

**CITY OF ELKHORN**  
**Joint Extraterritorial Zoning Committee Meeting**  
**City of Elkhorn and Town of Sugar Creek**  
**Council Chambers, 311 Seymour Ct., Elkhorn, Wisconsin**  
**January 4, 2024**

Meeting of the Joint Extraterritorial Zoning Committee was called to order at 5:00 p.m. followed by Roll Call.

**ROLL CALL AND ESTABLISH A QUORUM**

Present: City of Elkhorn: Tom Stotko, Duane Wuttke, James Boardman  
Town of Sugar Creek: Mark Steinfest, Dale Wuttke, David Robers  
City of Elkhorn: Allison Schwark, Zoning Adm., Lee Brown, City Planner  
Also Present: Bruce Lechner, Ken Meinel, Tim Shiroda, Adam Swann, Naomi Rausch, Matt Lindstrom  
Visitors: Sam Brummel, Dan Nettesheim, Kristy Manderfeld, Chris Clapper

**NAME CHAIRPERSON**

Motion (Stotko/Duane Wuttke) nominated Member Boardman as Chairperson. Motion carried by the majority of those members present.

**DISCUSSION/EXTRATERRITORIAL PLANNING PROCESS**

Lee Brown, Teska Associates, City Planner, was requested to speak first. He suggested that introductions be made at this time. All members of the Joint Extraterritorial Zoning Committee as well as additional City representatives introduced themselves. Mr. Brown provided information regarding the Extraterritorial Zoning (ETZ) planning process and background that has led up to this point in time. The Elkhorn City Council initiated the City's Extraterritorial Zoning authority within a portion of the Town of Sugar Creek on October 16, 2023, by adopting a resolution declaring its intent to exercise extraterritorial zoning power. This proposed zoning jurisdiction encompasses the portion of the Town of Sugar Creek that is 1.5 miles outside of the City's jurisdictional border identified as Extraterritorial Zoning (ETZ) area. The City Council also adopted an interim ordinance to preserve the existing zoning within the Extraterritorial Zoning (ETZ) area while a Comprehensive Zoning Plan for the Extraterritorial Zoning (ETZ) area is being prepared.

On October 20, 2023, a letter from the City of Elkhorn was sent to the Town of Sugar Creek with notification regarding the adopted Extraterritorial Zoning resolution and ordinance with the Town of Sugar Creek and requested the Sugar Creek Town Board to appoint three members to the Joint Extraterritorial Zoning Committee. The Joint Extraterritorial Zoning Committee is made up of three citizen members of the City Plan Commission, and three citizens of the Town of Sugar Creek as appointed by their respective governing bodies. On November 16, 2023, the City Plan Commission recommended the appointment of three members from the City to serve on the Joint Extraterritorial Zoning Committee, and on November 20, 2023, the City Council appointed the three members to the Joint Extraterritorial Zoning Committee. The statute requires the Town of Sugar Creek to act to appoint its three members to the Joint Extraterritorial Zoning Committee within thirty days, and the Sugar Creek Town Board noticed a meeting to make the appointments on December 28, 2023.

As the first step in the planning process, Legal Counsel recommends the members of the Joint Extraterritorial Zoning Committee meet with the City's Zoning Administrator and City Planner to review the Extraterritorial Zoning (ETZ) process and work out a timeline with next steps. While the City Plan Commission may be present, as well as other members of the public, (this is a posted and public meeting process), the intended purpose of the meeting is for the six Joint Extraterritorial Zoning Committee members to be introduced, to review the planning process, and to begin to discuss a timeline for the Extraterritorial Zoning (ETZ) Area plan. While the statute provides for participation by the City Plan Commission in the planning process, it is important for the Joint Extraterritorial Zoning Committee to get oriented at the first meeting and then it can add in active participation by the City Plan Commission at its following meetings.

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After the Joint Extraterritorial Zoning Committee is formed, the statute provides that the Joint Extraterritorial Zoning Committee and the City Plan Commission (in a non-voting role) must meet to formulate tentative recommendations for the district plan and regulations. The district plan will be similar to a subarea plan for a Comprehensive Plan. It will also contain zoning regulations. The district plan may address the entire 1.5 mile area or portions of it. The meetings of the Joint Extraterritorial Zoning Committee shall be noticed and posted in accordance with the Wisconsin open meetings laws at both the City and Town. This formulation stage may take more than a few months, as there will be active discussion regarding the proposed plan and regulations.

The Joint Extraterritorial Zoning Committee will work with outside planning consultants to assist in preparing the district plan and a public hearing will be required. After the public hearing, the Joint Committee should discuss and then vote on the tentative recommendations for the district plan and regulations. This discussion may take one meeting or several meetings. For the proposed district plan and regulations to be adopted by the City Council, it must receive a favorable vote of a majority of the six members for the Joint Extraterritorial Zoning Committee. Such vote shall be deemed action taken by the entire City Plan Commission.

After the Joint Extraterritorial Zoning Committee/Elkhorn Plan Commission votes favorably on the tentative recommendations for the district plan and regulations, the Elkhorn City Council will consider it. At this point in the process, there are two courses of action the Elkhorn City Council can take: 1) the Elkhorn City Council may adopt the proposed district plan and regulations as recommended by the Joint Extraterritorial Zoning Committee. Prior to acting on the proposed district plan and regulations the Elkhorn City Council must hold a public hearing using the same requirements for the Joint Extraterritorial Zoning Committee/Elkhorn Plan Commission public hearing, above; and 2) the Elkhorn City Council may propose changes to the district plan and regulations by first submitting proposed changes to the Joint Extraterritorial Zoning Committee for recommendation and report. The Joint Extraterritorial Zoning Committee and Elkhorn City Council may hold a joint hearing on the proposed changes after giving notice as provided above. The Joint Extraterritorial Zoning Committee recommendation on the proposed changes shall be submitted to the City Council in accordance with the Joint Extraterritorial Zoning Committee voting requirements set forth above. This process will result in at least two public hearings, which will extend the timeline for the district plan and regulations to be enacted.

The Elkhorn City Council which adopts an Extraterritorial Zoning (ETZ) Ordinance may specifically provide in the ordinance for the enforcement and administration of the subsection. A town which has been issuing building permits may continue to do so, but the City Zoning Administrator, or designee, shall review and approve such permits as to zoning prior to their issuance.

It is important to note that the preservation of zoning in the Town within the Extraterritorial Zoning (ETZ) area will remain in effect initially for eighteen (18) months, unless extended pursuant to the Statute. If the Joint Extraterritorial Zoning Committee comes to agreement sooner on tentative recommendations to present to the Elkhorn City Council, the preservation of zoning can be lifted after City Council action which will then allow development in the Extraterritorial Zoning (ETZ) Area to proceed in accordance any finally adopted Extraterritorial Zoning (ETZ) plan and regulations. It is incumbent upon the Joint Extraterritorial Zoning Committee to work together on forming tentative recommendations to move the process forward effectively and efficiently. Discussion.

**DISCUSSION & RECOMMENDATION/FUTURE MEETINGS**

Discussion regarding Extraterritorial Zoning (ETZ) procedures for future meetings and applications submitted within the Town of Sugar Creek

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The Zoning Administrator explained that any applications for major projects within the Town of Sugar Creek that are in the Extraterritorial (ETZ) boundary will be currently placed on hold until a Comprehensive Plan is created. Once the Comprehensive Plan is adopted, then the Joint Extraterritorial Zoning Committee will meet when necessary or required for major project submittals. Any other items such as fences, sheds, signs, etc. applicants will be addressed with the applicant applying for a Zoning Permit with the City of Elkhorn followed by applicant submitting a building permit application with the Town of Sugar Creek Building Inspector. Walworth County has relinquished zoning authority within the Extraterritorial Zoning (ETZ) area.

The process for applications submitted within the Extraterritorial Zoning (ETZ) boundaries is to submit to the Town of Sugar Creek first, then to the Joint Extraterritorial Zoning Committee, who will forward a recommendation to the Elkhorn City Council for final action.

Several Town of Sugar Creek Joint Extraterritorial Zoning Committee members were wanting to discuss a pending application for a project that lies within the Town of Sugar Creek that is now on hold. The Zoning Administrator repeated that any major projects will be placed on hold until the Joint Extraterritorial Zoning Board creates a Comprehensive Plan and it is adopted by the City Council. She also stated that only matters listed on this meeting agenda can be discussed at this time.

It was noted that the City of Elkhorn City Council adopted an interim ordinance to preserve the existing zoning within the Extraterritorial Zoning (ETZ) Area while a comprehensive zoning plan for the Extraterritorial Zoning (ETZ) area is being prepared (copies of the map were distributed to members at the beginning of meeting). Since the Joint Extraterritorial Zoning Committee is required to create a Comprehensive Plan, future meetings will need to be scheduled to perform this task in order to meet City of Elkhorn ordinance requirements. The preservation of zoning can be lifted after City Council action which will then allow development in the Extraterritorial (ETZ) area to proceed in accordance any finally adopted Extraterritorial (ETZ) plan and regulations. The Joint Extraterritorial Zoning Committee needs to work together on forming tentative recommendations to move the process forward effectively and efficiently. Further discussion.

Motion (Robers/Stotko) to recommend that the Joint Extraterritorial Zoning Committee meet the first Thursday of each month at 5 p.m. at the City of Elkhorn Administrative Building, 311 Seymour Court, Elkhorn, until the Comprehensive Plan is completed. Roll Call Vote: Boardman-Yes; Stotko-Yes; Duane Wuttke-Yes; Steinfest-Yes; Dale Wuttke-Yes; Robers-Yes. Motion carried unanimously.

#### **FUTURE MEETING DATE**

The next Joint Extraterritorial Zoning Committee is scheduled for Thursday, February 1, 2024, at 5:00 p.m.

#### **ADJOURNMENT**

Motion (Wuttke/Stotko) to adjourn at 5:40 p.m. Motion carried by the majority present.

Shari McKinney  
City of Elkhorn  
Plan Commission Secretary