

## Town of Eldorado Plan Commission (EPC) Meeting Minutes

January 12, 2021

Plan Commission Member Attendees (5) and terms:

<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20px; text-align: center;">x</td> <td>Jeremy Brenner, Chairperson (5/1/2019 - <b>4/30/2022</b>)</td> </tr> <tr> <td style="text-align: center;">x</td> <td>Lee Wenker, Vice Chairperson (5/1/2019 – <b>4/30/2022</b>)</td> </tr> </table>	x	Jeremy Brenner, Chairperson (5/1/2019 - <b>4/30/2022</b> )	x	Lee Wenker, Vice Chairperson (5/1/2019 – <b>4/30/2022</b> )	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20px; text-align: center;">x</td> <td>Jenna Borski, Secretary (5/1/2018 - <b>4/30/2021</b>)</td> </tr> <tr> <td style="text-align: center;">x</td> <td>Jeff White, Member (11/16/2019 – <b>4/30/2021</b>)</td> </tr> </table>	x	Jenna Borski, Secretary (5/1/2018 - <b>4/30/2021</b> )	x	Jeff White, Member (11/16/2019 – <b>4/30/2021</b> )	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20px; text-align: center;">x</td> <td>Bill Averbeck, Town Board Liaison (5/1/2019 - <b>4/30/2021</b>)</td> </tr> <tr> <td></td> <td>STAFF: Attorney Matt Parmentier</td> </tr> </table>	x	Bill Averbeck, Town Board Liaison (5/1/2019 - <b>4/30/2021</b> )		STAFF: Attorney Matt Parmentier
x	Jeremy Brenner, Chairperson (5/1/2019 - <b>4/30/2022</b> )													
x	Lee Wenker, Vice Chairperson (5/1/2019 – <b>4/30/2022</b> )													
x	Jenna Borski, Secretary (5/1/2018 - <b>4/30/2021</b> )													
x	Jeff White, Member (11/16/2019 – <b>4/30/2021</b> )													
x	Bill Averbeck, Town Board Liaison (5/1/2019 - <b>4/30/2021</b> )													
	STAFF: Attorney Matt Parmentier													

Public Attendees:

Charlie Becker	Cheryl Pionke	Kathi Rabe	Tim Henke
Frank Mazanka	Gary Rabe	Adam Gratton	Jerry Borski

**Call to Order, Pledge of Allegiance and Agenda Review:** Meeting called to order by Jeremy Brenner at 7:00 p.m. followed by pledge of allegiance. Brenner stated due to the attendance, he will move up the “Public Input” agenda item after the Rabe Concept Plan

**Review of Minutes:** EPC reviewed the meeting and hearing minutes from November 10, 2020 and December 8, 2020. Motion made by Brenner/White to approve minutes. Motion carried 5-0.

**Tracking # CP-2020-11-30-Gary Rabe**

**Concept Plan – Application for Minor Land Division (MLD) and Conditional Use Permit (CUP) for Non-farm Residence (NFR) – Gary & Kathi Rabe:**

**Location/Description of Property:** vacant land / T07-16-16-36-11-007-00

**Parent parcel acres:** 26.039 +/-

**Current zoning:** A-1

**Proposed parcel acres:** 2.467 +/-

**Area of dedication acres:** TBD +/- for County Rd I

**Proposal:** Spilt 2.467 or up to 3.171 acres for a non-farm residence for their daughter to purchase and build a new home.

**Base Farm Tract (BFT) Acres:** 66.6 +/- (Lorraine Rabe)

**Minimum Acres Required to be Maintained as Farm (20:1 ratio) (BFT acres/1.05):** 63.428 +/-

**Maximum Nonfarm Residential Acres Allowed (BFT – BFT/1.05):** 3.171 +/-

This concept plan discussion is a follow-up to the initial **CP-2020-08-24-Gary Rabe on September 8, 2020** where Gary and Kathi Rabe initially asked for a minor land division and rezone to residential (R) or rural district (RD). After discussion in September about the Farmland Preservation Program and NFR, Rabe’s returned to their Surveyor and worked with Dave Jahns, Building Permit Officer, to review required setbacks for a non-farm residence and propose a preliminary certified survey map (CSM). The preliminary CSM presented a proposed 2.467 acre lot but Gary Rabe stated they now intend to slide the proposed southern parcel line 50 feet to the south to make the proposed lot about 3 acres. The proposed driveway location is also per Fond du Lac County as the parcel borders CR I.

EPC commented that the preliminary CSM does not allow EPC to see where the proposed southern property line falls with respect to the existing parcel lines at N7428 CR I. EPC discussed what the remnant parcel may look like and whether it would be considered a flag lot (not allowed under Ch. 18 Land Division and Subdivision Ordinance). EPC viewed the parcels on the Fond du Lac County GIS website. Lengthy discussion followed. Gary Rabe asked if it’s a “deal breaker” if they cannot get rid of the “sliver of land” between the proposed parcel & N7428 CR I. EPC informed Rabes they can return with another preliminary CSM for a third concept plan review without fee prior to submitting the formal applications if desired. Rabe’s will discuss the concern with their Surveyor prior to submittal of the final CSM for application.

Kathi Rabe stated they have not yet done a percolation test on the property. EPC stated needs to be done prior to submitting the MLD and CUP applications. EPC provided Rabes with a copy of the Application Process Instructions, an application for a MLD and application for a CUP. EPC stated the fees total \$650 for both applications and explained that there will be professional service fees for drafting of the CUP that will need to be paid prior to signing the CUP. For a NFR, the professional fees are generally around \$300+/-.

**Public Input:**

**Tracking # CP-2020-01-12-Frank Mazanka**

**Concept Plan – Discussion of potential for minor land division and construction of new home - Frank Mazanka:**

**Location/Description of Property:** W7518 Lincoln Rd / T07-16-16-12-05-002-00

**Parent parcel acres:** 5.32 +/-

**Current zoning:** A-1

**Proposed parcel acres:** TBD

**Area of dedication acres:** TBD +/- for Lincoln Rd

**Proposal:** Spilt land for their daughter to purchase and build a new home.

**Base Farm Tract (BFT) Acres:** not assigned (less than 10 acres) per Base Farm Tract map with parcel data as of 12/31/2013 and Zoning Ordinance Map Certified by DATCP on 11/20/2013

**Minimum Acres Required to be Maintained as Farm (20:1 ratio) (BFT acres/1.05):**

**Maximum Nonfarm Residential Acres Allowed (BFT – BFT/1.05):** insufficient acreage.

Mazanka contacted Borski two days prior looking to see if there was a permit necessary to allow a mobile home on his property for his daughter. Borski verbally informed Mazanka during that phone call that new mobile homes are not allowed in the Town per our current ordinance and began to discuss his current situation. Borski informed Mazanka that only one home is allowed per parcel (i.e., cannot build a second home on same lot). Borski encouraged Mazanka to attend the EPC meeting to begin discussion of options.

Mazanka repeated the desire to build another residence for his daughter on his 5.32 acres and is willing to split the land. His acres are not farmed and most of it is non-wooded open land. Borski summarized the following:

- the property is zoned A-1 and is 5.32 acres which does not allow for a NFR;
- the current road frontage is approximately 215 ft. which is insufficient to create a second lot;
- with more than 3.0 acres and the current use, the entire property could potentially be rezoned A-2 to allow for a two-family dwelling since it is not prime farmland (would require remodel of existing home);
- the recently adopted Comprehensive Plan Update 2040 (“Comp Plan”) lists the property on the Existing Land Use (Map B-2) as partially “Farmstead” (south ½) and partially as “Open Other Land” (north ½);
- the Comp Plan’s Future Land Use Map (FLUM) (Map B-3) maintains this property as current use;
- the FLUM lists the property immediately to the east as future residential. The owner (Tim Henke, present) is not interested in selling his farmland;
- property to the E, S, W and NW is zoned A-1;
- property to the N is zoned RD (pre-dates existing ordinance certified by DATCP on 11/26/2013). [SECRETARY NOTE POST MEETING: Property to N warranty deed dated 9/23/2010.];
- property to the NE is zoned R (Townline Circle residential properties);
- based on the FLUM, it does not appear that rezone to anything other than A-2 is an option without an amendment to the FLUM.

Lengthy discussion with EPC, Mazanka and the public followed. Based on questions regarding the RD lot to the north, Jerry Borski, former Town Zoning Board member (pre-Plan Commission), explained that the Rural District used to be the Town’s way to allow for residences in the farmland area prior to the State’s Farmland Preservation Program. The

minimum lot size was 1.5 acres and the Town required at least 5.0 acres to have animals. During discussion, there was general support that a proposed new residence fits well with the surrounding area and would not interfere with neighboring farm use. However, there was uncertainty on how to proceed under current Zoning Ordinance.

It was noted that the Mazanka's current driveway used to be partially a Town maintained road that was turned over to Mazanka in 2020. In fact, approximately 535 ft. was paved and maintained by the Town. This would have provided them a total of approximately 750 ft. of road frontage and the possibility of splitting a 3.0 acre lot for rezone to A-2. Averbeck clarified that the Town will not be taking the road back.

Discussion followed regarding the potential that this created a hardship for the Mazanka's and the possibility of the Board of Appeals issuing a variance to the standards of the ordinance (road frontage) to allow the EPC to approve a MLD for creation of a min. 3.0 acre lot with at least 200 ft road frontage on Lincoln Rd for rezone from A-1 to A-2 and have the remnant lot remain zoned A-1 with at least 200 ft. road frontage being the former Town road/driveway (with variance). It is unclear if creation of a residential lot could be considered with the FLUM not including this parcel in future residential land use as noted immediately to the east.

EPC decided legal interpretation of options for this site-specific situation is necessary prior to continued discussion. EPC asked Borski to communicate with the Town Attorney for continued consideration in February. In the meantime, Averbeck confirmed for Mazanka that his daughter could temporarily reside in the RV on his property as long as there is a valid license plate on it (confirmed by Charlie Becker).

**Status Update – Conditional Use Permit (CUP) # ELD-20-001 (Alliant/WP&L) & CUP # ELD-20-002 (Lasting Impressions LLC):**

Borski stated the draft Alliant CUP is being reviewed by their legal team.

Borski informed EPC that the Fond du Lac County Register of Deeds, Jim Krebs, informed Borski when attempting to record the signed CUP that the CUP was missing two key items:

1. Statement of who drafted the document on the cover sheet.
2. Notarized signatures or signature by the Town Clerk attesting to the signatures. Per statute, Town Clerks have legal authority to sign legal documents in lieu of being notarized.

Borski informed Town Attorney Matt Parmentier of the issue who is revising the cover page to include both items so that the existing signatures on the CUP do not need to be redone. Attorney Lee Turonie in Matt Parmentier's office drafted the document. Cheryl Pionke signed the revised cover page and will file the CUP at the Register of Deeds office. Pionke will need to refund the applicants \$30 since only one recording fee will be charged per Krebs (because one document) in lieu of the two recording fees (due to two parcels) communicated to Borski by Turonie.

**Review of Processes for Professional Services and Signatories for CUPs:**

This agenda item is in response to the issues with the Lasting Impressions LLC CUP discussed above and concern on the legal fees associated with this CUP. Borski stated that the potential for professional service fees is included on the Application Process Instructions and is always verbally noted to applicants prior to submitting applications. Borski limits questions to the Town Attorney as much as possible and any costs incurred by the Town regarding implementation of our ordinances is not passed on to applicants. Town Attorney fees charged to applicants are specific to review and processing of their individual application. Brenner expressed desire to have a better understanding of the range of professional service fees that may be charged to the applicants and the potential for other legal resources available to the Town be used as a cost savings measure for the Town and applicants. Specific concern was brought up about the legal fees charged to Lasting Impressions LLC for the application review and drafting of their CUP by two different attorneys (i.e., was there a learning curve?) and the potential costs that may have been incurred if Borski was not as involved in the administrative process. Discussion followed. Averbeck and Borski expressed interest in utilizing the Town Attorney for these matters for consistency and so there is awareness of

all Town issues when processing applications. Borski has not previously been involved in recording of documents or charging applicants for legal fees but *thought* that generally the professional service fees have been around \$300 for a standard NFR. However, the unique and more complex CUPs likely cannot be estimated in advance (e.g., CUP for a warehouse on commercial land, CUP for an electric substation on A-1 land; CUP for a variance to lot dimensions in the Traditional Neighborhood Design Overlay (TNDO) District). Averbeck stated he will discuss the legal fees for the Lasting Impressions LLC CUP with Town Attorney Matt Parmentier but our Town Attorney should continue to be utilized for EPC questions on Town ordinances and review of applications.

Borski re-iterated that the Town Clerk has statutory authority to sign CUPs in lieu of a notary, not the EPC Secretary. The Town Clerk will need to sign future CUPs in addition to the EPC Chairman. This should be done for all CUPs, even those not recorded at the Register of Deeds.

**Additional Public Input:**

Adam Gratton introduced himself and stated he is running for a Town Supervisor position (Bill Averbeck's vacancy) on the Town Board in April 2021.

Charlie Becker asked a question on the Rabe CP with respect to the Farmland Preservation Program and what would be allowed if they did not have enough land to create a NFR for a new residence. A NFR would then not be an option. Discussion followed about the Farmland Preservation Program.

Becker asked if there has been discussion by the Town Board or Plan Commission on the alleged solar farm. Averbeck stated the Town Board has not asked EPC to look into this and no one has approached the Town. Becker stated it is probably a good idea for the Town to start preparing for this.

**Future Meetings & Agenda Items:** February 9, 2021:

- Frank Mazanka Concept Plan
- Bill Averbeck report on Attorney Fees
- Possibly one CUP renewal

[Note: Regular EPC meetings are tentatively scheduled for 7:00 p.m. the second Tuesday of each month, pending agenda items.]

**Adjourn:** Motion made by Brenner/Wenker to adjourn the meeting. Motion carried 5-0. Meeting adjourned at 9:15 p.m.

Respectfully submitted,

Jenna Borski  
Member/Secretary  
Town of Eldorado Plan Commission