

APPROVED MINUTES OF THE JOINT MEETING OF THE SPRINGDALE PLAN COMMISSION AND TOWN BOARD AT THE PLAN COMMISSION MONTHLY MEETING ON SEPT. 28, 2020

Due to the COVID-19 pandemic, this meeting was held via Zoom on the computer or via telephone. The Notice of the Meeting with instructions to access the meeting via the internet or telephone was posted in the Town Hall bulletin board in the Town of Springdale, on the Town of Springdale website townofspringdale.org and via the Town-wide email distribution list. Individuals needing reasonable accommodations to access the meeting contact the Plan Commission Chair at 608-618-1448 at least three (3) business days in advance of the meeting.

IN ATTENDANCE: Rich Bernstein, Ellen Bunn, Jim Hanson, Mike Healy, Amy Jester, John Rosenbaum and Denise Sullivan. (A quorum is present.) Town Chair Mike Fagan, Town Supervisor Richard Schwenn, Vicki Anderson, recording secretary.

CALL TO ORDER: by PC Chair A. Jester at 7 p.m. as a Zoom meeting via Internet or telephone. FYI: During the meeting, attendees will be asked to mute their speakers/phones, unmute their speaker/phones when you wish to speak and identify oneself by name before speaking. A voice vote will be called unless the vote is not unanimous. Then, a roll call vote will be called.

NOTICE OF THE MEETING: pursuant to Wisconsin Open Meeting Law was confirmed. The final agenda was posted on 09/24/2020 at the Town Hall and on the website as required by law. The final agenda was distributed via the Town-wide email list per citizen request.

MINUTES: MOTION by R. Bernstein/M. Healy to approve the draft meeting minutes of the 8/24/2020 meeting of the Plan Commission, PC, as amended for clarity; comments regarding water in accessory building specifically attributed to Building Inspector. Motion to approve carried unanimously by voice vote: 7-0, no nays: Bernstein, Bunn, Hanson, Healy, Jester, Rosenbaum, and Sullivan.

SCOTCH LANE FARM LLC/HENDERSONS & SCHUETZ /MOVE DENSITY UNIT-BUILDING ENVELOPE/CTH J/ SEC. 11, 12, 14: NO ACTION:

Background:

The Schuetz family bought CSM #14263 Lot 1, 5.6 acres on the West side of CTH J from the Hendersons. Based on the concept plan in place in 2016, the 5.6 -acre lot was eligible for two house sites. When the lot sold in 2017, it was marketed with the potential for two lots.

Since that sale, in 2020, the lands for the Henderson Scotch Lane Farm LLC, all located on the East side of CTH J, have been divided into four new CSM lots in addition to two existing CSM lots and a large tract of agricultural land. Per the Town of Springdale Land Use Plan, the agricultural land shall be linked with one of the density units/one of the small CSM lots. The agricultural land cannot stand alone as a lot when it is not eligible for a building site.

Proposal: The Henderson Scotch Lane Farm LLC proposes moving the unused density unit from the Schuetz land on the West side of CTH J to one of two locations on the East side of CTH J: the large tract of agricultural land or CSM #14264 Lot 1, 1.8 acre lot owned by Mike Henderson. Mike Henderson, owner of two lots on the East side of CTH J, his house lot, CSM #12788 and the 1.8 acre lot with the original farmhouse CSM #14264, requests the density unit be moved to his small lot since a 2009 concept plan showed two density units in this area of the farm. He stated that he was unaware that the second density unit had been moved to the West side of CTH J with the 2016 concept plan.

Research since Aug. 24, 2020 PC meeting: Deputy Clerk PC Anderson researched the history of the 2009, 2016 and 2020 concept plans for what was the Henderson Farm.

*The lands are now owned by:

2020: Scotch Lane Farm LLC – large tract of agricultural land and four small lots by CSM yet to be recorded at Dane County Register of Deeds as of 9/28/2020. No further division of these lands for development per the current Town of Springdale Land Use Plan.

2017: Schuetz purchased 5.6- acre CSM #14263 Lot 1 created in 2016 which contains a residence and potential density unit/split.

2016: Mike and Katie Henderson - 1.8 acre CSM # 14264 Lot 1 - No further division of these lands for development per the current Town of Springdale Land Use Plan.

2009: Mike and Katie Henderson - 5-acre CSM #12788 Lot 1. No further division of these lands for development per the current Town of Springdale Land Use Plan.

*Change in 2009 and 2016 concept plans: On both occasions, the landowner Gertie Henderson approved the concept plans and signed the CSM documents consistent with the concept plans.

*The PC minutes of 8/24/2009 state: “amend the 8/24/2009 concept plan by: a. removing all other density units from the farmhouse cluster (the 8/24/2009 concept plan showed the farmhouse, a house and a density unit in this area of the farm) from the eastside to the westside of CTH J. Lot 1 CSM 12788 contains no additional building sites/density units...”

*The TB minutes of 9/21/2009 state: “The PC approved concept plan (2009) shows an additional land division on this 5-acre parcel...A revised concept plan may be required if an additional lot is requested on this 5-acre lot in the future.” 2020 Note: The revised concept plan would have been required because the 2009 5-acre lot owned by Mike Henderson had only one 66’ strip of

frontage on CTH J. The surrounding lands were owned by Don and Gertie Henderson. Land would have had to be acquired from Don and Gertie's lands to allow a future building site/lot on Mike's 5-acre lot.

Discussion:

Move a density unit from one landowner to another: It was generally agreed that the Town has no mechanism in the Plan and ordinances to move a density unit from one landowner to another. On lands owned by a single landowner, the landowner may propose moving the density units/building envelopes. During the various PC and TB meetings regarding these lands in 2016 and through July, 2020, the various landowners did not discuss moving the density units.

Linking the agricultural land with one of the existing density units: Mike Henderson stated the existing density unit on the 1.8 acre lot, CSM #14264, shall be linked with the agricultural land owned by Scotch Lane Farm LLC, of which he is a member of the LLC. This was a previously discussed condition of the 2020 concept plan and CSMs. Next step: The Deputy Clerk will prepare the necessary paperwork for Dane County Register of Deeds.

CURT AND KATHLEEN OBERT/ PREAPPLICATION MEETING-CONCEPT PLAN/CTH G/SEC. 25:

Proposal: Contiguous acres owned on the effective date of the Plan: 38.511 acres exclusive of road right-of-way. The Oberts wish to pursue an Option 1 concept plan for one new lot and their existing house. Currently, their home shares a driveway with the neighbor to the West and they propose to expand the driveway to serve three homes consistent with the Town driveway ordinance. Items to be considered include, but may not be limited to the following: A revised shared driveway agreement to accommodate the existing users and the proposed new lot; 66' of frontage owned by the proposed new lot of 35 acres or less; and Dane County Highway approval of the expansion of the existing CTH G access permit from two to three users. Due to the limited frontage on CTH G for the 38.511 acres, C. Obert will review the means to create a small lot with its own frontage strip and maintain access for his house on more than 35 acres without a 66' frontage strip.

Next step: A site visit has been scheduled for Saturday, Oct. 10, 9 a.m.

NIZAMUDDIN LANDS/PREAPPLICATION MEETING-CONCEPT PLAN/CTH S/SEC. 5:

Proposal: Contiguous acres owned on the effective date of the Plan: 116 acres-Option 1 – 5 new lots and Option 2-7 new lots. There is an existing farmhouse. The Nizamuddins wish to pursue lots on both the North and South sides of CTH S after receiving two Dane County Highway access permits County Permits #20C009 and #20C010 dated 09/10/2020.

The access permit to the North is an existing agricultural access for those farmlands. The access permit to the South is a new access point to replace County Permit #85-01. Both access points are to be flagged prior to the site visit. During the previous site visits to the Nizamuddin farmlands, these areas of the farm had never been viewed by the PC. Therefore, a site visit is required. Items to be discussed include, but may not be limited to, the following: The Town driveway ordinance allows for a shared driveway agreement for three users, not four as proposed by the Nizamuddins. Locating lots in the middle of agricultural fields is not consistent with the Plan.

Next steps: PC Chair Jester was asked to obtain from Dane County Highway an updated map of Section 5 in the Town of Springdale showing the two highway access permits approved for Nizamuddins on CTH S and the complete permit forms #20C009 and #20C010. A site visit has been scheduled for Saturday, Oct. 10, 9:45 a.m., immediately after the Obert site visit.

CONDITIONAL USE PERMIT #2504 – TRANSIENT OR TOURIST LODGING/SN WINDY ACRES LLC – SCOTT NIEBUHR/3158-3160 CTH J/SEC. 1:

Background: SN Windy Acres LLC-Scott Niebuhr, in operating a VRBO, vacation rental by owner, without the proper zoning received a zoning violation order from Dane County Zoning dated June 18, 2020. The order instructed the owner to cease and desist operating the business on this property immediately and to remove from the website the advertisement for this rental business. Under the Dane County Code of Ordinances (DCCO), Section 10.004(160) Transient or Tourist Lodging. (a) A residence that rents more than two, but not more than eight, bedrooms to transient guests or tourists, where all of the following apply: 1. Rooms are rented to no more than a total of 20 individuals who are not members of the landowner's family. 2. Length of stay does not exceed twenty-nine (29) consecutive days for each registered guest. (b) Transient lodging houses may include, but are not limited to: bed and breakfasts, hostels and recreational cabins. (c) Transient lodging does not include: incidental room rental, campgrounds, duplexes, multifamily housing, institutional residential, indoor institutional, community living arrangements, rooming houses or indoor commercial lodging.

The property is zoned Two Family Residential-TFR with an existing duplex. A Conditional Use Permit would be required for transient or tourist lodging in the duplex. To the West of the duplex are two single-family residences. Immediately adjacent to the North is a single-family residence with a business/residential structure further North. To the East and South is Riley marsh/wetlands and the bike trail.

Materials received since Aug. 24, 2020 public hearing regarding the zoning violation and the CUP application :

9/16/2020 email from S. Niebuhr –Operations Plan 3158 and 3160 County Road J, Verona, Wis.

9/17/2020 email from S. Niebuhr - conditions he suggests for the CUP

9/18/2020 email from S. Niebuhr – Driveway sketch – parking plan

9/18/2020 email from Brian Standing, Dane County Planning and Development - email from Maria Delaruelle Public Health Sanitarian, Public Health Madison and Dane County – septic, well, rooming house license info

9/18/2020 email from Brian Standing of CUP 2504 Staff Recommendations with note that "...conditions may need to be changed or additional conditions added to address potential nuisances that may come to light at the public hearing."

9/28/2020 S. Niebuhr read an email from the Mt. Horeb Area Joint Fire Department stating that the existing driveway and parking areas were adequate for emergency equipment access. (Recording secretary to obtain a copy for the record.)

Discussion: Items discussed include, but may not be limited to the following:

*The Public Health Madison & Dane County Public Health Sanitarian Maria DeLaruelle R. S. stated that the current septic system for the duplex is sized for six bedrooms which correlates to a 12-person maximum occupancy of the property.

*The current zoning as a duplex supports long-term rental on both sides as a permitted use with a 12-person maximum occupancy of the property due to the septic capacity. The CUP application process does not take anything away from the owner. It does not limit renting it out as a duplex.

*The CUP is required to permit transient or tourist lodging in the duplex which is not a permitted use in Two-Family Residential Zoning District. The 12-person maximum occupancy for septic is to be maintained on the property, regardless of the use.

*The CUP is being considered at this time in response to a Dane County Zoning violation when the transient or tourist lodging business was operating without the required licenses, permits, zoning, etc. and noise complaints had been filed. The advertisement on the VRBO, Vacation Rental by Owner website** had offered gatherings of all types -friends and family, 12 sleeping guests in one side of the duplex. It was generally agreed, the way it was rented before did not work with large parties and noise. It appeared to be rented as a party house.

*It was generally agreed that a limit to the number of transient or tourist occupants is needed in this situation because if one side of the duplex was not rented as long-term rental, theoretically, the 12 occupants on the property could be transient or tourist occupants coming and going every weekend. That was the previous rental use that did not work well as evidenced by the zoning violation.

*It was generally agreed, to be consistent with past practices, the Town needs to move slowly. As a past example, with an approved Bed and Breakfast business, the Town allowed time for the owner/operator of the Bed and Breakfast to demonstrate compliance with its CUP conditions. In the Bed and Breakfast business, the Town initially supported the business use of two bedrooms and over time, with demonstrated compliance with the conditions, the use was expanded to five bedrooms.

*In the big picture, this CUP sets a precedent for the Town review of transient or tourist lodging. VRBOs make a difference in one's area of Town. Where we used to get to know our neighbors, now, instead of neighbors it may be tourists passing through the Town.

*It was acknowledged that because the area of each side of the duplex is described as 4000 sq. ft, if the septic system were increased to accommodate more bedrooms, the owner could apply for changes to the CUP conditions.

**The VRBO advertisement has been removed as a requirement per the Dane County Zoning violation.

PROPOSED CONDITIONS: The PC considered and drafted the following conditions as the means by which the intended use could meet the eight standards required of CUPs.

1. Only one side of the duplex shall be rented as transient or tourist lodging. The northern-most unit shall be rented for transient or tourist lodging. The southern-most unit of the duplex may be rented as long-term rental.
2. No more than three bedrooms shall be rented for transient or tourist lodging.
3. No more than 12 people, including both transient guests and permanent residents, shall be on the premises at any one time. The transient or tourist lodging shall have a maximum of 8 people on the premises at any time.
4. No more than 6 vehicles shall be on the premises at any one time. All vehicles must be parked on paved driveway surfaces or inside the existing garage, with adequate access for emergency vehicles.
5. Quiet hours shall be observed between 10 p.m. and 9 a.m. on weekdays, and between 12 a.m. and 9 a.m. on weekends.
6. Peak noise levels shall not exceed 40 decibels (dB(a) scale), as measured at the property line, during quiet hours.
7. Peak noise levels shall not exceed 65 decibels (dB(a) scale), as measured at the property line, during hours other than quiet hours.
8. No more than two dogs, (including those belonging to permanent residents) may be on the premises at any one time. All dogs brought by guests must either be leashed or contained within adequate fenced areas while outside. Dogs must be kept indoors during quiet hours.
9. Landowner will apply for, obtain and maintain an appropriate transient or tourist lodging rental license from Madison/Dane County Department of Public Health.
10. Landowner will maintain existing trees and other vegetation along the northern, western and southern property lines, or replace such vegetation with landscaping that provides a similar level of visual screening.
11. Any new outdoor lighting shall be downward-directed, designed to minimize ambient spill and shall comply with all applicable requirements of the Town of Springdale Dark Skies Ordinance.
12. The physical development and operation of the conditional use must conform in all respects, to the approved site plan and operational plan.
13. Existing onsite wastewater sewage disposal systems, if any, serving the conditional use must be inspected by a licensed plumber to determine its suitability for the proposed or expanded use. Deficient systems must be brought at the owner's expense, into full compliance with the current requirements for new development of the state plumbing code and Chapter 46, Dane County Code.
14. The Zoning Administrator or designee may enter the premises of the operation in order to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation.

15. The owner or operator must keep a copy of the conditional use permit, including the list of all conditions, on the site.
16. Failure to comply with any imposed conditions, or to pay reasonable county costs of investigation or enforcement of sustained violations, may be grounds for revocation of the conditional use permit. The holder of a conditional use permit shall be given reasonable opportunity to correct any violations prior to the revocation.
17. If the transient or tourist lodging operation is abandoned for one year or more, this conditional use permit shall be terminated. Future re-establishment of an abandoned conditional use shall require approval of a new conditional use permit.
18. The transient or tourist lodging operation shall automatically expire on the sale of the property or the business to an unrelated third party.
19. The operation of all-terrain vehicles, ATVs, and snowmobiles by occupants of the transient or tourist lodging operation shall be prohibited on the property.
20. Signage is prohibited.
21. Outdoor music and speakers for the amplification of sound or music outdoors are prohibited.
22. Commercial activities and business activities, other than transient or tourist lodging and duplex rental, are prohibited.
23. A review of the Conditional Use Permit may be requested by the Town of Springdale or owner after a period of two years after final approval by Dane County Zoning.

The Eight Standards for a Conditional Use Permit: The eight questions were considered by the Plan Commission and 7 standards received a vote of aye-7-0, One standard, the eighth, does not apply to Springdale; there is no farmland preservation program in Springdale.

MOTION to recommend approval to the TB of the proposed conditions carried 6-1 with E. Bunn-nay.
Next step: The CUP will be discussed at the TB meeting on 10/20/2020.

PROPOSED FUTURE PLAN AMENDMENT: MOTION by J. Rosenbaum/D. Sullivan to recommend to the TB the proposed future Plan amendment as a policy at this time. Motion to recommend approval to the TB carried 5 ayes; Bunn, Hanson, Jester, Rosenbaum, Sullivan and 2 nays: Healy and Bernstein.
Next step: The proposed future Plan amendment and policy will be discussed at the TB meeting on 10/20/2020.

Proposed Amendment to Land Use Plan regarding Residential Lots on Ag Land

Current Language: Residential Density Options 1 and 2, (see pages pages 26 and 30 in the Plan)

Lot lines shall be located, and lot sizes shall be configured to best satisfy the following:

(a) Lot lines shall be located so as to minimize the breakup of contiguous tracts of agricultural lands. Similarly, lots shall be sized to minimize the breakup of contiguous tracts of agricultural lands. To the extent possible, lot lines shall be located to follow previously existing natural or man-made boundaries, such as roads, fence rows, woods, waterways, streams, or similar boundaries. If lot lines must cross agricultural fields because other boundaries are not possible, it is desirable to locate them in such a way so as to maintain the maximum size agricultural fields in one contiguous parcel.

Amended Language for Consideration by Plan Commission:

New density units (lots) shall, to the extent possible, be located on non-agricultural lands in order to minimize the conversion of farmland to non-agricultural use.

(a) If density units must be located on agricultural land because other locations are not possible, new density units for nonfarm uses on agricultural land shall be the minimum size necessary for the residential use proposed. The goal is for such residential density units to be 1-2 acres maximum in size.

(b) Density units on agricultural land shall be located near the edges of agricultural fields and/or to use the least productive soil as determined by soil types.

© Lot lines shall be located so as to best minimize the breakup of contiguous tracts of agricultural lands.

(d) To the extent possible, lot lines shall be located to follow previously existing natural or man-made boundaries, such as roads, fence rows, woods, waterways, streams, or similar boundaries.

Amended definition of Agricultural Land:

Agricultural land. (A) Consists of land that has since 1981 been intermittently or consistently tilled or used as open pasture. (B) Consists of tilled or open pastureland that since 1981 has been placed in federal programs, in return for payments in kind or that has been enrolled in the conservation reserve program.

Upon TB adoption of the language, until the formal Plan amendment process in 2021, the policy may be shared with landowners for the preparation of concept plans and CSMs. The language does not contradict any current Plan language. This proposed amendment/policy is intended to provide some guidelines while maintaining flexibility in identifying development areas, building envelopes and current lot proposals. While the majority of the PC supported the amendments, it was generally agreed that the Town does not want postage-size lots across the countryside. When the 66' frontage strips can take away acreage from a proposed lot, it

could reduce useable acreage significantly. There may be a need to argue for the exceptions; avoid always saying 'no more than two acres' regardless of the existing landscape, unique lands, hydrology, etc.

Next meeting: The regular monthly meeting for October is scheduled for Monday, 10/26/2020 at 7 p.m. The deadline for submittals for the meeting is Monday, 10/12/2020. In accordance with Dane County Emergency Management guidance during the COVID-19 pandemic, future town government meetings will be conducted via Zoom.

ADJOURN: MOTION to adjourn by unanimous consent. Respectfully submitted, Vicki Anderson, recording secretary