

Final Minutes of the
Town of Cross Plains Plan Commission Meeting and TDR Informational meeting,
February 6, 2012

Present: Wayne Parrell (acting Chair); Sherry Krantz; Tom Rhude; Greg Hyer;

Absent: Mike Coyle

Amelia Williams (Secretary)

Attending; Board members: Greg Haack, Terry Kurth, Jeff Baylis, Greg Hyer

60 interested citizens

7:10 PM – 9:40 PM

Wayne Parrell called the meeting to order, then asked for any corrections to the minutes of the January 3rd meeting. After one correction, Hyer moved approval, Krantz seconded, and the motion passed unanimously.

Parrell asked for public comment on any agenda item. There being none, he proceeded to the next agenda item.

Jared and Sarah Olsen Rezone application of Flaig property in Section 17.

Jerad and Sarah Olsen petitioned to rezone parts of the Flaig farm. The Olsens plan to build a home on a 19.3 acre parcel (020-0707-173-8500-3) in section 17 along Garfoot Road. The rezone requests a change from A1-Ex to RH2. They are buying a total of 80 acres, and since this remaining farm property has two splits, they are buying both splits, but will not be using the second one now. Hyer moved approval, Rhude seconded, and the Commission voted unanimously to recommend approval to the Board.

David and Tammy Nelson's Rezone of Linus and Donna Schoepp property in Section 4.

The Nelsons requested that a parcel of the Schoepp property which had mistakenly been annexed by the Village of Cross Plains be returned to the Town, and that several parcels of the original Schoepp farm be rezoned from A1-Ex to other agricultural zonings such as A2(8) and A-4. David Nelson explained that these changes were made necessary when the DNR bought the corridor around Black Earth Creek, which runs through the property. Though the land had been one farm, the new parcels were necessary because the Black Earth Creek Corridor (DNR land) had split the previously contiguous property. Hyer had received help from the Towns Association on how to re-annex the 0.95 acres (0707-043-8002-1) back into the Township. There will be a deed restriction on this part of the land, such that no homes can be built on it, although the rest of the splits will not be affected by the rezones. The Nelsons will be using the farmhouse, but not the other splits from this property. The Plan Commission will look at this application again at the March meeting.

**A PUBLIC INFORMATIONAL MEETING ON TDRs, or
TRANSFER OF DEVELOPMENT RIGHTS**

The Plan Commission's intention in publicizing the meeting to all citizens was both to inform and to ask for input on a possible TDR program for the town.

Brain Standing from the Dane County Planning and Development Office explained the concepts behind TDRs (see papers on the website also). As with the farmland preservation policies in the Town's comprehensive plan, the basic idea is to maintain farmland and conservation areas, keeping housing settlement in concentrated areas. The example of the Town of Middleton was used

to show what might happen when a town has no farmland preservation policy. A TDR policy further helps to reduce suburban sprawl.

Briefly stated, the Town can designate some lands as “Sending Areas” (SA), and other lands as “Receiving Areas”(RA). The owner of the Sending Area land can sell a development right (split) to another person, who can then use this split to build on land in a Receiving Area. All the transactions are voluntary, negotiated between individuals. Standing illustrated the concepts with a map showing potential sending and receiving areas in the Township. The criteria used for this map had been requested by the Plan Commission, but the details of defining these areas are important, and are up to the Town. If the Town decides to go forward with a TDR program, the criteria and details are written into the Comprehensive Plan. Two options are now under consideration. Please see the website for details.

Jim Walsh from the National Heritage Land Trust then explained the legal mechanism which enforces a TDR transaction: the Conservation Easement. He illustrated the Easement with a power point presentation, showing the rights which landowners hold; for example, the right to hunt, to refuse access to their land, to build on and to sell the land. Presently, the landowner has one building right (split) for every 35 acres. If a landowner voluntarily sells a building right, a conservation easement is attached to the deed, saying that it cannot be used for building a house. The process is like selling the parcel to someone else, but actually retaining the land. – he/she is just selling the right to build on the land, not the land itself. The easement remains with the land if the land is sold. The conservation easement is held by the town, the county, and sometimes by a third party, such as the Land Trust. Often the third party is involved to make it extremely difficult to remove the easement. The citizens, looking to the future, were interested to know what could lift the easement when times and the economy change. Walsh replied that the only way would be through condemnation of the land, for example, for power lines or roads. The County and Town could change their minds, but having a third party such as the National Heritage Land trust gives it an extra layer of protection.

The citizens at this meeting had many concerns and questions. Here is a short summary of the main questions and answers:

1. Doesn't this open the Town to more development, to subdivision-like development? (There seemed to be general agreement that this was not desirable.) Answer: The total number of splits does not change (about 450 exist today). The town might concentrate the building sites in areas around Pine Bluff, along several roads, or select other criteria for receiving areas. It also doesn't take away the present right of landowners to sell their property as they can now (1 building site/ 35 acres).
2. What about the rights of the people in areas designated as the receiving areas? – they might like the woods and trees and farmland, and not want neighbors. Answer: Other towns have used several ways to give the surrounding landowners a voice in these decisions. Public hearings for each change is one possibility. The town government can also put rules in place which are consistent with the land use plan.
3. The Land Use Plan was amended in 1994 (date?) to give each substandard parcel (>4 and <35 acres) created before 1981 one extra split. Presently, the owner can build a second house on a parcel 2 acres or greater. Could the owners sell the split? Answer: The Plan Commission is leaning toward NO, thinking they might even have to buy another to subdivide and build. But this needs discussion.
4. If the Town designates a receiving area near the Village or near Madison's extraterritorial border, what's to keep the land from being annexed? Answer: Nothing. On this point there

was agreement that the town should first seek an inter-governmental agreement with the other municipality. Supervisor Baylis said that this had come up in other townships, and that CARPC could help craft such agreements.

5. The prices of land for farms vs. for housing development came up often. Some said that residential land got the best prices; others mentioned the higher price of farmland today. One citizen said that we do not need to protect farmland because farmers can grow surpluses of any crop. Answer: Walsh said that experience in other townships showed that enough SAs and RAs were necessary for the market to work in setting prices. Baylis mentioned that farmers had formed a co-op in one area so that the farmers could not be played off against one another. There was general agreement that the plan would work only within the Township.
6. Mary Jane Hamilton asked whether new policies would require expensive infrastructure improvements. Standing said that the rules in place allowed for negotiations between the developer and the town, and the plan commission was thinking of adding criteria which would help define the infrastructure limits.
7. What other Towns have TDRs? Answer: Walsh mentioned the Town of Dunn – the citizens taxed themselves to purchase farmers’ development rights. The farmers who sold development rights later sold their land, and thus came out ahead. The land, as farmland, has been selling at high prices. Cottage Grove, when their implementation plan landed in court, helped the County adopt the present ordinance. Roxbury. Springfield has a plan after 5 years of study, very complex and soon to be adopted.
8. Louise Klopp asked why the protected area near the Black Earth Creek did not extend to the Town’s border. Answer: Standing said the map used the Village lines, but this could easily be changed by the Town to protect the creek.

A general misconception which appeared many times was that TDRs would reduce the rights of the landholders as to how they could sell their land. The program does not change the present rights of landowners to use the splits they have. It does not keep them from selling all or portions of their land. If they sold a physical portion of their land, they could not ask for it back without buying it. Similarly, if after selling a development right, they want it back, they could not have it without buying it. Jeff Sale worried that there might be restrictions put on the land by government agencies. Standing replied that this is only true where the government is a party to the sale, such as when the DNR buys land in the town. TDRs are meant to be between private individuals.

Jerry Haack thought the plan could not be written which would make everyone happy; others simply did not want any change. Arnold Harris suggested the Plan Commission draw up a questionnaire for the residents to guide it in further studying the issue of TDRs.

Parrell thanked everyone for coming. Rhude moved adjournment, Krantz seconded, and the meeting ended at 9:40 pm.

Submitted February 9, 2012 by Amelia Williams, Secretary TCP-PC

Please see maps, letters, and papers discussed on the website at

http://web.me.com/ameliawilliams/PlanCommissionTCP/Mtg_Info_Packs.html