

Town of Eldorado Plan Commission (EPC) Meeting Minutes

February 9, 2021

Plan Commission Member Attendees (5) and terms:

x	Jeremy Brenner, Chairperson (5/1/2019 - 4/30/2022)	x	Jenna Borski, Secretary (5/1/2018 - 4/30/2021)	x	Bill Averbeck, Town Board Liaison (5/1/2019 - 4/30/2021)
x	Lee Wenker, Vice Chairperson (5/1/2019 – 4/30/2022)	x	Jeff White, Member (11/16/2019 – 4/30/2021)		STAFF: Attorney Matt Parmentier

Public Attendees:

Cheryl Pionke, Town Clerk	Adam Gratton	Doug Rehm	
Frank Mazanka	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.

Review of Minutes: EPC reviewed the minutes from January 12, 2021. Motion made by Brenner/Wenker to approve minutes. Motion carried 5-0.

Tracking # CP-2021-01-12-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 (but no ag use)

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): N/A – insufficient acreage

Maximum Nonfarm Residential Acres Allowed (BFT – BFT/1.05): N/A – insufficient acreage

Discussion continued from the January 2021 EPC meeting. Brenner reviewed the A-1 District rules & turn-over of the driveway/Town road to the Mazanka’s for the benefit of new attendees. Borski referenced a letter from Mazanka received January 27, 2021 and forwarded to the Town Attorney for additional consideration. Borski reviewed the February 9, 2021 email from Town Attorney Matt Parmentier regarding options for creation of a new lot and construction of a new residence on this 5.32 acres currently zoned A-1 based on the January 2021 EPC meeting discussion.

The following points from Parmentier’s February 9, 2021 email are listed here:

- Land division of this parcel within the A-1 District is not allowed, which would require a rezone.
- The only current option for rezone based on the 2020 Future Land Use Map is A-2 District that requires 3.0 acres minimum and allows a single-family residence (does not require a “farm residence” or “non-farm residence”). Rezone would need to be conditioned upon a variance.
- A variance to the dimensional requirements for a new A-2 lot and the remnant A-1 lot are required for road frontage, setbacks, lot width, etc. and *may be* granted through a variance(s) by the Board of Appeals due to the extenuating circumstances of this property (unique lot shape, recent discontinuation of road frontage, proximity to other development).

- A variance should be conditioned upon a driveway easement recorded at the Register of Deeds if a separate driveway is not constructed for the new A-2 lot.
- Fond du Lac County requires a minimum of 30 feet of road frontage and will need to be met by both new and remnant parcels for the County to approve the CSM.

Mazanka asked if there could be a shared septic or potable well. EPC stated the Town discourages shared wells but Mazanka could research this with Dave Jahns, Building Permit Officer. Jahns is also the individual to work with on the septic. Jahns should be contacted if they choose not to share the driveway to get a culvert/driveway permit.

EPC suggested the A-1 remnant lot have the minimum 30 ft frontage to allow the new A-2 lot to have as much frontage as possible and be as close to 3 acres as possible (least amount of non-compliance as possible). The next step is for Mazanka to submit a preliminary certified survey map for another concept plan review. EPC noted that a perc test is part of the formal application for a MLD/Rezone. Mazanka asked if the MLD/Rezone could be contingent upon a perc test. EPC does not advise it due to the substantial cost to finalize the CSM, submit the applications and request for variance. Also, it is unclear if the County will approve the CSM without a perc test. Borski will research this further.

Status Update – Conditional Use Permit (CUP) #ELD-20-001 (Alliant/WP&L) & CUP #ELD-20-002 (Lasting Impressions LLC): Town & Alliant legal reviews of the Alliant CUP (electrical substation on property zoned A-1) are done and the CUP will be sent to Alliant for signature. The Town will also send an invoice to Alliant for payment for professional services and recording fee prior to Town signature.

The Lasting Impressions LLC CUP (property dimension variations in the Traditional Neighborhood Design Overlay District (TNDO)) has been recorded at the Register of Deeds and the invoice modified by the Town Attorney and modified invoice paid. This CUP is complete.

Farmland Preservation Rezone Report 2020: Borski presented the 2020 Report that lists 0.827 acres were zoned out of A-1 in 2020. EPC approved Borski to submit to Department of Agriculture, Trade and Consumer Protection (DATCP). Borski also shared DATCP's map of *Rezoned out of Farmland Preservation Zoning for Jurisdictions in 2017-2019* that shows what areas of Wisconsin have farmland preservation districts and the general acres rezoned out of A-1 in 2017-2019.

Review of General Inquiries since January 12, 2021: Borski shared general inquiries received outside of the EPC meeting the past month include:

- a developer about a property for sale on Townline Circle and questions on pre-fab homes and setbacks on properties zoned Residential – answered questions and referred to Dave Jahns to discuss building permit & septic questions;
- questions from residents of other municipalities on properties for sale to build residences – explained there are a variety of options but first need to find a willing seller;
- inquiry for a zoning map of the Town – provided existing land use map from Comprehensive Plan Update 2040, future land use map from same report and referred to County GIS for existing zoning;
- inquiry on a property in foreclosure – discussed legal process is typically a couple years where the property is not for sale by the bank and is generally not well maintained, despite interested purchasers. Town is unable to get anyone from the bank to respond.

White stated a couple months ago he received a general inquiry on Base Farm Tracts (BFT) (not from Jerry Borski). Jerry Borski elaborated on BFTs in the Town to assist with the Town's on-going discussion about budget shortfalls, taxes and construction of new homes.

- He reviewed the Base Farm Tract map with parcel data as of 12/31/2013 and Zoning Ordinance Map Certified by DATCP on 11/20/2013 and found 194 BFTs in the Town. Options for non-farm residences (NFR) with the 20:1 ratio would allow approximately 340 lots with the minimum 1.5 acres, not considering existing NFRs.
- There are less than 25 BFTs that have less than the minimum 31.5 acres required to allow at least 1 NFR lot.

- He will continue to review BFTs in areas designated as future Residential on the new Future Land Use Map (2020) (areas that could be rezoned from A-1 to Residential and eliminate the 20:1 ratio requirement) to update the max future new residences for further Town consideration.
- The point being that it is not the Farmland Preservation Program that is limiting construction of new homes in the Town but is more likely related to owners of A-1 property needing to keep their acreage for their farm use, unwilling to sell land for loss of acreage, general lack of interest in close neighbors and potential for creating future land use conflicts (e.g., ag vs. residential).
- The State constitution was amended in 1974 to allow differential assessment of farmland and passed at a public referendum.
- In 1995, Act 27 provided “use value assessment” where property was taxed on use, not the fair market value. The Department of Revenue (DOR) moved to full implementation of 1995’s Act 27 in 2000. The Act was challenged twice in 2002 at the Wisconsin Supreme Court and the law was upheld both times. Jerry Borski explained the use value formula.

Town website update on Plan Commission tab & Comprehensive Plan Update 2040 (“Comp Plan 2040”): Cheryl Pionke, Town Clerk, is working with the website owner to update our website. Specifically, remove the outdated notice of the public input process on the Comp Plan 2040 from the main page and upload the Comp Plan 2040 on the Plan Commission tab.

Process discussion – CUP renewals for non-farm residences: Conditional use permits to be reviewed in March include:

- Dave & Kathy Rabe d/b/a D&K Endeavors, LLC (warehouse & residence on property zoned Commercial)
- Ben & Sarah Isaac (Annie Isaac non-farm residence) – will be postponed until property boundaries confirmed with County
- Larry & Virginia Hinz (non-farm residence)
- Gary & Teresa Haas & David & Paula Haas Living Trust (non-farm residence)

This will be the second renewal for the Larry & Virginia Hinz NFR since construction of the home. Borski encouraged EPC members to consider no term limits for future NFR renewals after all proposed construction activities are completed (e.g., on-site potable well, residence, other site-specific condition(s)). Brenner expressed concern with this and provided the example of Ben & Sarah Isaac where property boundaries were modified after construction of the residence.

Public Input:

Tracking # CP-2021-02-09-Rehm

Concept Plan – Discussion of potential for minor land division and construction of new home – Doug Rehm:

Location/Description of Property: W9652 Olden Rd / T07-16-16-18-07-001-00

Parent parcel acres: 32.59 +/-

Current zoning: A-1

Proposed parcel acres: TBD

Area of dedication acres: TBD +/- for Olden Rd

Proposal: Potentially spilt land for their son to purchase and build a new home on the east side of Olden Rd and sell their acres.

Base Farm Tract (BFT) Acres: 72.8 acres (confirmed during the meeting)

Minimum Acres Required to be Maintained as Farm (20:1 ratio) (BFT acres/1.05): 69.33 +/- acres (calculated after the meeting)

Maximum Nonfarm Residential Acres Allowed (BFT – BFT/1.05): 3.47 +/- acres (calculated after the meeting)

Doug Rehm, W9652 Olden Rd (between Lincoln Rd & Moon Rd) stated he is planning to sell his acreage and/or have his son build a house on 5 acres in 2-5 years and would like to know his options. He currently has two parcels, one of which is split by Olden Rd. No Concept Plan application was submitted.

EPC reviewed the BFT map and found the Douglas Rehm BFT is 72.8 acres, allowing 3.74 max NFR. *[Note: During the meeting, a quick calculation of the max NFR acres was reported as 3.74 acres. However, after the meeting, Borski recalculated the acres as 3.47 acres.]*

A couple questions arose during discussion:

1. Since Rehm is considering selling to his son, does the situation qualify as a “farm residence” as defined under 17.09(45)(b)2 if Rehm also intends to sell his land at or near the same time? A “farm residence” is a permitted use in the A-1 district. (“Farm residence” under 17.09(45)(b)2 is defined as, “a parent or child of an owner or operator of the farm”.)
2. Could property be rezoned to A-2 for Rehm’s son’s residence in lieu of a NFR if the conditions for rezone out of A-1 are met?
3. How does rezone from A-1 to A-2 impact the 20:1 ratio for future NFRs and potential acres for NFRs since the BFT acres are set? (Note: A-2 does not require a “farm residence” or “NFR” and allows “one-family dwellings” and “two-family dwellings”).

Borski will inquire with the Town Attorney and possibly DATCP on these questions. EPC recommended Rehm submit a Concept Plan application with more detail in advance of a future EPC meeting and request to be added to the agenda for more in-depth discussion.

Future Meetings & Agenda Items: Next meeting March 9, 2021. Public hearings for Conditional Use Permit renewals for:

- Dave & Kathy Rabe d/b/a D&K Endeavors, LLC (warehouse & residence on property zoned Commercial)
- Larry & Virginia Hinz (non-farm residence)
- Gary & Teresa Haas & David & Paula Haas Living Trust (non-farm residence)

Gary and Kathi Rabe may have a revised preliminary certified survey map for another concept plan review.

[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 Wenker/Averbeck to adjourn the meeting. Motion carried 5-0. Meeting adjourned at 9:20 p.m.

Respectfully submitted,

Jenna Borski
Member/Secretary
Town of Eldorado Plan Commission