

Town of Perry
Minutes of the Land Use Committee Meeting
Monday, April 9, 2001
Perry Town Hall

1. **Call to Order.** Chairman Mick Klein-Kennedy called the meeting to order at 8:00PM. Committee members Steve Ashman, Milo Grundahl, Don Kellesvig, Dean Vogel and Mary L. Price, Clerk were present. Also in attendance were Scott Jelle, Becky Rehl, Carl Fredericks, Walter Hamady, Roger Parkos, Nancy Parkos, Daniel Kaiser, Ralph Kleppe, Reynold Anderson, Cornelius Fink, Craig Bluschke, Linda Bluschke, Russell Berg, Margaret Berg, Greg Boley, Ralph Grinder, Larry Price, Bill Gehl, Sue Gehl, David Gehl, Jean Sherven, Bob Sherven, Duane Iverson, Carroll Iverson, Pat Downing, John Gehl, Gary Karls, Ed Sutter.

Chairman Mick Klein-Kennedy explained the communications objectives which would be followed to facilitate this meeting.

2. **Minutes of Previous Meeting** – January 2, 2001. Steve Ashman moved and Don Kellesvig seconded a motion to approve the minutes as presented. Motion carried.
3. **Consideration/Recommendation to the Town Board on Site Plan Application including dwelling construction for Steve Laufenberg, HSJ Corp., 687 CTH H, in Section 21.** Chairman Mick Klein-Kennedy announced that he would abstain from the discussion and abstain from motions regarding this application due to a possible conflict of interest as the applicant is the Chairman's employee.

Dean Vogel was appointed interim Chairman to lead the discussion. He asked for a representative of the applicant – no one appeared. Dean Vogel reviewed the site view which was held on April 7, 2001. Dean Vogel moved and Steve Ashman seconded a motion to table consideration of this application until a complete Site Plan Application is presented. Motion carried.

4. **Consideration/Recommendation to the Town Board on Site Plan Application including dwelling construction, Driveway Construction Application, Zoning Change and Land Division for Scott Jelle, Tyvand Rd., in Section 35.**

Mick Klein-Kennedy resumed the chair. The Chairman reviewed the Land Division Application transferring from David Jelle to Scott Jelle. Steve Ashman moved and Dean Vogel seconded a motion to recommend that the Town Board approve the Land Division from David Jelle to Scott Jelle. Steve Ashman observed that since the division is bounded by Tyvand Road the farm operation will not be adversely affected. Motion carried.

Milo Grundahl moved and Steve Ashman seconded a motion to recommend that the Town Board approve the Driveway Application and a Driveway Construction permit be

issued to Scott Jelle. Dean Vogel commented that Scott Jelle has tried to put the driveway along the fence line with minimal interference and the slopes do not exceed 20% which fits the criteria of the Land Use Plan. Mick Klein-Kennedy added that Scott Jelle has done a good job to comply with the criteria of the Land Use Plan, including the culverts needed. Steve Ashman noted that the proposed driveway will have no impact on the farmability of the parcel, i.e. contour strips, is well-planned and conforms to the Land Use Plan. Motion carried.

The Committee and Larry Price and Pat Downing discussed a Zoning Change requirement based on farm residence, farm income and other information provided to Dane County Zoning. Scott Jelle indicated the area to be re-zoned from A1-EX to RH-1. Mick Klein-Kennedy advised Scott Jelle to prepare an exhibit showing the area to be re-zoned for the Clerk. Dean Vogel reviewed portions of the Land Use Plan and observed that Scott Jelle preserved ag. land in siting his house. The Committee advised Scott Jelle to consult Dane County Zoning on re-zoning requirements. Dean Vogel moved and Steve Ashman seconded a motion to recommend that the Town Board approve Scott Jelle's re-zoning application if needed. Motion carried.

Milo Grundahl moved and Dean Vogel seconded a motion to recommend that the Town Board approve the Site Plan Application as presented by Scott Jelle. Dean Vogel commented that the site is at the edge of the field, and has minimal conflict with neighbors, no negative comments were received from neighbors, and has minimal impact on agriculture operations, and fits the Land Use Plan mandatory criteria. Mick Klein-Kennedy observed that the Site Plan Application needs to be updated with dimensions and siting of the house, contingent on the septic system within the two acres described as residential, the pole barn location, and the driveway dimensions. Motion carried.

5. Consideration/Recommendation to the Town Board on Site Plan Application including dwelling construction and Driveway Construction Application for DSG Evergreen F. L. P.. Parcel 0506-064-9700 in Section 6

A. Driveway Permit

Dean Vogel moved and Steve Ashman seconded a motion to recommend that the Town Board deny the Driveway Construction Application for DSG Evergreen F. L. P. as presented. Dean Vogel noted that the driveway construction is shown bisecting an agricultural field and creating two agricultural fields, and the Land Use Plan requires minimal interference with agricultural operations. Mick Klein-Kennedy agreed with the interpretation and said that the driveway construction design impacts the farmability. He indicated that past applicants have found alternative driveway construction sites. Steve Ashman commented that the current field road was re-constructed to form a driveway to a residence, it impacts the farmability, it's wrong and there are other ways to construct the driveway.

David Gehl said the existing field road already divides the field into two fields.

Motion carried.

B. Site Plan

Dean Vogel moved and Don Kellesvig seconded a motion to recommend that the Town Board deny the Site Plan Application for DSG Evergreen F. L. P. as presented. Steve Ashman observed that the proposed house is sited in the middle of the agricultural field, and will interfere with the view from the Hauge Church based on the comments received from the neighbors and others. Dean Vogel agreed and said that the mandatory requirements – Number 10, Number 11 and Number 12 of the Land Use Plan – have not been met, and considerable interest in preserving the view from the Hauge Church has been expressed. He commented that the Site Plan is in conflict with the Land Use Plan.

David Gehl asked if the Land Use Plan included a farmer's house. Mick Klein-Kennedy clarified that the Land Use Plan includes all dwellings. David Gehl said that the view will not be interrupted.

Bill Lorenz who owns land in the Town advised that Mr. Gehl should be able to build wherever he wants on his land.

Dan Kaiser commented that the Committee gave good advice to Scott Jelle and asked what advice the Committee would give to Mr. Gehl. Mick Klein-Kennedy clarified that the advice given to Scott Jelle was to include further details to his Site Plan Application.

Dan Kaiser said that the Town should enforce the spirit of the law and will need to reach an agreement or the Town will have a legal battle for a long time into the future.

Mick Klein-Kennedy said that the Town has tried to reach an agreement for a long time.

David Gehl asked if the Town believes it has the right to site houses. Mick Klein-Kennedy read Number 6 of the Land Use Plan.

Walter Hamady said that it is his belief that the parcel does not have a density unit and therefore no permits should be issued. He said, "There are no non-ag building sites on that parcel as per Town of Perry Land Division rules as of August 22, 1979; there is no statute that says a farmer or anyone else is entitled to an 'out density unit' in the Land Use Plan; If a precedent is made by allowing the creation of a new density unit by virtue of juggling acres between one parcel and another, then the integrity of the existing law is destroyed and made mockery of; deception, extortion and greed are not honored or deferred to in Common Law."

David Gehl said that there are no density rules for farmers.

Mick Klein-Kennedy clarified that one house equals one density unit.

Ed Sutter asked who decides the number of density units. Mick Klein-Kennedy explained that the Density Committee's work is based on the number of density units as of 1979, i.e. the total number of acres owned in 1979 divided by 35 acres equals the number of density units per parcel.

Motion carried.

C. Building Permit for Dwelling.

Steve Ashman moved and Dean Vogel seconded a motion to recommend that the Town Board deny a building permit for a dwelling on the parcel owned by DSG Evergreen F. L. P. as presented.

Dean Vogel stated that the application does not meet Number 10, Number 11 and Number 12 of the Land Use Plan due to siting in the middle of an agricultural field; minimal conflict with neighbors based on comments received; and disturbing a historical site – Hauge Log Church. Mick Klein-Kennedy observed that the proposed development has caused neighbor concerns and will disturb the views and vistas.

David Gehl said that he is not building on a historic site.

Bill Lorenz asked who opposes. Mick Klein-Kennedy reported that some adjoining landowners oppose the construction.

David Gehl said that he has received no neighbor complaints. He reported that he sent 11 Neighbor Notifications. Mick Klein-Kennedy polled the neighbors in attendance: Gary Boley – opposed; Craig and Linda Bluschke – opposed; Fred Smith – not opposed. Mick Klein-Kennedy reported that the Hauge Church Preservation Association is opposed, and other neighbors have expressed opposition.

David Gehl requested that co-existence with farmers should be considered.

Dan Kaiser observed that ultimately a resolution must be agreed upon and he recommended that the Town should suggest reasonable alternatives. Mick Klein-Kennedy agreed with the advice.

David Gehl reported that he was denied a building permit by the Town, that he tried to accommodate by reviewing a proposed agreement with the Hauge Church Preservation Association. He said he moved the ag. accessory building site 60 feet, the excavator started the site preparation for the ag. accessory building in error. He asked for suggested alternatives.

Mick Klein-Kennedy suggested that the house should be moved from the middle of the field and the driveway should be routed so that it does not cut the field in half.

David Gehl said the field is in the CRP program.

Steve Ashman observed that the field road formerly was mowed and part of the field.

David Gehl said that the field road was constructed and it was graveled for safety reasons.

Mick Klein-Kennedy reminded attendees that as in past practice houses and driveways skirt agricultural fields and are not placed in the middle of fields, and advised the same type of placement for this site.

David Gehl advised that the Town's attorney should be consulted.

Motion carried.

6. **Informal discussion with Bob and Jean Sherven and Dwayne Iverson.** Dwayne Iverson presented preliminary plans for rezoning a parcel for a homesite as there is an accepted offer to purchase. The Committee reviewed the preliminary plan and asked for clarifications and measurements. The Committee advised that the driveway should be engineered; questioned the slopes; and advised that two acres should be re-zoned to Residential but not in choice agricultural land.

7. **Informal discussions:**

- A. **with Roger and Nancy Parkos.** Roger Parkos presented preliminary plans to divide a parcel from their farm and asked if there was a density unit assigned to twelve acres divided from their main farm by Highway 78, indicating that they plan to sell the farm and need to know how many density units are assigned. They were advised to review the Land Use Plan and consult the Density Committee.
- B. **with Randy Laufenberg.** Milo Grundahl moved and Steve Ashman seconded a motion to hold an informal discussion with Randy Laufenberg to discuss Steve Laufenberg's Site Plan Application. Motion carried. Mick Klein-Kennedy appointed Dean Vogel as interim chair. Dean Vogel reviewed the observations of the Committee at the Site View held on April 7, 2001 without a completed Site Plan. Randy Laufenberg asked the Committee to review revisions to the preliminary Site Plan for the first site viewed at the Site View. The Committee asked for additional information concerning homesites. Larry Price asked for a point of order – since the application is not complete the previous motion to table the recommendation is correct and since nothing has been submitted for the action by the Committee. Don Kellesvig agreed. The Committee advised Randy Laufenberg to follow the Application Guide, noting slopes and driveway entrances. Larry Price advised that the Laufenberg family should reconsider the sites to determine if they are saleable considering driveway access or easements required.

The Clerk was directed to send a copy of a past applicant's Site Plan to Randy Laufenberg as an example of documentation needed to be considered.

8. **Consideration/Recommendation to the Town Board for a change in the Dane County Farmland Preservation Plan through amendments to the Town of Berry Land Use Plan and the Town of Springdale Land Use Plan.** The Committee discussed this proposed change and decided that the Committee had no recommendation for action by the Town Board.
9. **Chapter 10 Amendments** – Recommendation to Town Board to Approve/Disapprove:
 - A. Ord. Amendment 30 – Mobile Home Parks, spacing between homes
Dean Vogel moved and Don Kellesvig seconded a motion to recommend that the Town Board disapprove Ord. Amendment 30. Motion carried.
 - B. Ord. Amendment 31 – Easing Appeals of Conditional Use Permits by Town Boards
Mick Klein-Kennedy moved and Milo Grundahl seconded a motion to recommend that the Town Board approve Ord. Amendment 31. Motion carried.
10. **Report on Open Space Plan Committee's activities.** Mick Klein-Kennedy reported that the Open Space Plan Committee met on February 28, 2001 and he was appointed as interim chairman. The Committee recommends that the Town Board appoint Gerry Burns and Barrett Browning to the Committee. Ed Sutter and Gary Karls volunteered to serve on the Committee. The next meeting will be held on May 2, 2001.
11. **Any Other Business Properly Presented.** Pat Downing asked the Committee to notify him if they are willing to serve on the Committee. Appointments will be considered by the Town Board at its next meeting.
12. **Adjourn.** Steve Ashman moved and Milo Grundahl seconded a motion to adjourn. Motion carried. The meeting was adjourned at 10:40PM.

Respectfully submitted,

Mary L. Price
Town Clerk
