

November 19, 2012

## JESSENLAND PLANNING AND ZONING

### Minutes

1. Review and approve minutes of October meeting. (Doug/Jeff)
2. Approve agenda, with addition to 'Other Business' concerning Cemstone (Jeff/Tim)
3. Requests:

Over the Counter:

Conditional Use:

Variance:

Other:

4. Action:
5. Other business:

Cemstone seems to be noisily running operations around the clock. Are there any hours of operation in their C.U.P.? Martha will look into this.

The consultation with Peter Tiede concerning whether the Corinna Twp. decision would apply to our question about double permitting yielded the following. First, the Corinna decision does not apply to Jessenland Township's situation. Most of that case revolved around Shoreland zoning and in state law Shoreland zoning has its own language and laws that do not apply elsewhere. (Tiede was involved in that case.) As to whether or not double permitting is allowed, Tiede answered that double permitting is allowed between a county and township with each unit of government having a specific provision in the law to allow their own permitting. There is nothing in the law to shut the county out of a township's zoning so that we could not under any case tell the county to 'get out'. Even when the township holds more restrictive zoning, it can not keep the county from doing its own zoning. The only exception to this would be between a county and a city and in that case, the legislature has written in the law, clear language that allows a city to keep a county out of its zoning. It is precisely because those laws exist and are so clear, that it can be argued that if the legislature did not intend there to be double permitting, it would have spelled it out.

Tiede suggested that at best, for the landowner, a coordinated system could be established, perhaps with a unified application form and/or an agreement with the county on specific areas where the township is more restrictive. For example, if the township is more restrictive on lot size for building, then an agreement with the county would allow the township to be the sole permitter, but only if the county gives their blessings to such an agreement. Whether our ordinances are the same as the county's or more restrictive does not matter so far as whether the county can require its own permitting process. Another suggestion from Tiede was that if the township is only more restrictive in a few areas and only really cares about its own permitting in those more restrictive areas, then perhaps an agreement could be made with the county to hand back all the rest of our P&Z and in exchange the township would be the sole permitter in those areas of more restriction.

No further action will be taken at this time by Jessenland P&Z regarding double permitting.

Both the Sibley County clustering ordinance and the Model clustering ordinance were presented by Doug and compared. In general, the county ordinance is less restrictive and presents a harder to follow formula for determining clustering sizes. The Model ordinance includes sections that address 'Intent' and 'Purpose' and these would be helpful to the township in clearly stating that the clustering ordinance is in place as a means to preserve natural areas, not to expand development. Doug will continue to work on writing a clustering ordinance which he will tentatively present in December to P&Z and to the Town Board in January.

6. Adjourned: (Tim/Jeff/)

- 7. Next regular meeting: December 17, 2012

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Doug Thomas, Clerk

Commission Members Present: Doug Thomas, Tim Spletzer, Laurie Brockhoff, Jeff Erickson, Deb Boettcher