

Town of Burke
Plan Commission Minutes
January 27, 2010
5:30 p.m.

Members Present: Mike Vraniak, Chairperson; RJ Hess; Christie Legler; Joan Stoflet; Marv Urban and George Walsh.

Others Present: Brenda Ayers, Clerk/Treasurer. See attached list for other interested parties in attendance.

1. Call to order.

The meeting was called to order at 5:33 p.m. by Chairperson Vraniak.

2. Discuss/possible action concerning a request from Fern Knepp (agent for property owner Lavern Nelson) for rezone petition number 10125 from A-1 to C-2, for the purpose of marketing property to commercial buyers, property located at 4348 Hoepker Rd, Madison (parcel numbers 0810-084-9290-5 and 0810-084-9160-2).

Joe Bartol, attorney representing the Nelsons, explained that the property owners wish to market the property as commercial in accordance with surrounding properties. David Haug, realtor for the Nelsons, explained that they are asking for the rezone prior to a sale because previous offers have fallen through due to the present zoning. The Nelsons have agreed to a deed restriction prohibiting items (o), (t) and (v) of the C-2 permitted uses from Chapter 10 of the Dane County Zoning Ordinance rev. date 063008 (copy attached). In addition, Dane County staff also recommends prohibiting items (h), (l) of the same section and items (m), (g) of C-1 permitted uses and item (g) of LC-1 permitted uses. Hess noted that the Town will add additional restrictions in accordance with a rezone approved last fall in the same area.

Motion: Hess/Walsh to recommend approval of rezone petition number 10125 to the Town Board with a deed restriction prohibiting the following uses from Dane County Zoning Ordinance rev. 6030008 C-2 (1) (d), (h), (i), (j), (l), (m), (n), (o), (p),(r), (t), (v); C-1 (1) (m) and (g) and LC-1 (1) (c) and (g). In addition, the condition numbers 1. and 2. noted in the letter from Michael Waidelich, City of Madison, to Dane County Zoning dated December 17, 2009 (copy attached) must be added to the deed restriction. Also, all new or replacement signs, bill boards, or street graphics shall comply with the Madison Street Graphic Control Ordinance and the Town of Burke will not issue any sign permits without approval from the City of Madison as noted in condition number 3. of the Waidelich letter. Motion carried.

3. Discuss /possible action concerning a request from T-Mobile for a Conditional Use Permit for the purpose of erecting a three carrier 195 foot monopole communications tower at the property located at 3392 Brooks Drive, Sun Prairie (parcel number 0810-123-8850-0).

Chris Rishwain of Concordia Wireless explained that Concordia is the site acquisition vendor for this project. In response to questions from Plan Commission

members, Rishwain explained that the existing building and tower will remain on the property and the new tower will be 30 feet to the north of the existing tower which is owned by Clear Channel. Hess asked for clarification of the condition of the existing tower since the applicant indicated that the tower “was not structurally sound.” Rishwain explained that the tower as it exists is sound, but it is not sound enough to handle their equipment. Hess asked if there is an existing Conditional Use Permit on the property. Rishwain answered that there is a separate CUP for the other Tower. Walsh noted that the map provided T-Mobile had a different parcel number than noted on the agenda. Hess stated that he would like to see the FAA studies that the petitioner noted in the application would be completed. Hess also noted that the petitioner should provide the Town with a copy of CSM 1069.

Motion: Hess/Stoflet to table action on the request pending further information including: the FFA application, a copy of the CUP and restrictions for the existing tower, confirmation of the correct parcel identification number and a copy of CSM 10689. Motion carried.

4. Update on the DeForest ETZ. No report.
5. Update on the plans for Token Creek Park. No report.
6. Approval of minutes from January 13, 2010.

Motion: Hess/Stoflet to approve as presented. Motion carried.

7. Adjourn.

Motion: Walsh /Legler to adjourn. Meeting adjourned at 6:50 p.m. Motion carried.

Brenda Ayers
Clerk/Treasurer
Town of Burke
02/2/2010

10.127 A-3 AGRICULTURE DISTRICT. (1)

Statement of purpose. The purpose of the A-3 Agriculture District is to preserve, for an unspecified time period in agricultural and related open-space land uses, those lands generally located in proximity to developed areas within Dane County where urban expansion is inevitable and broadly in keeping with long time plans for development. It is intended that urban development be deferred in such areas until the appropriate authorities concerned determine that it is economically and financially feasible to provide public services and facilities for uses other than those permitted in the district. It is also intended that the status of all areas in this district be reviewed by the appropriate authorities periodically in order to determine whether, in light of current land development trends, there should be a transfer of all or any part of those areas to some other appropriate use district. Any such review will consider developments in keeping with the local and regional land use plans pursuant to section 10.255(1)(d).

(2) *Permitted uses.* All uses permitted in the A-1 Exclusive Agriculture District.

(3) *Conditional uses permitted in the A-3 Agriculture District.* All conditional uses permitted in the A-1 Exclusive Agriculture District.

(4) *Building height limit.* Building height shall be the same as for the A-1 Exclusive Agriculture District.

(5) *Area, frontage and population density regulations.* As per the A-1 Exclusive Agriculture District.

(6) *Setback requirements.* Setback requirements shall be the same as for the A-1 Exclusive Agriculture District.

(7) *Side yard requirements.* Side yard requirements shall be the same as for the A-1 Exclusive Agriculture District.

(8) *Rear yard requirements.* The minimum rear yard shall be the same as for the A-1 Exclusive Agriculture District.

(9) General provisions applicable to the A-3 Agriculture District shall be the same as for the A-1 Exclusive Agriculture District.

(10) *Off-street parking.* Off-street parking shall be provided as required in section 10.18.

[History: (8) and (9) am., Sub. 3 to OA 36, 1987-88, pub. 08/02/88; (8) and (9) am., OA 9, 1993-94, pub. 04/20/94; (6) and (7) am., OA 16, 1996-97, pub. 01/16/97; (10) cr., OA 39, 1997-98, pub. 08/17/98; (2), (3), (4) and (5) am., OA 3, 2000-01, pub. 10/19/00.]

10.13 C-1 COMMERCIAL DISTRICT. (1)

Permitted uses. (a) Retail and service uses

including, but not limited to, grocery stores, drugstores, hardware stores, appliance and furniture stores, barbershops and beauty shops without limitation as to size.

(b) Self service laundries and dry cleaning establishments.

(c) Warehousing and storage incidental to a permitted use on the premises. Mini-warehouses are excluded from use in this (C-1) district.

(d) Medical, dental and veterinary clinics.

(e) Banks, offices, office buildings and condominium office buildings devoting not more than two (2) floors to office space.

(f) Utility services.

(g) Rooming and boarding houses.

(h) Bakeries, printing plants, laundries, dry cleaning plants.

(i) Distribution centers and wholesale businesses.

(j) Woodworking shops, machine shops, manufacturing and assembly plants.

(k) Bicycle sales and service.

(L) Rental businesses, except for motor vehicles and construction machinery and equipment.

(m) Experimental laboratories not to exceed 5,000 square feet of floor area.

(o) Sales and repair of lawn and garden equipment.

(p) Games such as horseshoes, volleyball or similar activities not lighted for night operation.

(q) Marinas.

(r) Off-site parking of motor vehicles as provided in section 10.18(3)(c).

(s) Crematoriums.

(t) All uses permitted in the LC-1 Limited Commercial District.

(2) *Conditional uses permitted in the C-1 Commercial District.*

(a) Single family residences, duplexes, multi-family residences.

(b) Banks, offices, office buildings and condominium office buildings devoting more than two (2) floors to office space.

(c) Motels, hotels, taverns, funeral homes and drive-in establishments.

(d) Hospitals, veterinary hospitals, nursing homes, convalescent centers, extended care facilities.

(e) Mobile home parks, subject to special conditions as provided for in s. 10.08(10).

(f) Outdoor amusement parks or other entertainment activity that is open to the public on either a permanent or temporary basis.

(g) Indoor or outdoor movie theater.

- (h) Automobile laundries, car wash facilities.
 - (i) Dog and cat boarding kennels, grooming and training facilities.
 - (j) Communication towers.
 - (k) Storage of motor vehicles awaiting disposition either as abandoned vehicles or for the settlement of an insurance claim.
 - (m) Governmental uses.
 - (n) Agricultural uses.
 - (o) Games such as horseshoes, volleyball or similar activities lighted to operate at night.
 - (3) *Building height limit.* (a) For business buildings, including offices, the maximum building height shall be four (4) stories, provided, however, that a conditional use permit shall be required for any building that provides more than two (2) stories devoted to office space.
 - (b) Lots or building sites for residential purposes or for combined business and residential uses shall comply with the requirements of the R-4 Residence District.
 - (4) *Area, frontage and population density regulations.* Area, frontage and population density regulations shall be the same as for the B-1 Local Business District.
 - (5) *Setback requirements.* Setback from front lot line or highway right-of-way shall comply with the provisions of section 10.17.
 - (6) *Side yard requirements.* Side yard requirements shall be the same as for the B-1 Local Business District.
 - (7) *Rear yard requirements.* (a) For buildings to be used exclusively for business purposes the minimum depth of any rear yard shall be 10 feet.
 - (b) For residential buildings, or buildings combining residential and business uses, the minimum depth of any rear yard shall be 25 feet.
 - (8) *Off-street parking.* Off-street parking space shall be provided in accordance with the provisions of section 10.18.
 - (9) *Screening provisions.* On lots adjacent to or abutting land in a residence district, the screening provisions of section 10.16(8) shall be complied with prior to the issuance of a certificate of compliance.
- [History: (1)(q) cr., Sub. 2 to OA 25, 1987-88, pub. 02/29/88; (1)(c) am., OA 1, 1994-95, pub. 09/02/94; (2)(c) and (3)(a) am., OA 16, 1996-97, pub. 01/16/97; (2)(j) am., OA 57, 1996-97, pub. 09/02/97; (1)(r) cr., OA 39, 1997-98, pub. 05/17/98; (8) am., OA 3, 2000-01, pub. 10/19/00; (1)(s) cr., OA 38, 2004-05, pub. 09/12/05; (1)(t) cr., OA 27, 2005-06, pub. 05/16/06.]
- 10.14 C-2 COMMERCIAL DISTRICT. (1)**
Permitted uses. (a) All uses permitted in the C-1 Commercial District without limitations as to size.
- (b) Major repairs to motor vehicles.
 - (c) Sales of new and used motor vehicles.
 - (d) Sales of new and used mobile homes, recreational equipment rental, sales and service.
 - (e) Sales of new and used contractor's machinery and equipment.
 - (f) Repairs, storage and service of contractor's machinery and equipment.
 - (g) Rental and leasing of motor vehicles, contractor's machinery and equipment.
 - (h) Bulk fuel storage, sales and storage of lumber and building material.
 - (i) Truck and bus terminals.
 - (j) Auxiliary or supplemental electric generating stations.
 - (k) Fertilizer mixing or blending plants.
 - (L) Slaughterhouses, meat processing plants.
 - (m) Bottling plants.
 - (n) Utility services.
 - (o) Storage, repair and maintenance of carnival, concession and circus machinery and equipment.
 - (p) Automobile and truck driver training schools and construction equipment operator training schools that are privately owned and operated for profit.
 - (q) Parking or storing of motor vehicles.
 - (r) Storage or processing of scrap or waste materials, conducted entirely within a building.
 - (s) Warehouses.
 - (t) Games such as horseshoes, volleyball or similar activities not lighted for night operation.
 - (u) Mini-warehouses.
 - (v) Adult book stores, subject to the standards set forth in s. 10.193.
 - (w) All uses permitted in the LC-1 Limited Commercial District.
 - (2) *Conditional uses permitted in the C-2 Commercial District.*
 - (a) Outdoor amusement parks or other entertainment activity whether on a permanent or temporary basis that is open to the general public.
 - (b) Movie theaters, outdoor theaters.
 - (c) Drive-in establishments.
 - (d) Automobile race tracks, snowmobile race tracks and courses, all-terrain vehicle race tracks and courses and motorcycle race tracks including moto-cross and hill climbing courses.
 - (e) Mineral extraction subject to the special conditions of section 10.191.
 - (f) Solid waste disposal operations, sanitary landfill sites.
 - (g) Auto laundries, car washes.
 - (h) Taverns.
 - (i) Residence for a watchman or caretaker.

- (j) Communication towers.
 - (k) Dog and cat boarding kennels, grooming and training facilities.
 - (L) Governmental uses.
 - (m) Agricultural uses.
 - (n) Games such as horseshoes, volleyball or similar activities lighted to operate at night.
 - (o) Religious uses.
 - (p) Motels and hotels.
 - (q) Storage of explosive materials in strict conformance with Wisconsin Administrative Code provisions relating to explosive materials.
 - (3) *Building height limit.* The maximum height for all buildings shall be fifty (50) feet. Tanks, storage bins, silos and towers shall not be subject to this limitation.
 - (4) *Area, frontage and population density regulations.*
 - (a) The area and frontage shall be the same as for the B-1 Local Business District.
 - (b) Any principal building together with its accessory building shall not cover more than sixty percent (60%) of the lot area.
 - (5) *Setback requirements.* Setback from front lot line or highway right-of-way shall conform to the provisions of section 10.17.
 - (6) *Side yard requirements.* Side yard requirements shall be the same as for the B-1 Local Business District.
 - (7) *Rear yard requirements.* (a) For business and commercial buildings, the minimum depth of any rear yard shall be 10 feet.
 - (8) *Screening provisions.* On lots adjacent to or abutting land in a residence district, the screening provisions of section 10.16(7) shall be complied with prior to the issuance of a certificate of compliance.
 - (10) *Off-street parking.* Off-street parking shall be provided as required in section 10.18.
- [History: (1)(u) cr., OA 1, 1994-95, pub. 09/02/94; (2)(o) cr., OA 42, 1994-95, eff. 09/26/95; (2)(d) am., Sub. 2 to OA 19, 1995-96, eff. 02/25/96; (2)(p) cr., OA 15, 1996-97, pub. 01/06/97; (2)(c) and (e) and (8) am., OA 16, 1996-97, pub. 01/16/97; (2)(j) am., OA 57, 1996-97, pub. 09/02/97; (10) cr., OA 39, 1997-98, pub. 08/17/98; (1)(v) cr., OA 3, 1998-99, pub. 09/24/98; (2)(q) cr., OA 22, 1999-2000, pub. 06/27/00; (1)(w) cr., OA 27, 2005-06, pub. 05/16/06.]

10.141 LC-1 LIMITED COMMERCIAL DISTRICT. (1) *Permitted uses.* (a) General, mechanical and landscape contracting businesses and buildings used in connection with such activity.
 (b) Storage of construction equipment necessary for the operation of a general, mechanical or landscape contracting business.

There shall be a limit of 12 items of equipment stored on each zoning lot.

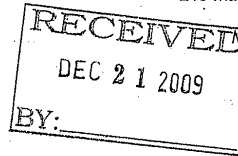
- (c) School bus and motor coach transportation businesses including offices and parking, storage and maintenance of buses and other vehicles used in the business, such as vans and maintenance tow trucks. Bus terminals for said businesses are not permitted.
 - (d) Maintenance and repairs to vehicles and construction equipment for school buses stored on the premises and not as a service to other owners.
 - (e) Outside storage of materials or supplies used by a contractor in fulfilling his or her contracts and not offered for sale to a user or consumer.
 - (f) Utility services.
 - (g) A single family residence for an owner of the business or a caretaker.
 - (2) *Building height limit.* Residential buildings shall not exceed 35 feet in height or two and one-half (2-1/2) stories.
 - (3) *Lot area.* Minimum lot area shall be not less than 100 feet of lot width and 20,000 square feet of lot area.
 - (4) *Lot area coverage.* The total floor area of commercial buildings, residential and residential accessory buildings shall not exceed 35 percent of the lot area.
 - (5) *Building setback requirements.* (a) Setback from front lot line to highway right-of-way line shall conform to the requirements of section 10.17.
 (b) Construction equipment or material shall not be stored between the building setback line and the front lot line of any lot.
 - (6) *Side yard requirements.* The minimum width for any side yard shall not be less than 10 feet for any building.
 - (7) *Rear yard requirements.* (a) For buildings used for commercial purposes and residential accessory buildings the minimum rear yard shall be not less than 10 feet.
 (b) For residential buildings the minimum rear yard shall be not less than 25 feet.
 - (8) *Screening requirements.* For lots adjacent to a residence district the screening provisions of section 10.16(7) shall be complied with prior to the establishment of a commercial use.
 - (9) *Off-street parking.* Off-street parking shall be provided as required in section 10.18.
- [History: (1)(c) am., petition #4047, pub. 09/14/87; (8) am., OA 16, 1996-97, pub. 01/16/97; (9) cr., OA 39, 1997-98, pub. 08/17/98; (7)(a) and (b) am., OA 3, 2000-01, pub. 10/19/00.]



Department of Planning & Community & Economic Development
Planning Division

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December 17, 2009

Dane County Zoning and Land Regulation Committee
c/o Dane County Department of Planning & Development
City-County Building, Room 116
210 Martin Luther King, Jr. Blvd.
Madison, Wisconsin 53710

RE: Zoning Petition No. 10125 – 4348 Hoepker Road in the Town of Burke

Dear Chairperson Miles:

Staff of the City of Madison Planning Division have reviewed the application by Lavern Nelson to rezone the property at 4348 Hoepker Road from the A-1 Agricultural to the C-2 Commercial district. The property comprises about 10.8 acres and extends between Hoepker Road and Acker Road. According to the letter of intent submitted with the application, the purpose of the requested rezoning is to be able to offer a commercially-zoned parcel to a potential buyer, and no specific land use or development plans for the property are proposed at this time. Although a future land use has not been specified, the applicant has offered to deed restrict the property to exclude certain otherwise allowed C-2 district uses, including storage, repair and maintenance of carnival equipment, games such as horseshoes, volleyball or similar activities not lighted for night operation, and adult bookstores. Dane County Zoning Division staff have recommended several additional use restrictions. It is anticipated that the existing residence on the property would be removed prior to any future development.

This property is located within the Boundary Adjustment Area-Madison defined in the 2007 *Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan*, and will eventually become a part of Madison in October 2036. The property is within a Protected Area and so will remain in the Town of Burke until that time. The property is also within the DeForest Extraterritorial Water Service Area defined in the *Cooperative Plan* and will receive future public water service, and may receive future sanitary sewer service, from the Village, rather than from Madison---even after the property is attached to the City. As provided by the *Cooperative Plan*, all development proposals within the Boundary Adjustment Area-Madison must be reviewed and approved by the City of Madison for consistency with its development requirements. "Development" includes division of land, construction of more than one principal structure on a parcel, or rezoning a property from an agricultural or residential to a non-residential classification. The *Cooperative Plan* also requires that all new or replacement signs, billboards or street graphics shall comply with the restrictions of the Madison Street Graphics Control Ordinance and with the applicable Dane County sign regulations, whichever are more restrictive.

The types of uses allowed in the C-2 Commercial district are very broad, but most appear generally consistent with the land uses recommended in the Town of Burke Plan, which identifies this area as part of the Token Creek Business Core area. Many (but not all) C-2 uses would also be generally consistent with the broad recommendations of the *City of Madison Comprehensive Plan* and the *Hanson Road Neighborhood Development Plan*, both of which designate this area as "Industrial." As noted in the application, the

surrounding properties are currently characterized by a variety of industrial and heavier commercial uses; and while the City would be concerned with the introduction of major retail or entertainment uses here, for example, these types of uses may be relatively less likely at this location.

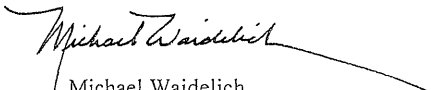
Because most of the potential C-2 uses would be generally compatible with the existing surrounding uses and the recommendations of Town of Burke and City of Madison adopted plans, the Planning Division, is not opposed to the proposed rezoning on the general issue of land use. However, the City is concerned that because the requested rezoning does not identify a specific future use for the property, and does not include site or building plans for a specific future development, no information is currently available that would allow consideration of many important issues that would typically be considered in the City's review of a development proposal. This is a relatively large property with access to two public roadways, and could potentially accommodate a significant amount of future development. The potential ability of either the Village of DeForest or the City of Madison to provide this area with public water and sewer service, and the timing of such service, are also undetermined at this time. While not opposed to the proposed rezoning *per se*, City of Madison approval of this rezoning in the absence of a specific development proposal needs to be conditioned on retaining the City's right to review and approve the actual future redevelopment of the property when that occurs.

The City of Madison recommends that the proposed rezoning of the property at 4348 Hoepker Road in the Town of Burke from the A-1 Agriculture to the C-2 Commercial zoning district be approved subject to the following conditions:

1. That a deed restriction be recorded on the property specifying that future plans for development of the site, or construction of any buildings or other structures on the property, must be reviewed and approved by the City of Madison against its development requirements as defined in the *Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan*.
2. That the deed restrictions proposed by the applicant and by Dane County Zoning Division staff limiting the uses of the property be recorded.
3. That all new or replacement signs, bill boards, or street graphics on the property shall comply with the restrictions of the Madison Street Graphics Control Ordinance (Chapter 31 MGO). The Town of Burke shall not issue permits for any signs, bill boards, or street graphics on this property prior to their approval by the City of Madison.

Thank you for the opportunity to comment on this proposed rezoning. If you have any questions about the information in this letter, please give me a call at 266-4635.

Sincerely,


Michael Waidelich
Principal Planner

- c. Brenda Ayers, Clerk-Treasurer Town of Burke
Lavern Nelson, Applicant
Fern Knepp, Agent for the Applicant
Deane Baker, Director of Public Works, Village of DeForest
Bradley J. Murphy, Planning Division Director