

The Madison County Plan Commission on the above date at 9:30 A.M. with Bill Maxwell, President, presiding.

Members Present: Bill Maxwell, Paul Wilson, John Randall, Jr., Gary Gustin, John Orick, Wesley Likens, Mark Gary, John Simmermon and Brad Newman.

Members Absent:

Also Present: Michael Hershman, Executive Director. Judy King, Plan Reviewer, and Gerald Shine, Jr., Attorney.

Current Business

1. Roll call was taken and one member, Gary Gustin was absent.

Mr. Shine said, after our meeting last week I attempted to take our comments and put those in to the provisions that we had and those were to be e-mailed and delivered to each of you for your review. That was all underlined so you would know what was changed and what was not changed.

I had one comment that was made to me being on part nine. I had the word agronomist and that should have been modified and it should have been Soil Scientist. That was the only comment that I had.

And then our second challenge was I understand a couple of you may have gotten together to discuss paragraph nine and ten. Mr. Hobbs did provide to me and I believe many of you were sent e-mail copies this morning. But, we have a copy of ---

Mr. Hershman informed the board he had copies of the e-mail Mr. Hobbs sent him.

Mr. Shine said, those were the two directions that as council I believe you all gave me.

Mr. Hershman presented that to the board.

Mr. Hershman said, I would like to start with the Subdivision regulations. We are at the point where we can make a recommendation.

The board then went to item 3.

3. Proposed changes to Land Use & Development Code, Subdivision Control Ordinance Section 3. (Continued from 1/9/07 meeting).

Mr. Wilson said, just for review proposes, this is the proposal made via the Surveyor's office. It is an administrative procedural change in the ordinance.

Mr. Hershman said, it's how we handle administrative plats and specifically how we handle final plats of the administrative plat process.

Mr. Wilson said, I would make a motion that the Planning Commission provide a favorable recommendation for presented change in the County Subdivision Control Ordinance, Article 3, Administrative Subdivisions and its subsection 3.3 Administrative Subdivision Application Review and Procedural Change.

This motion would also include 3.4 Specifications for Administrative Subdivision including H, I and J as presented.

Mr. Orick seconded the motion.

The vote was unanimous in favor of the motion.

Mr. Wilson said, I would like to say I appreciate the Surveyors work on this issue.

The board then went back to item 2, Proposed changes to Land Use & Development Code, Zoning Ordinance Sections 1.5, 6.19.

2. Proposed changes to Land Use & Development Code, Zoning Ordinance Sections 1.5, 6.19.
(Continued from 1/9/07 meeting).

Mr. Shine said, we have brought up the information on the Internet There is a two page summary of which I am having printed copies for everybody. The other is a 27-page document, which has three model ordinances for different zoning type of areas and districts, which we do not have. I am just one copy of that to be copied so Michael will have that. There is nothing in there as too liners on concrete pits.

Mr. Wilson said, we will have it but the understanding I had as to what the State was proposing was moving to a General Agricultural District and having subsections in the Agricultural District that would deal with the particulars of agricultural business.

They are proposing a 23-page model ordinance.

Ken Perkins, Wabash, Indiana, former agri. specialist.

Mr. Perkins said, I have been to about 13 to 14 counties where they are going through the same process. There have been a lot of cases because a lot is run by emotions. Making sure you draft ordinances that you can defend scientifically and be consistent. They are going to have legal challenges because it was all emotion. They could not point to a specific reason why they denied the permits. Local BZA's are going to have to be consistent with their reason for saying yes or no. What they tried to do was go through and list what are the concerns and then address them and why they did that. It's just a guideline. There site specific issues. You really need to be consistent.

Mr. Orick said, Bill, are these liners used in other applications?

Mr. Hobbs said, they are used -- the liner that I proposed when this came in to me was the GF Synthetic liner that they used in landfill applications. It's probably the most prominent type liner used in those -- where they are trying to control the contamination level. Look at IDEM's if they have a problem with it and they report it to me (not audible).

I have talked to engineers --- what my understanding is and I have been told is, the type of concrete that is used for a waste water plant is a different type of concrete that (not audible). The type of concrete that a waste water plant is required to use does not leak and one of the issues is why we are not using the same concrete and same specifications for waste water plant that they are using for CAFO's. Cost has got to be a big factor.

Mr. Wilson asked, what is the difference between ecoli contamination from human waste versus ecoli contamination from hogs or cattle?

Mr. Hobbs replied, I don't know that.

Mr. Perkins said, it does not shrink, it non shrinking concrete but it will crack.

Mr. Wilson said, if there is an equal number of cattle why would it not cost us as much to clean that water up as it does 2,800 hundred people that are there?

Mr. Perkins said, I guess the thing about it is they did it because they have all these septic fields. A lot of the rules have been grandfathered in. The engineers that designed the pits and if IDEM and the environmental groups when they originally drafted these laws thought that the liner were what you needed continued to put them in.

Mr. Wilson said, what I get out of the public is, they basically have two concerns, and they want to know when the things done and whether the ground water is going to be safe and they don't want to smell it. They are very concerned with water quality after the processing and is it going to be located in some place that people are going to be sitting on their front porch and not smell the crazy thing.

Mr. Perkins said, that's why I go back that local boards should be in control.

Mr. Wilson said, I should rephrase that in saying no odor is the wrong terminology. I think the correct terminology is I have to shut all my windows and doors so that ----

Mr. Perkins said, in all the cases they are referring to, those were done when they had no regulations to start with. One thing on this water quality issue is the difference between a CAFO and is a thousand head farm. We have not had the issues that are being brought up now.

Mike Veenhuizen, said, in response to your question, La Port County has started to do their own water monitoring. Some interesting results out of that is, individual has found out that he has a problem. He's a hog producer but the problem is not his hog operation it is the septic field. He has found out that his well and septic are to close together and it has contaminated his leech field or his well. All of the other test that have been taken and found to be well below the drip water standards.

In a blanket statement a monitoring well should be installed on all operations is going beyond the scope of what is necessary. I would suggest that we look at a risk factors as you look at drafting or putting together guidance for monitoring wells simply because of the fact that there are properties that Soil Scientist, Geotechnical Engineers, design engineers all used an appreciated as to what the risk factors. On poor soil I would be one that

would support the consideration on having a monitoring well. Monitoring wells in the northeast planes of Colorado because they have sand and sand soils.

Mr. Wilson said, we have discussed this over a period and you do have hard science but you also have governmental bodies that write regulations on the hard science and also write regulations on perception that there is a push out there for something. My opinion all along on the monitoring wells is, if the only way you're going to get over the hump is put some monitoring wells in and monitor the water and then base that on factual evidence, yes there is a problem or no there is no problem. I don't know how you can get over the hump.

Mr. Orick said, science influences what you do. They look at the soil, the extent of the sand and gravel. I have just been told there are pockets of sand and gravel surrounding by compacted clay that absolutely go no where so it's like a natural underground sump. In that case are we going to monitor that where that doesn't even go anywhere? I think this is getting very complicated and the more I talk to people the more complicated it gets because of the science involved in this situation. I talked to IDEM last week and they said they had employed geologist, structural engineers, I am sure an agronomist, soil scientist, they have so much scientific background and expertise available I have a hard time saying that this board and one consultant that we would hire would do a better job to over ride what they could tell of us from all that the farmer has to say.

Mr. Wilson asked, what is it that they would be doing to over ride it? What I read in this is their judgment call is based on what the science and laboratory results are that they get. If that judgment call is based on the lab results and that science what is the problem with it? I am talking about the monitoring.

Mr. Orick said, I am talking about the nine and ten.

Mr. Shine asked what is the actual cost in the difference in having a monitoring wells and the liner?

Mr. Simmermon said, the wells are 1,500 dollars apiece but that is not the issue. The liner is prohibited. If there is liner required on a hog barn in Madison County it will not be built. On Jarrett's situation it was almost 40 thousand. And there is not that much margin in the feeding hogs. There is no way he would do that. I put the two monitoring wells in before I started my project. The engineers that put it in said the ground looked fine. What Bill is proposing is that if there is questionable soil profiles that that report would go to IDEM and let IDEM make the decision. This decision would be on the liner. The only way your going to get the profile is to go down and put the monitoring wells in. The cost is in the profile. You might as well put the casing in there. The two that I put in, they put in a lot of monitoring wells are gas stations and they were very confident that they were putting correctly that there was no way that they would leak because of they way that they put the casing in.

My problem is because we don't know exactly the flow of what's going on underground there. You could get dust off the buildings. You could get a lot of false readings. I'm not going to say it's going to happen but I am just saying there is a chance. So, if we get some reports that show high nitrates in these monitoring wells right off hand we shouldn't be alarmed. We should do further testing and go through all that kind of thing because nobody really knows at this point. This is so new. We are just kind of scratching the surface here. And we as a board and the Board of Zoning Appeals are not able to make that kind of decision and I recommend that the county does not make that decision. If there is any decision to be made on a liner or anything like that it needs to go to the engineers of IDEM and have them make the decisions.

Bill and I have worked on this pretty hard and we think to sell this whole CAFO situation in our county, case factor of the two monitoring wells is not that expensive. I already did it and it's not that big of a deal. I am more concerned about the liability that's going to happen down the road of what the test are going to be from the monitoring. There are just so many things that can happen and we just want to be sure that this board is not making that kind of decision on clean the building out and get rid of it. We are not able to do that. We are not engineers sitting up here. All we can do is try to come up with a proposal and try to sell it after we make it that it's going to be fine and we are not going to get all this chaos we have had in the county. If all it takes is two monitoring wells I am fine with that. The part that I am really concerned about is the liner being recommended from this county because there is no way that can happen.

Mr. Shine asked what is the useful life on one of these pits?

Mr. Simmermon said, I have had buildings in for 40, 50 years now.

Mr. Shine said, talking 25 years I think. Isn't that what we've talked at our meetings earlier.

Mr. Wilson said, we would only monitor them for 25 years?

Mr. Shine said, no, that's what a useful life of one of these ---

Mr. Simmermon said, that's more above the pit though. That's the structure ---

Mr. Hobbs said, at the BZA meetings we had a contractor come in and indicate that he replaced those concrete pits on an average of every 25 years.

Mr. Maxwell said, I would like to mention two things. One, the discussion --- the engineering that's gone on has all the answers. Well, every year engineers come up with something new for all different projects and I guarantee you what John is talking about there from Purdue conservation it won't be too far down the road that these same engineers are going to say, hey I just come up with a new thing. So, past is past and future is future and the engineering knowledge doesn't stay the same is what I am getting at. Secondly, on the two pages that were just passed out on number 10 compared to the new group that was e-mailed to us, okay, in number 10 it talked about the two monitoring wells and talks about unconsolidated sand and gravel and bedrock for 30 feet and I noticed that's not in the new one.

Mr. Hobbs said, one of the things that needs to go in number 9 is the 30-foot depth. I failed to transfer that. The sand and gravel issue, typically in every boring you're going to have some sand and gravel. That's where it's important that someone that has engineer review that soil boring and determine whether or not an additional liner is needed.

I took that language out because it was somewhat confusing and saying well it's because of the sand and gravel coming in on a liner. You will always have some element of sand and gravel in the boring. An engineer has to look at that.

Mr. Maxwell said, which would come out as the monitoring wells were being dug. They could tell what layers ---

Mr. Hobbs said, it's referenced in 9 and I referenced it in 10 because of the fact that those are the things --- it not something as we as a board would know if it's right. We don't want to be making that call. We need a Soil Scientist and engineer who does that.

Monitoring wells are constructed by State Statute and they put those monitoring wells around gas stations. They have more leakage concerns than what we are talking about on a CAFO.

Mr. Simmermon said, sand and gravel in number 9.

Mr. Maxwell said, number 8 says the Soil Scientist will check the testing of the monitoring wells as they are put in, right?

Mr. Hobbs said, I am not sure that that part in number 8 couldn't be remove because we address it in number 10.

I think you should eliminate that first sentence. And 8 should be a certified laboratory should test all the water supplies.

Number 8 shall read, a Soil Engineer shall be hired by Madison County Planning Commission for the propose of consulting with the commission and conducting monitoring well test and eliminate the conducting soil compatibility of the monitoring wells.

Mr. Simmermon said, your talking about the perimeter drain and the two monitoring wells and the well water.

A lot of these buildings are built in a row, a lot of the time these buildings are not 50 feet a part, how are you going to place those monitoring wells? Can we do that at 50 feet from the end of the buildings?

Mr. Orick said, it would make sense for the geo-engineer to determine where they should be. I don't have a problem with ----

Mr. Hobbs said, one of the problem that Dennis brought up --- I got an e-mail back and John talked --- I'm not sure but his reference to the questions was a little bit backwards but my question to him was, how close can the monitoring well be to the waste storage structure and also I asked about the liners and he did not respond at all on the liners. They don't have a problem with locating --- closer as well as they follow the guidelines of being sealed, which you will see that is exactly where ---- so, he does bring in to play something that if you really wanted to do a complete model of water flow it would take several wells to do that. So, if you're going to have several buildings that might be an opportunity to do that. If you are going to have two monitoring wells for each building ---

Mr. Simmermon said, I don't see one monitoring well couldn't monitor two buildings or three buildings as long as they are within 50 feet. You want to sample within 50 feet so I say you need a monitoring in 50 feet.

Bill, I think we should take that out because if they determine the water flow I would say within 50 feet of the hull of the building.

Mr. Perkins said, if the monitor wells are tested you also need drinking wells.

Mr. Hobbs said, I think we should just leave all water supplies.

Mr. Wilson said, I am looking at this document here called, Revision 1007 at the bottom, now is that an exact copy of this e-mail that I got? So, which one are we working from here right now.

Mr. Simmermon said, this right here, this is 10. The new number 10.

Mr. Hobbs said, number 8, for your information and Jerry's, we are going to delete, a Geotechnical Soils Engineer shall be hired by Madison County Planning Commission for proposes of consulting commission and conducting monitoring well test as set out herein. A certified laboratory shall test all water supplies including perimeter tile testing. The CFO/CAFO operator/owner shall pay an annual assessment to cover the cost of such services as provided. Assessments shall be approved by the Madison County Planning Commission.

Mr. Orick asked, do you think we can make it just general consulting firm, do we have to get that specific in the ordinance?

Mr. Perkins said, Purdue has people that are trained to do that.

Mr. Wilson said, for right now I think we want it in our county camp. That's the bottom line.

Greg Bolander, Elwood.

Mr. Bolander said, I would just like to understand, does the third party --- I as a producer, if I want to build a CFO/CAFO, I hire someone to design the facility does that person who designs the facility would have to take bore samplings and water samples?

They reply was no.

Mr. Simmermon said, what we are doing is, we're just finding the problem and then we are taking the problem, we're letting IDEM know about it, IDEM will take care of it. All we are doing is just trying to be somewhat proactive and sample things to find the problem if there is one. Let them deal with it.

Mr. Hobbs said, number 9. On line one we are putting in two 30-foot deep monitoring wells.

Mr. Simmermon said, I say we leave the water testing the way it is. If your going more buildings have them bring that up tot eh BZA, have them bring some people in to talk abut it at the BZA, let BZA make the decision.

Mr. Shine said, lets go back to number 8. At the end of all water supplies do you want me to put, including perimeter?

They reply was yes.

Mr. Shine said, at the end of that is, certified laboratory shall test all water supplies, including perimeter tile testing?

Reply was yes.

Mr. Shine said, then for Mr. Wilson, I added, assessments shall be approved by the Madison County Planning Commission.

So, 8 and 9 and 1,2,3,4,5,6,7 so far now were pretty up, now we going to number 10.

It was the consensus of the board to take a five minute break (10:44:53 A.M.

The board was called back to order. 11:03:14 A.M.

Mr. Hobbs said, as I mentioned earlier I had spoken to Dennis (not audible) and referred to monitoring wells and I also mentioned the liners. He did not respond. He indicated they would review anything (not audible) so I talked to John and we did a little change on 10. We recommended we go through the geotechnical soil engineer. That would be the person to say we potentially have a problem here. We are bringing this to your attention Madison County.

Then the next thing we want to do, I recommended, that we let that person address it to IDEM. They have the knowledge if there is a problem. Let them come up with a solution.

Mr. Shine said, we are not going to issue our permit until IDEM issues their permit.

Mr. Orick said, for the concrete there are people that are concerned that concrete pit might fail at some point. So, therefore the liner was recommended to be attached to the concrete on the outside to be a safe guard for this in case it would leak. It is insurance for the concrete pit. The need for the insurance policy is greater in soil and sand than it is in clay. That's the reason we put the sand and gravel in it.

Mr. Simmermon said, the final language is to stop with the seventh line after Comments. Then leave everything from there down. And add during the IDEM permitting process.

Mr. Maxwell said, I would like to go back to page 3, number 6. Structures used for confined feeding operations, including waste disposal lagoons, shall be setback a minimum of 100 feet from all property lines. This was brought up by Mr. Wilson last Tuesday and he gave some scenarios that I think would affect a property owner next door if there was a split that had taken place in the past, been set up as a building lot, 2 acres or whatever it might be, that property owner can't build any closer than 25 feet to the side of his property.

Mr. Wilson's question then was, is this going to affect the neighbor to where he is not going to be able to build with the 100 feet setback from the property lines for a lagoon ---

Mr. Wilson said, I thought they would have the normal setbacks with the understanding that they had been Notified that an application had all ready been made to build a CAFO in the adjoining lot within the 500 foot setback. So, the question is, is that addressed in this language?

Mr. Shine said, I think under 1a-Iaand then when you get over here to number 5, this is talking about 100 feet from the property line. Then you go to 7 and it gets back to what we did in Jarrett's situation. The language is in there.

Under 1a-I, I didn't change the first three lines. But there is a blank for how many months. Any landowner from a (not audible) to be built within the setbacks established herein, with out the landowner. Now I have changed it. Submitting a written waiver acknowledging that a CAFO is being requested and consenting to the approval of the same as submitted. This written waiver shall be recorded with the Recorder of Madison County.

Twelve months unless extended by the BZA for the deadline.

Mr. Newman said, on page 3, under 9, we agreed to 5 years. That needs to be in there. Number 9 where it is underlined it says 1 year. That part is correct and it should be 5 years for on falsification on violations regarding waters of the state.

For clarification here is, we've got 100 foot from the road, 250 from the property line.

Mr. Wilson said, I make a motion this be changed from 100 foot from the road, 250 from the property line. Mr.

Newman seconded the motion.

The vote was 6 no's and two yes. The motion is mute.

Mr. Newman said, I move we 1360 feet to 1320 feet. Mr. Randall seconded the motion. The vote was 7 yes and 1 no. The motion carried.

Mr. Simmermon informed the he would not be voting on the following and has removed him self from the board.

Mr. Likens said, I make a motion that we send a favorable recommendation to the Commissioners on everything that we have discussed here today for a Confined Feeding Operations as changed on Section 1.5 on the revision of 11007 contingent up on the comments after review of these today's.

Mr. Randall seconded the motion.

The vote was unanimous in favor of the motion.

Mr. Orick made a motion, seconded by Mr. Likens to adjourn. The vote was unanimous in favor of the motion.

Adjournment: 12:54:42 P.M.

Bill Maxwell, President

Beverly Guignet, Secretary