.

Adopt agenda: Motion by M. Flint/J. Diet to adopt the agenda as presented. Motion carried, all in favor.

Motion by S. Laubscher/N. Johnson to approve the January 12<sup>th</sup> CPZ Committee meeting minutes. Motion carried, all in favor.

Public Comment:  
None.

Communications:  
None.

Phil Peterson – USDA Wildlife Damage

- a. Discussion and possible action on Crop Price establishment. Peterson appeared and reviewed crop price establishments. Motion by C. Lehman/E. Peterson to set the crop price at \$3.45. Motion carried, all in favor.
- b. Discussion and possible action on 90% Date establishment. Peterson reviewed the 90% date establishment. Motion by M. Flint/C. Lehman to set the 90% date establishment at December 1<sup>st</sup>. Motion carried, all in favor.
- c. Discussion and possible action on Claim Approval. Peterson reviewed the Dwyer claim approval for \$2,068.79. Motion by J. Dietz/M. Flint to approve the claim for \$2,068.79 for Dwyer. Motion carried, all in favor.

**Public hearing: To begin at approximately 9:15 a.m. (Committee to consider and take possible action at the conclusion of the respective hearing.)**

a. Discussion and possible action on petition #1-2017, granting of a Conditional Use Permit (CUP) pursuant to s.7.038(9) to authorize the location of a mobile tower site. This property is located in a Resource Conservancy zoning district, in Section 21, T12N, R6E, Town of Baraboo, by AT&T. Lorenz appeared and notified the committee that the applicant requested that this hearing be postponed until February to allow them to come into compliance with FAA standards due to height issues. Chair Polivka confirmed anyone that wished to speak will defer their comments to the next public hearing. Motion by N. Johnson/E. Peterson to postpone the request to the February hearing. Motion carried, all in favor.

- b. Discussion and possible action on petition #2-2017, granting of a Conditional Use Permit (CUP)

pursuant to s.7.038(9) to authorize the location of a mobile tower site. This property is located in an Exclusive Agriculture zoning district, in Section 26, T9N, R5E, Town of Troy, by Cloud 1, LLC. Lorenz appeared and provided the background and history of the property and request. Lehman asked about options with the road. Lorenz explained there needs to be approval for access prior to the department being able to issue a land use permit for the construction. The committee confirmed that could be condition on the cup permit. Flint verified height.

Ken Hornung, appearing in favor, stated he is the property owner and said he was not aware that the town had not approved the request, nor was he aware that the DOT had not approved any access, but offered access off his existing driveway.

Joshua Fernald, Bug Tussel, stated he did all the research for this tower and has had issues getting a hold of the DOT, and while the access off of the existing driveway is not the preferred access, it is something that can happen and they can provide new plans for that.

Ken Franzen, Bug Tussel, registered for any questions.

Seeing as no one else wished to appear, Chair Polivka closed the public portion of the hearing at 9:33 a.m., and the committee deliberated.

Flint spoke that a couple conditions need to be met, which include the Town need to approve the CUP, as well as approval for access for the driveway.

T. Liebman, Corporation Counsel, suggested that driveway access must be met as a condition of the CUP.

Motion by M. Flint /E. Peterson to approve the CUP subject to all conditions being met in the ordinance, as well as the applicant having driveway access approval by the DOT. Motion carried, all in favor.

c. Discussion and possible action on petition #3-2017, granting of a Conditional Use Permit (CUP) pursuant to s.7.038(9) to authorize the location of a mobile tower site. This property is located in an Agriculture zoning district, in Section 17, T13N, R4E, Town of Winfield, by Cloud 1, LLC. Lorenz appeared and provided the background and history on the property and the request. He stated that the Town of Winfield has recently responded and stated they are in agreement that the Town needs a tower to serve the residents in the area, however they understand it may not be the best site and are unsure of legal issues with the easement on the property.

Josh Fernald, Bug Tussel, applicant, appearing in favor, stated he attended two meetings with the Town of Winfield and spoke of low coverage and a private access road, construction of the tower/facility, other easements, and the company is willing to do anything reasonable to work things out with the neighbors.

Johnson asked about a propagation map and area studied. Fernald spoke of the map and area studied for coverage.

Rod Wilson, appearing in opposition, provided a copy of his testimony, and speaking on behalf of his neighbors requesting that the CUP application be denied.

Rod Francis, appearing in opposition, spoke of the Town of Winfield comprehensive plan and stated he is forcefully against the proposed tower.

Jim Morgan, appearing in opposition, stated he is not opposed to towers, as he has one and uses one, but questions the notification procedures, the proper place to put a tower – existing towers on County Rd F and another local road. He also spoke of internet access that was just provided in the area. He asked that a decision be held until February and people in surrounding areas can be notified and if that can't happen, deny the permit outright.

Dan Sergi, appearing in opposition, stated he lives on Lake Redstone and in Illinois and are retiring to the area, planning a new home.

Barb Sergi, appearing in opposition, stated they just purchased the property there for their retirement plans, spoke of a responsibility to the environment and request that the permit be denied.

Dan Sergi, reappearing, stated the farm was purchased a couple years ago, and stated that they have halted their building plans if the tower goes up. He spoke of the jobs that will be created if they build their home and they will not build if the tower goes up and feels this will impact many lives if the tower goes up.

Peterson asked how he found out about the meeting. Sergi stated a letter arrived at his home a couple days ago. Peterson asked which parcel he is. Sergi explained where his property is located.

Joe Gordon, appearing in opposition, stated that he lives south of the proposed site, stated his parents plan to build a new home on their property and have halted plans currently as well. He stated he was also not notified of the meetings. Feels there would be a burden on his current service and requested that the proposal be denied.

Jodi Refsland, appearing in opposition, stated she is the daughter of Rod and Sue Wilson and she is set to inherit the property in the future, and provided a copy of a petition that was referred to in a previous statement. She spoke of an economic burden, co-location costs, violation of land owner rights and feels this is not in compliance with Sauk County ordinances.

Kris Even, appearing in opposition, stated her property borders the Carr property, stated that the owners that are along Ekes drive have been there for several years and Mr. Carr has been there for only over a little over a year and does not live there, but rents the property out. She stated the drive is only 1 lane and gravel and is taken care of by the land owners on Ekes Drive. She also stated they can see 3 towers from their house now and have excellent coverage, as well as LaValle telephone and Reedsburg utility for internet service.

Suzanne Wilson, appearing in opposition, stated she wishes to say everything Kris Even has said, and that because they are the ones that maintain the driveway, because Mr. Carr does not help maintain the driveway he shouldn't be allowed to let Bug Tussel come in and use it. She is also concerned with the health risk such as cancer and tumors and other health issues caused by cellular towers and feels co-location is possible.

Basel Saeed, appearing in opposition, stated he lives in Menomonee Falls, but purchased property next to Mr. Carr a couple years ago and feels it is a nice neighborhood, but there is one neighbor that doesn't get along with all the others, which is Mr. Carr. He is worried about the property values in the neighborhood.

Peterson verified where his property is located.

Doug Price, appearing in opposition, stated that if the CUP is approved the private owners of Ekes Drive will be forced to challenge this in court and feels this will be an unfair battle, but would be helpful if Sauk County was on their side.

Joe Hasler, appearing as interest may appear, stated he has been working with the property owners on Ekes Drive, spoke about property rights.

Ken Franzen, appearing in favor, spoke of the tower placement proposal and new technology, RF engineering and co-location, a feud between the land owners versus being about the tower location, zoning regulations and meeting the zoning ordinance which allows the use of a property. He also addressed the use of private property access road easements, and the fact that they will repair and improve Ekes Dr. with their use. He reviewed the setbacks for towers and verified setbacks and that it will not fall onto someone's home and reviewed the regulating authorities.

Johnson asked if there is a method of determining demand. Franzen stated they are covering the whole county. He stated it is by population, etc., but they also go through marketing.

Johnson asked about another tower that is within the line of site. Franzen stated in Sauk County they put up about 11-12, but they have co-located another 7 or so and explained the difference in new versus co-location and the coverage they can reach. He stated that both AT&T and TMobile will co-locate onto their towers.

Flint asked if they looked for another way to access that tower. Franzen stated there are only logging roads at this point, it has been studied, but at this time it is not feasible.

Lehman asked if they would be serving people that don't have good service now. Franzen stated this would cover anyone with an AT&T phone and anyone with TMobile once they finalize things, as well as internet access.

Seeing as no one else wished to speak, Chair Polivka closed the public portion of the hearing at approximately 10:30 a.m.

Liebman, Corporation Counsel, appearing, stated that local zoning is in effect, but the committee has to apply the criteria in the ordinance, which he reviewed. He then spoke of the easement and private drive issue, and hesitates to make an opinion, and stated the approval could be conditioned on the drive, but that is a private legal dispute that the parties will need to solve. He suggested to apply the judgement in connection to the zoning ordinance as they are in place, and the environmental concerns are preempted by federal law and they are prohibited in considering those relating to this application.

Polivka asked, provided they meet all the criteria, can the county stop them from building. Liebman, stated if they have sound discretion to deny, they can deny, but it has to be based on the ordinance, not on emotion. If the conditions are satisfied, then the permit shall be granted.

Peterson stated the committee is not here to pick sides and he is a strong supporter of property rights and knows that no one wants a tower in their back yard. He questioned if a motion of approval based on the driveway access. Liebman stated that the easement gives the right to access the property. He suggested this committee not do, is interpret what the easement is.

Lehman asked about this being taken care of when the easement was drafted. Liebman stated this should be handled by negotiations or the courts.

Polivka reviewed the driveway and the request in front of them.

Motion by N. Johnson/E Peterson to deny the request based on 7.151(5)(b), of the zoning ordinance, and that he doesn't feel the request meets all the criteria to approve the special exception permit based on that. Polivka stated he will have to vote in opposition to the motion.

Dietz stated he met a lot of these people Saturday morning and he spoke about this issue and they spoke about this issue and feels this is unique to any towers that has been talked about. There is no compatibility to the area and destroys the value of the properties and as far as the road, they would go to the courts and settle amongst themselves. Polivka spoke of previous applicants and other property owners that had the same arguments, and those CUPs have been granted.

Flint spoke of 2 issues, the tower versus the access.

Liebman, reappearing, spoke of the prohibitions and the tower needs to be treated the same as all similar uses.

Peterson asked for examples of similar uses. Liebman provided similar requests for the intensity of use.

Liebman also reviewed 7.140(7) which are also standards that need to be considered.

At this time, the committee voted on the motion made by Johnson/Peterson. Motion carried, 4-2, with Polivka and Lehman in opposition.

d. Discussion and possible action on petition #4-2017, granting of a Conditional Use Permit (CUP) pursuant to s.7.036(2) to reauthorize the location of a campground. This property is located in a Recreation Commercial zoning district, in Sections 5 & 6, T11N, R7E, Town of Greenfield, by Cady, LLC. Lorenz appeared and provided a history and background of the property and the request.

Polivka verified why a CUP is being requested. Lorenz explained.

Ken Cady, applicant, appearing in favor of the request, explained his property and the campground operation.

Seeing as no one wished to speak, Chair Polivka closed the public portion of the hearing at 11:10 a.m.

Motion by M. Flint/C. Lehman to approve the CUP request for the location of a campground. Motion carried, all in favor.

Presentation and discussion on Soil Health – Serge Koenig. Koenig appeared and gave a presentation on soil health impacts.

Presentation and discussion on Farmer Education – Madison College Opportunities – Randy Zogbaum. Zogbaum appeared and gave a presentation on farmer education through Madison College. Flint asked about the costs of each class/credits. Johnson asked about VA approval and class schedules.

Next meetings of the Conservation, Planning, and Zoning Committee will be held on Thursday, February 9, 2017, at 9:00 a.m. and Tuesday, February 28, 2017 at 9:00 a.m. Motion by M. Flint/C. Lehman to adjourn at 11:40 a.m. Motion carried, all in favor.

Respectfully submitted,

Nathan Johnson, Secretary