

PIERCE COUNTY WISCONSIN
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MINUTES - Pierce County Land Management Committee Meeting, September 7, 2022, in-person meeting for everyone along with the option of remote attendance.

Present: Jon Aubart, Neil Gulbranson, and Eric Sanden

Others: Andy Pichotta and Shari Koehler

Absent: Joe Fetzer, Dan Puhmann

Acting Chairperson Jon Aubart called the Pierce County Land Management Committee meeting to order at 6:00pm in the County Boardroom.

Next meeting dates: September 21st, October 5th & 19th all in 2022.

Approve Minutes from the August 17, 2022 Land Management Committee meeting: **Sanden moved to approve the Land Management Committee minutes from August 17, 2022/Gulbranson seconded. All in favor. Passed.**

Public hearing to consider and take action on a request for a Map Amendment (Rezone) from Primary Agriculture District to General Rural District for Dale & Sheila Olson, owners on approximately 20.5 acres, located in the SE ¼ of the SE ¼ of Section 6, T27N, R17W, Town of Martell, Pierce County, WI.

Staff Report – Andy Pichotta: The applicants propose to rezone 20.52 acres from Primary Agriculture to General Rural to enable a proposed land division. The 2 parcels are located in Section 6, Town of Martell. Current land use is residential, forested, and undeveloped. Neighboring land uses are residential, forested, agriculture, and undeveloped. Pierce County Zoning Code §240-15 Purpose and Intent of Zoning Districts states:

Primary Agriculture (PA) is “established to maintain, preserve and enhance prime agricultural lands historically utilized for crop production but which are not included within the Exclusive Agriculture District. This district is also intended to provide farmland owners with additional management options by allowing limited residential density limits set so as to maintain the rural characteristics of the district.”

General Rural (GR) is “established to maintain and enhance agricultural operations in the county. The district also provides for low-density residential development which is consistent with a generally rural environment and allows for nonresidential uses which require relatively large land areas and/or are compatible with surrounding rural land.”

The Pierce County Comprehensive Plan states, “The County will approve re-zonings or map amendments only when the proposed change is consistent with an adopted or amended town comprehensive plan. In cases where a town has not adopted a comprehensive plan, rezoning will be approved only when consistent with the Pierce County Plan (encouraged vs. discouraged). In such cases, Pierce County will solicit a non-binding town recommendation regarding the proposed rezone.”

The Martell Town Board recommended approval of this request on 8-16-2022. They supported the approval by citing the *Town of Martell Comprehensive Plan*:

The Town’s justification is attached to the staff report and read by Pichotta:

The rezoning request of the parcel is in accordance with 3.0 Housing Element, Goals: Allow residential development while preserving the integrity of the environment and the character of the community, and promote a high quality residential character with a balanced range of housing opportunities. The future use of the parcel promotes the opinions of the residents of Martell when they were asked Question 15 in 3.0 Housing Element: Which of the following options best describes your ideas on the optimal size of parcels for new residential development: One of the two highest rated answers was “Single family scattered on 5+ acre lots” at 26.5%. This rezoning request is consistent with the Goals section 9.0 Land Use of the Comprehensive Plan.

Those are: Goals – Maintain rural character and lifestyle, Maintain a rural environment that provides for continuation and evolution of agricultural activities and Encourage well-planned development in the Town. There is no impact to productive farmland as stated in Section 2, Issues and Opportunities, Objectives of the Comprehensive Plan as the parcel being requested to be rezoned has had no income-producing farm production for many years. The parcel this rezoning request is for is part of a 78 acre parcel that was subdivided approximately in 1978. There are currently seven homes located on the original parcel, with two additional parcels under additional ownership with no structures. While this “neighborhood” does not fit the specific definition of a “conservation cluster development”, it would appear that allowing the rezoning request is appropriate for this parcel.

The value of land for agricultural use according to the USDA Web Soil Survey is listed in the staff report.

Staff Recommendation: Given that the Town of Martell Board of Supervisors has recommended approval of this proposed map amendment and has determined that the request is consistent with the Town of Martell’s adopted Comprehensive Plan, staff recommends that the LMC approve this map amendment (rezone) of 20.52 acres from Primary Agriculture to General Rural and forward a recommendation to the County Board of Supervisors. Chairperson Aubart asked the Olson’s if they have anything else they would like to add. Mr. Olson stated no, the report is complete.

Chairperson Aubart opened the hearing to public comment. Herb Bennett, Town of Martell, the land could have been used, has been used for agriculture. He had cattle there one year and one got out. He had to get them out of there immediately. He put corn on there the next year and then he was accused of poisoning the neighbor’s cat. Come to find out it had a kidney stone. It could have had agricultural on it, that is by their choice not ours. They would like to see it stay agricultural or rural. They don’t want to see the twin cities. He thinks he speaks for everybody behind him which are landowners next to it. They have already divided once, two per forty and they don’t know why it has to be done again. Brian Borgerson, Town of Martell, lives across south of 29 from the property that is being developed. He recommends this be brought back to the town board level for more discussion. People weren’t able to make the town board meeting when this was discussed. There are a lot of concerned people in the area. Mr. Borgerson stated on top of it, the whole process of people moving out into our community, they buy their 20 acre lots up and then they want to be able to develop or sell more lots off. They are farming their land off, basically, for a profit when it is going to have a direct impact on the farms that have been out there for generations. They have seven generations on the farm out there and if people are going to be able to buy 20 acre lots and redevelop them into five-acre parcels off that 20 acres. The people who have 40 acre lots or 180-acre parcels. They can only sell two acres per 40 but it’s going to get changed for the people who have moved out there in the last twenty, thirty years and they get to do whatever they want out there? They tried to get a cellphone tower put up on their land and it’s a big issue. They have no say and you are going to have more and more of these five-acre parcels and they are going to get on the town board and have their say for all the people that have been there for generations and have been farming their land. He doesn’t think it’s right. Merlin Rud, Town of Martell, owns the land adjacent to the Olson’s. He feels there are enough houses over there in that area. We don’t need any more. If you want to live in a housing development, go back to town. Kimberly Borgerson, Brian Borgerson’s wife, stated her concern is liability. There is going to be more traffic coming out there. There is already an issue. They already have people passing, flying by. They don’t know the rules about how agriculture works and that you should allow that tractor to be the first away. Somebody is going to get hurt and that is going to be a liability on either end. Those concerns are her biggest ones, as well as preserving the land. If they start developing that then they lose that and they are going to try as hard as they can to preserve that because there are a lot of old farms out there. Mr. Borgerson stated they have a generational farm of seven generations built in 1847. They have no voice out there anymore. You let all these people move out there. **Chairperson Aubart declared the public hearing closed.** Dale Olson, applicant, stated; regarding Mr. Bennet’s concerns, when they bought the property in the fall of 1989, the following year, he did plant corn on their parcel surrounding their buildings. The portion that they are looking at getting divided off only had a part of the cropland on it. That was the only year he planted corn on it. They did make arrangements for him to put cattle on the property. At the time they did indicate that the fencing was in disrepair and needed work. The cattle got out several times and at that time they had to indicate to him that because the fences weren’t being maintained he had to remove the cattle. He doesn’t think they had any dealings with Mr. Bennet after that on the property. He has no idea what he was referring to with the cat. The other thing that he would like to indicate to these other attendees at the meeting is the parcel that they are on was not originally a 20-acre parcel when it was

subdivided in 1977. It was a 4-acre parcel, a 6.52-acre parcel and a 10-acre parcel. He has a survey map indicating that. If you look at the last page of the staff report at the property that is being indicated on the small green map, you will notice is that there are a quite a few residences clustered around that. All they are proposing is that an additional structure be added to that cluster. They are not taking any ag land out of production. They are not proposing a one-acre per residence subdivision of some kind. They want to maintain the rural character. This particular parcel is very suited for another residence. There is a residence immediately to the west. There is their residence immediately to the south. There is a parcel to the north that is currently being farmed by Mr. Borgerson and the road on the east. He doesn't see where one more residence in that area would highly impact traffic. He doesn't see where an additional residence would be detrimental to wild life or any of that sort of thing. What they are looking at doing is after the rezone, proposing subdividing off a five-acre parcel for a single residence. Sanden stated, given the dimensions and going from the Primary Agriculture to General Rural, they mentioned one additional lot, what would be the maximum that they could increase? Pichotta stated General Rural is four per forty. So two units on twenty acres at the most. Sanden stated so two at the most. Pichotta stated yes, one additional. Sanden stated the committee knows that he is always one that speaks up about loss of prime ag land soils and that is kind of where he would stand but the town board is obviously really behind this. They have made some pretty exhaustive comments as to why they support it. He isn't speaking for anyone else on the committee but it does seem to be that we do want as much local control as possible, as much decisions made at the town level so that does kind of make him want to defer to their judgment. What would the ramifications be if they did send it back to the town for another look at it? Is that really part of the process or would that be going against how we normally do things? Pichotta stated that would not be typical. Typically, when the town makes a recommendation and they cite their comprehensive plan, it moves forward and is approved. Sanden stated that when the comprehensive plan was written, it was done to provide as much local control as possible, especially when it came to rezones. Some of that authority was taken away from the townships and given back through the comprehensive planning process. Who is solely responsible for interpreting their comprehensive plan? Is it our place to second guess them and say no? When the spirit of the comprehensive plan was that the townships would have the final say in interpreting their own comprehensive plan or was there an opening for us to override their interpretation? Pichotta stated the purpose in doing it the way that we did it was to make it so the town's had comprehensive plans that they actually used. When they provide guidance, we go by it because it used to be that rezones were very contentious at the County Board level. What we wanted to do was remove some of that contention and put the power back in the hands of the towns. You give me a comprehensive plan and you give me a project, you can typically find things that will support it and things that wouldn't support it. It's not like a comprehensive plan is a black and white document that you can look in it and say yes, this is supported or not. It basically provides backing for decisions made by the town board. What our goals were, as far as rezones, was to enable towns to further the goals, objectives and policies of their comprehensive plans to achieve the vision that they set out in their comprehensive plan. What is important to remember also, is that towns are an autonomous unit of government and we do zoning for the towns, we don't do it to them. Typically, if a town makes a recommendation and it is based on solid language that is contained within their comprehensive plan, we support that. Sanden stated when you say not zoning to the towns, that also would refer to denying something that they support. In other words, not us going in and proactively doing a rezone, we don't want to not follow their advice. Maybe procedurally there is a way, but not in the spirit of the comprehensive plan. Gulbranson agreed with what Eric said and stated in all his time here, this is probably the longest reference to their comp plan that has been in front of the committee. Most of the time it's one sentence. This really went into quite a bit of detail. Number two, he doesn't recall where we've really gone against the town's recommendation, maybe one item that had nothing to do with one home. He doesn't recall ever where we would have justification to go against the town. Pichotta stated typically, if we go against a town, it has been in relation to conditionally permitted uses versus rezones. Rezones are a bit more clear-cut. The other way to think about rezones and County zoning is this; say we propose a change to our zoning code. The check and balance is that if one more than half of the towns that would be impacted by that change are against it, the County can't adopt it. If we were to make a change to the General Rural District and if one more than half of them that had General Rural zoning present were against it, we couldn't adopt it. In that way there is kind of a check and balance. Now when you have a map amendment, that is also an amendment to the zoning code but it only impacts that single town. So that town has veto authority over that. That is part of the reason that we took the approach that we do. If a town didn't support a rezone and the County wanted to

essentially force a rezone on a town, we actually couldn't. The only town impacted by it would be that one and that is more than half. Sanden asked if that would go the other way that we couldn't deny it if the township was for it? Pichotta stated not necessarily, that is not something that is contained in statutes. Basically, the guidance contained in our comprehensive plan where we say we will only approve rezones when they are supported by a town and they are consistent with their plan. He understands that these folks here tonight are not happy with this proposed rezone but he would encourage you to get involved with your town government. Sanden stated he is normally one very resistant to, especially with prime ag lands, especially with all the people participating, but he is also one that likes to defer to the town as much as possible for that local control. If they didn't go so exhaustive, as you are right most of the time it's not addressed well in the comprehensive plan, here they went into quite a bit of detail. He would hate to go against the whole structure that they have set up for the comp plans and the relationship between the County and the town. He could say he doesn't think this would ever be more intensively rezoned after this meeting. This would be it. They have created two houses period on this property. Pichotta stated our goal through the whole comprehensive planning process and encouraging the towns to adopt comprehensive plans was essentially to recognize their autonomy and get them to make the decisions for themselves. Sanden stated especially since legislation took some of that authority away from them. This is a way to give it back.

Gulbranson moved to approve the map amendment (rezone) from Primary Agriculture to General Rural for Dale & Sheila Olson and forward a recommendation to the County Board of Supervisors due to the Town of Martell finding the request to be consistent with their Comprehensive Plan /Sanden seconds it. All in favor. Passed.

Chairperson Aubart stated just for procedural information, it now goes to the County Board. There are two readings at the County Board, will it be on the September meeting agenda? Pichotta stated it should be, assuming we are able to get the ordinance drafted quickly enough. Chairperson Aubart stated it will be before the County Board in September and October. Brian Borgerson asked what happens at the County Board meeting, is there any more discussion? Chairperson Aubart stated yes, you can come and voice your concerns and if you can convince nine of the supervisors that it is valid, they could deny it. Mr. Borgerson asked who the supervisors are. Chairperson Aubart stated there are 17 County Board Supervisors. He thinks Dean Bergseng is your County Board Supervisors. Mr. Borgerson stated no, he isn't. Chairperson Aubart we will vote on it, the vote won't come until October but the discussion will come at the first meeting, for the most part. That meeting will be the 27th of September at 7:00pm in this room.

Discuss take action on Travel/Training Requests. Pichotta stated he has no travel/training request for your consideration tonight.

Future agenda items: Pichotta stated we have no items for the September 21st agenda so our next meeting will be October 5th. We have at a minimum two mine renewals on that agenda.

Sanden congratulated Brad Roy for his new position and thanked him for his many years of service. He has watched him really grow into someone who is very, very capable. The Village of Ellsworth is in good hands.

Motion to adjourn at 6:31pm by Sanden/Gulbranson seconded. Motion passed.

Respectfully submitted by S. Koehler