ONEIDA COUNTY PLANNING & ZONING
APRIL 5, 2006
12:30 P.M. – RAY SLOAN COMMUNITY CENTER
LAKE TOMAHAWK, WI 54539

Members present: Chairman Gary Baier
Scott Holewinski
Frank Greb
Patricia Peters
Ted Cushing

Department staff present: Karl Jennrich, Zoning Director
Pete Wegner, Assistant Zoning Director
Nadine Wilson, Land Use Specialist
Mary Bartelt, Typist III

Other County Staff: Brian Desmond, Corporation Counsel

See Attached Guest List:

Call to order.

Chairman Baier called the meeting to order at 12:38 P.M., in accordance with the Wisconsin Open Meeting Law.

Discussion/decision to approve the amended agenda.

MOTION: (Patricia Peters/Ted Cushing) to approve the April 5, 2006 amended agenda. With all members present voting "aye" motion carries.

Depart the Community Center at approximately 12:45p.m. to conduct an onsite inspection beginning at approximately 1:00 p.m. for the following property: Jack Dunbar, d/b/a Dunbar Excavating, property located at 8477 Bluebird Rd W, and being further described as the NE NE, Section 20, T38N, R7E, in the Town of Lake Tomahawk.

NOTE: NOTHING WAS DISCUSSED

Return to the Community Center for discussion/decision concerning Conditional Use Permit application of Jack Dunbar, d/b/a Dunbar Excavating to operate a gravel pit as a highway and building construction materials source on property described above. A public hearing was held February 15, 2006 in Committee Room #2 of the Oneida County Courthouse on this matter.

Chair Baier stated that the public hearing portion of this permit is over with and was closed on March 15, 2006 with a lot of documentation sent to the committee. Chair Baier would like to allow Attorney Schiek, on behalf of the property owners, to speak and address some issues, also Attorney Stingle, on behalf of Mr. Dunbar and also the Town Chairman for Lake Tomahawk.

Chair Baier asks the Town of Lake Tomahawk Chairman, Ed Coffen, regarding the permitting of commercial vehicles on the area roads. The committee did go around the complete loop on Bluebird Road and would like to know the issues, if any, the town might have on that.

Mr. Coffen, "Well, at this point of time, in my opinion, the Town Board has not met on this issue. All town roads are presently open to commercial traffic and it would be pretty hard to limit a road

to residential traffic only." "Of course, this time of year, we have our weight restrictions on limited to 5 ton."

Scott Holewinski, "Did you town board discuss that at all to come up with any recommendations, there is no recommendation from the Town Board, correct?"

Mr. Coffen, "Recommendation, as far as what?"

Mr. Holewinski, "From the town board for any part of the road work out there?"

Mr. Coffen, "For any kind of road work, we have not met as of yet on the road work but will be on an upcoming agenda as to how we handle the work on Bluebird."

Chair Baier asks if anyone else has any questions for Mr. Coffen.

Attorney Schiek, "Mr. Coffen, we have been trying to get a message from the town board as to whether the increase in width and depth of the asphalt was going to run through Mr. Dunbar because he was the one who was going to use it commercially on this project and the town board has not directly addressed that issue, although, I believe that issue was brought to your attention." "Do you have a sense of whether the town board is going to have him (Mr. Dunbar) pay for the extra costs of caring for the road to his requirements?"

Mr. Coffen, "At this time, I have no idea what the town board will do." "There are three of us on the board and we have not met as of yet, but it will be on the agenda."

Chair Baier, "And Mr. Schiek, the road issue really is not something the zoning committee will be discussing or requiring because we are strictly dealing with the permit for the gravel pit operation."

Chair Baier asks Mr. Schiek if he has any input on behalf of the residents.

Mr. Schiek, "The main concern that we have is the mix of a commercial gravel pit with the residential properties and we understand that there has to be gravel pits, we just do not think that it is appropriate at the present location." "I have written a letter dated 3/29/2006 setting forth my basic position and position on behalf of my client, Mr. Kevin Krueger." "A couple of concerns that we have, have to do with the easement road and the town road, as I just pointed out." "Even though Mr. Chairman, you pointed it out to me that that wasn't really a concern and that was going to be up to others, but if the town board's position in that regard was going to be Mr. Dunbar's responsibility, that seems to have some affect on how this would affect the road." "If the committee does decide to grant the permit that we would ask that certain conditions be placed on that permit."

"The other concern has to do with the covenance and restrictions on the land." "There was a letter sent by Mr. Stingle which criticized my letter because I brought that up and I certainly am not saying that there could never be a commercial vehicle that travels in residential areas." "For example: septic trucks going into residential areas for residential purposes." "But if Mr. Dunbar develops that as he has indicated that he might, to take out as much as 120,000 yards per season, that would seem very erroneous." "That would be approximately 1,200 trucks or more that would go through there and that is all for commercial use and that would be the only use for that particular road." "Those are the high points and if you do grant the permit, Mr. Dunbar has indicated at the town board meeting that he would only be doing five acres as a time and it would be those kinds of restrictions that we would ask you to look at." "And if he is going to use

five acres at a time, that he only uses five acres and then reclaim and then goes to the next site." "Those types of conditions, plus the hours of operation and we have indicated that we would not like to have him operate on weekends and that the committee look at those type of restrictions on the permit." "Other issues which should be looked at are ground water, contamination, foundation issue and if the committee grants the permit, those type of issues should be addressed."

Mr. Stingle, "I represent Jack Dunbar and Dunbar Excavating." "When I think of fairness in a situation like this I think what if Mr. Krueger was the owner of the property and he wanted to put a gravel pit in." "Let's reverse rolls, would he be today saying the same types of things we hear him saying?" "That is the test we should use today to say, is what you are asking for fair." "What Mr. Krueger wants to do, of course, is restrict my client, Mr. Dunbar, to use his property in a way which allows him by law, but he also now wants to limit his ability to make a living with the property and limiting us which is allowed by the law." "And I think if we look at that type of fashion, we cannot come to the conclusion that what he is asking for with all these restrictions is fair." "What my client, Mr. Dunbar, has done is, is that he asked to have a gravel pit put in, in the only forty within the confines of Lake Tomahawk where a gravel pit can be put in." "Mr. Dunbar wants to do that to support his business, support his family." "But also, whether we want to admit it or not, all of us are gravel users." "So to be completely against the gravel pit, it doesn't make any sense, to put the restrictions on that Mr. Schiek's client is asking, it doesn't make sense within the confines of the law, to restrict my client's business in a way that no other business will be restricted in the town is also unfair." "So what my client is really asking today is that you treat him fairly and that you follow the law as it exists and if there are certain limited restrictions placed upon him that are typically placed upon gravel pits, that would be fair."

Chair Baier introduces the Planning and Zoning Committee, Corporate Counsel, Nadine Wilson, Land Use Specialist, Assistant Zoning Director, Pete Wegner, Zoning Director, Karl Jennrich, Bart Sexton, Director of Solid Waste, Larry Greschner, County Board Supervisor and Chairman for the town of Woodruff and Guy Hansen, County Board Supervisor.

Mr. Jennrich, "We did ask that Corporate Counsel to review the easement issue because parties for the conditional use permit, etc. have concerns about this easement issue."

Brian Desmond, "Basically in Wisconsin there is a case law and the actual case is Sils vs the Walworth County Land Management Committee." "It basically states that when looking at an issue such as this the committee cannot consider and make there determination based solely upon any easement or restricted covenance." "The reason behind this decision, actually there are a couple reasons for it." "First of all, the committee is here to decide the land use with conditional use as a process." "Is there proper land use for the property that Mr. Dunbar owns." "This is not to say that there is not a private legal action that may be available for reaching an easement agreement or breach of the restricted covenant agreement." "But that is not something the committee can solely base their decisions on today." "To do that would be to give the power of law to restrictive covenance or easement which the county would not be doing. "They should not be the ones to enforce these private contract rights that people have developed between themselves in order to use their properties." "We should not use those solely for the basis for allowing this permit and that it is not something that the committee should be looking solely at when they make a decision."

Mr. Jennrich, "I think that you should get into the record some of the observations that you did have on that onsite because I know you did take a long trip around the perimeter of the property and I think that should be entered into the record."

Mr. Frank Greb, “I walked around the whole section of forty acres.” Mr. Greb looks at the Dunbar property and surrounding neighboring property map. Mr. Greb is concerned with Mr. Craig’s property and suggests a condition of 200’ due East and 150’ due South and then shut off that area for the pit, I feel that Mr. Craig’s backyard would then be protected.” Mr. Craig comes up to the map and identifies his house on the map. “There will be 30’ of woods and 20’ for the decline to the Southern line of your property and that would be OK with you (Mr. Craig).” Mr. Craig, “I could live with that.”

Chair Baier, “No decision is being made, just observations.”

Mr. Greb, “No, this is strictly my own opinion.”

Scott Holewinski, “I have a list of things which I observed.” “Those are:

1. The lowest part and the highest part of the land
2. Wetland
3. Easement lot lines and observed that the property had been owned be Mr. Dunbar’s grandfather since 1936, the sub-division went in, in 1975 recorded with restrictions and with the restrictions you have to look at the intent of the subdivider. The subdivider knew that the road was going across the corner of Mr. Craig’s lot. He should have cleared that up and the buyer should have cleared that up when he purchased the land. You have to interpret, with restrictions, what was the intent of the subdivider. “I think the restriction about commercial use across the easement, to drive through with a commercial vehicle, I don’t think was the intent of that restriction.
4. This land is zoned Forestry 1-A and is an allowable land for a gravel pit
5. Wanted to see how close the houses were to the adjoining land
6. Elevation of the Dunbar property compared to the residential area
7. Wetland, which was talked about
8. Town Board input and how they felt about the town road and how it would be paid for and if all businesses can run on the road or if hand picked people can use their vehicles on the town road.

Patricia Peters – not feeling well today

Ted Cushing – Mr. Cushing’s onsite inspection was to see the proximity of residences to this particular proposed project as well as elevations. Mr. Cushing knows that this property is zoned for this intended use.

Chair Gary Baier – Mr. Baier encouraged this onsite visit so the committee could see it as the neighboring residences see it. Mr. Baier’s main concern was how close are the bordering residence and what can the committee do to protect them in some manner in which they are allowed to do. The ordinance states strictly that there must be a 30’ setback for a buffer, however that decision the committee can make. In Forestry 1-A you can build a home, but you can only live there 6 months out of the year. Our choice, through zoning, is to be able to create districts where certain things are allowed and not allowed.

Mr. Karl Jennrich, Zoning Director, stated that the Planning & Zoning Department received a large amount of correspondence prior to March 15, 2006 and made copies of all correspondence received and gave that to the committee prior to the meeting. Also received after the date of March 15, 2006 were: Letter dated April 1, 2006 from Kevin Krueger, Marjorie Zarter, and Tom Zalowski. Other correspondence received was from the attorney representing Mr. Dunbar and the attorney representing Mr. Krueger.

Mr. Jennrich briefly went through some questions, which were received after March 15, 2006.

1. Who will pay for the deterioration of West Bluebird Road? The responsibility rests strictly on the applicant.
2. Can the safety of people using West Bluebird Road for walking, biking, running etc. be insured of the monitoring of speed of the large trucks? That is a town issue
3. Has an Environmental Impact Study been done on the property? No. The only thing is that Mr. Dunbar will be required to get a WDNR general permit discharge.
4. The Dunbar property is zoned Forestry 1-A, however the surrounding properties are zoned Single Family-02 and Recreational 05. Is Mr. Dunbar's property considered as "spot zoned"? I do not believe that it is a "spot zoned" property, it is a 40-acre parcel that is zoned Forestry 1-A.
5. Will Mr. and Mrs. Krueger be reimbursed for damages to their property? I have no response to that. Again, as counsel stated, this is an issue between the two parties.
6. What are the level of water tables, have tests been done to determine this? No, testing was not done and the department is not familiar with what the water levels are. The only thing the department looked at where the contours from the USGS and saw that there was one lake to the Southwest of the proposed project which has a 1,600-foot contour. Mr. Jennrich stated that the department would like to put a condition on the use permit to restrict the depth of excavation to the 1,610 foot being above sea level.
7. If Mr. Dunbar falls on the restoration, will bonding be put aside to restore the property? That is really an issue with our Solid Waste Department. Mr. Dunbar is required a fee per acre to submit a reclamation plan to Oneida County and he must submit an annual fee for the amount of disturbed area and must pay some type of bond per acre for reclamation if the County has to take on the reclamation. Oneida County pursuant to NR135 requires a bond to be placed in order for the reclamation to take place if the County has to give in and to the reclaim.

   Mr. Bart Sexton, Solid Waste Director, "One of the things required is for a posting of the bond on the property prior to it being open." "Upon that receipt, then that permit is issued for the reclamation."

8. Who is responsible for the monitoring of the water and quality? Will the noise be monitored to insure it does not exceed County and State mandates? There is an air operation permit required from the WDNR for the crusher. Mr. Dunbar does not have his own crusher but will be subcontracting and Mr. Dunbar has eluded that it might be Pitlik and Wick. These crushers are required to be regulated by the WDNR for two issues; one for dust and two is for noise.
9. Who will monitor the gravel pit operation to make sure the buffer areas are maintained? Mr. Jennrich stated that his department has that responsibility.
10. What will happen to area wells and who would pay for damages if something does happen? This must first be proved that the non-metallic mining did the damages and it would be assumed that Mr. Dunbar be responsible for taking care of those wells.
11. What will be done about the dust and dirt generated from these operations? The County will require dust control measures on the road like we do with any other conditional use permit.
12. Will my land value decrease? Who will pay to compensate for the decreased value? We saw nothing in the record, which has been submitted, which would show either an increase or a decrease in property values.
13. The area landowners are concerned about ascetics and a quiet Northwood's Atmosphere. If the committee approves the CUP, conditions can be attached to minimize those impacts.

14. Area landowners are concerned about operational control. Mr. Dunbar's pit located on North Bluebird Road have not been reclaimed and it's appearance is questionable and does not appear that operational control has been demonstrated. Will the County and Town be evaluating that existing pit? Mr. Jennrich cannot really respond to that as no formal complaints have ever been received.
15. A question was brought up regarding affidavits of proper notices of publications. Mr. Jennrich stated that there are affidavits in the file, which have been noticed properly.

Mr. Jennrich, "Again we presented to the committee a summary of the conditional use permit on 2/15/06." "We went through Mr. Dunbar's conditional use permit application and also had a list of conditions to be placed on the conditional use permit if the committee feels that the General Standards of the CUP have been met."

Committee discusses some of the conditions.

Mr. Jennrich reads the nine general standards of the conditional use permit of Mr. Dunbar. (9.42E)

1. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
2. The uses, values and enjoyment of neighboring property shall not in any foreseeable manner be substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.
3. The proposed conditional use is compatible with the use of adjacent land and any adopted local plans for the area.
4. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
5. Adequate utilities, access roads, drainage and other necessary site improvements have been or will be provided for the conditional use.
6. Adequate measures have been or will be taken to provide ingress and egress so as to minimize traffic congestion in the public streets.
7. The conditional use shall conform to all applicable regulations of the district in which it is located.
8. The conditional use does not violate shoreland or floodplain regulations governing the site.
9. Adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff.

Scott Holewinski commented on number nine. "Based on what I saw at the on-site I do not believe that the prevention and control of water pollution, including sedimentation, erosion and runoff is a factor." "Numbers seven and eight are OK." "Ingress and egress for traffic congestion, I think with the easement running in their answers that question, that that has been fulfilled." "Utilities, he doesn't need extra roads, drainage, etc." "Number four, I do not feel that this would do that." "Number three, that property is surrounded on three sides by Forestry 1A with a residential on one side, so I think that compatible use is there." "Number two, I know that people are upset or against it, but I also know the people for it." "Whenever something is going in next to your property, you are going to be against it." "Number one, I do not feel that this will be a problem there."

Frank Greb, “Number 6 is the only question I have on and that is that adequate measures have been or will be taken to provide ingress and egress as to minimize traffic congestion.” “I think that at the end of the easement across the federal land, I think that they are going to try to increase visibility there.”

Mr. Dunbar, “The markers on the side of the easement, I made a request to widen it and then fill with gravel.”

Mr. Greb, “Fine, that has to be done.”

Ted Cushing, “I don’t have a lot to add to what Scott and Frank have said.” “This county, as well as Vilas County have enjoyed double digit land value increases for the last ten, eleven years in a row, I believe.” “There is no history of land values being degraded when such a project has gone in, at least we have no track record of that happening.” “I believe if the Town steps up to the plate, in terms of traffic control and managing Bluebird Road, that we can address number one with some degree of confidence, which is the general health and welfare issue.”

Chair Baier, “Yes, I feel also, the town road and I think that the town will do a great job addressing that issue.” “The other thing is that Bluebird Road is a very scenic road, however, the road needs to be maintained by the town.” “The other thing is that I think somewhere back on the corner lot where we did look at it instead of a 30’ buffer I would like to see that that corner is enlarged too.” “I don’t think Mr. Dunbar would have a problem with that and I think that we insist leaving that corner there with some type of buffer to give that individual a little bit of extra buffer.” “With that, I think that we have met all the conditions.”

MOTION: (Scott Holewinski/Frank Greb) believe that the general standards for the approval of the CUP have been met based on an eye on-site evaluation and the information, which was submitted to the committee. Roll Call Vote: Frank Greb “aye” Holewinski “aye” Peters “aye” Cushing “aye” Baier “aye”. Motion carries.

Mr. Jennrich, “If the committee finds that the standards have been met and recommends approval the staff is recommending these conditions:

1. The nature and extent of the conditional use shall not change from that described in the application and approved in the Conditional Use Permit.
2. Maintain a 30’ buffer around the perimeter of the property per Section 9.60 of the Code.

Mr. Jennrich, “Now we should talk about the North.” “What do you feel is a reasonable buffer and where do you want it maintained?”

Mr. Frank Greb, “You need a 30’ tree buffer and then you need 20’ in front of that on the North line and carry that all the way around.” “You have to have that 20’ from the 30’ out.”

Discussion took place. There are three sides that have just about 30’ buffer material. Mr. Greb is proposing 50’ of buffer.

Mr. Greb, “Fifty feet on the North side plus the 20’ beyond that for a total of 50’ all the way around.”

Mr. Dunbar, “No, 30’ on the sides and 50’ on the North.” “On the North side there will be 30’ of trees and then 20’ would just be stumps.”

Mr. Greb, “OK, we discussed the North corner that you (Mr. Dunbar) will not touch anything 200’ along the Northeast side and 100’ of the Northwest of the Southwest corner.”

Mr. Dunbar, “You mean a triangle?”

Mr. Greb, “Yes, Sir.”

Mr. Dunbar, “I really don’t see that being a problem for him (the owner, Mr. Craig).”

Mr. Greb, “OK, and then you will go to 30’.”

Mr. Dunbar, “Then I go to that 50’ all the way along side?”

Mr. Greb, “Yes, Sir.”

Mr. Jennrich, “Mr. Dunbar will maintain a 30’ buffer around the perimeter of the property, which would be the South, East and West and buffer to the North would be as depicted by a diagram drawn by Nadine Wilson, showing the 200’ x 200’ triangle on the Northwest corner of the lot and a 50’ buffer to be maintained along the whole North lot line.” EXHIBIT #1

3. Maximum depth of excavation shall not exceed a final contour of 1610. A permanent benchmark to be place on property to allow verification of maximum depth.
4. Reclamation shall ensure that water is internally drained, water is not allowed to drain off site and shall comply with all reclamation standards.
5. Hours of operation from 6:00 a.m. to 7:00 p.m. Monday thru Friday and 8:00 a.m. to 6:00 p.m. on Saturday. No work will be done on Sundays or Holidays.
6. Crusher is not to be permanently placed on the property and will be used on an as needed basis only.
7. Crusher is not to be placed any closer than 50 feet from the neighboring property lines.
8. No hot mix asphalt plant is approved with this application
9. Pursuant to Section 9.60C any part of the excavation in which water collects for 30 or more consecutive days shall be drained or filled to prevent such collection of water unless the committee gives approval for creation of an artificial lake.
10. Must supply dust control measures, including a truck tracking pad of gravel to town roads if necessary
11. Sanitary facilities provided for employees. Regular servicing and maintenance to be done as to no create a nuisance.
12. Wetlands on neighboring properties shall be protected and not filled or altered unless proper permits are sought from and issued by the county, Army Corp of Engineers, and WDNR. Maintain no less than undisturbed 30 foot buffer zone to wetland. Maintain erosion control methods to protect wetland.
13. Parking area for employees shall be established away from the plant and not obstruct access road, area of trucks handling and/or other heavy equipment.
14. Any damage to County or Town property subject to Section 9.60(J) of Oneida County Zoning and Shoreland Protection Ordinance.
15. Any signage done in accordance with the Oneida County Zoning and Shoreland Protection Ordinance.
16. Applicant responsible to pay for signage as deemed necessary by the Town of Lake Tomahawk ei. “Trucks hauling”.
17. Applicant to replace wells of adjacent property owners if damage is proven to be caused by gravel pit operations.

18. WPDES permit required from the Wisconsin Department of Natural Resources (Stormwater Mangement Plan)
19. Onsites by staff during operation and upon completion of project to ensure compliance with this Conditional Use Permit.
20. Committee reserves the right to revisit the Conditional Use Permit if complaints are received.
21. Town of Lake Tomahawk concerns, if any

Mr. Jennrich, “These are the conditions which the staff recommended to be placed on the Conditional Use Permit.”

Scott Holewinski, “Number five, hours of operation, would it be sufficient on Saturdays to crush from 6:00 a.m. to 1:00 p.m.?”

Mr. Jennrich, “Typically, Pitlik and Wick wanted as many hours as they can get to get in and out of there.”

Mr. Holewinski, “Personally, I would like to see number five changed to 1:00 o’clock p.m. on Saturdays, versus 6:00 p.m.” “Item number seven, crusher not placed any closer then 50’ from neighboring property lines.” “If anybody has ever seen a gravel pit set up, they bring the material to the crusher and I think that should be 300’ from the neighboring property lines.” “Item number seventeen, personally I don’t think we should be dealing with it because the DNR must be involved if there is a groundwater contamination.” “I just wonder how we can enforce that and run around and deal with that.”

Mr. Jennrich, “It would be difficult for us to enforce.”

Mr. Holewinski, “Yes, so I think Item # seventeen should be stricken.” “My personal observation of the pit is that there is gravel from one end to the other and I personally would like to see that we set up Mr. Dunbar with excavating the South ten acres first and then utilize the West line for entering and exiting to impact the neighbors and then as he moves closer, approximately 300’ to the North line as an example, he reclaims 300’ to the South line as he moves closer.” “This is a condition I would like to see.”

Chair Baier asks Mr. Dunbar if he has any concerns of the outline and along with the additions to Mr. Holewinski.

Mr. Dunbar, “I think the hours of operation are fine.” “I don’t know where the people who bring in the crusher will want to set up, I really don’t know where they are going to do that.” “I wanted to keep a many trees as I can standing on the whole property and as long as I can.” “I feel that 200’ would be safe instead of 300’.” “And the rest I don’t have a problem with that.”

Mr. Cushing, “Do you agree with the South 10 acres first?”

Mr. Dunbar, “ I do have a question about the reclamation and maybe “Bart” can help me with this.” “I’m trying to visualize this and how it is going to work by starting from the backside in and another issue is as time goes on, I think the North side is going to get more developed and I’m starting in the South side going toward to where there will be more development and I see that being a problem coming down the road.”

Mr. Jennrich, “My observation on the onsite is that he (Mr. Dunbar) wanted to start where he wanted to start because that is where they thought the gravel was.”

Mr. Bart Sexton, “In terms of, I guess the question is that the determined space you have 300’ wide strip and then you have 1200 feet on the whip, would that be correct?”

Mr. Dunbar, “You scrap off the topsoil, you set that in a certain spot and I want to reclaim it as I go.” “I just think I’m going to be stumbling over topsoil all the time.”

Mr. Sexton, “But if you are at 10 acres and you have a square of a foot of even if it is a half of a foot that would be about 8,000 yards.”

Mr. Dunbar, “Yes.”

Mr. Sexton, “Eight thousand yards stockpiled would be about 200 x 200’.”

Scott Holewinski, “I think what I proposed to you, Mr. Dunbar, is workable.” “I recommend the impact on the residential area.”

Mr. Scheik, “It is my understanding that a part of the application is that Mr. Dunbar was willing to limit his time on the crusher to an eight week period of time per year.”

Mr. Dunbar, “It was at the time we negotiated then.” “I don’t see, eight weeks, I talked to Pitlik and Wick and they said eight week would be plenty enough time, even if they do Highway D.” “I don’t have a problem with having less then eight weeks, I mean I don’t have a problem with more then eight weeks but eight weeks is the limit, I don’t have a problem with that.”

Mr. Scheik, “An eight week period of time with the hours that you (committee) are suggesting at this point at 2,000, 3,000 yards per day and averaging 2,500 is the figure Mr. Dunbar used, over an eight week period of time you would have over 100,000 yards.” “Now he (Mr. Dunbar) is suggesting that in his operation the most he would use in one year would be 10,000 yards maybe 12,000 yards to accommodate his own personal use as well as that of the town.” “If he went in there one time and had the crusher go for eight weeks, he would have 120,000 yards of which he says he uses about 10 a year so that would cover a ten year period of time.” “My point is to limit the use of the crusher to eight weeks per season would be reasonable and again I understood Mr. Dunbar to be in agreement with that.” “From our perspective, if you envision it that a crusher is in there for eight weeks and there is 100,000 yards crushed and he does it on an economic basis, that he probably wouldn’t use the crusher if only uses 10,000 yards a year for another five, six, seven years.” “What our concern is that where there is a major project where they want 100,000 yards per year and there would be trucks coming in there all the time.” “If he (Mr. Dunbar) uses 120,000 yards per year then this turns into a major commercial operation versus small operations where he may use 2, 3, 4,000 yards per year and then plus take care of the town at a few thousand yards.” “And again, I’m suggesting that there be some limit on the crusher coming in and the weeks of operation and eight weeks as placed on his application, we ask that that be a condition.” “As far as reclaiming, again it is my understanding that the more acreage you leave open, the more you have to pay and so there is an incentive on behalf of the landowner to keep it to a minimum of five acres at a time.” “I believe there should be some condition on how much the pit can be opened at any one period of time.” “The other concern is, is that if you grant the permit, it not be forever.” “There should be some kind of end time.”

Mr. Dunbar, “As far as a time limit, I don’t feel that I should be nailed down to a time limit.” “I’m a small operation.” “Eight weeks, I should have everything I need crushed in eight weeks.” “I do not want to limit myself and if Highway D comes up, they are going to need gravel there.” “If

Highway 47 comes up -------." "As far as a time limit on the pit, I might live to be 90, I don't know." "The five acres at a time, that is what I want to do and I do want to keep the trees there for as long as possible."

Scott Holewinski, "I would like to add that as one of the conditions, eight weeks to crush." "Most gravel pits that I know of operate 5 to 8 acre area, so by eliminating himself to 5 acres because they get into a situation, which they have to sort the gravel and clean it." "Most gravel pits 5 to 8 acres." "Do 5 acres at a time and reclaim." "As far as a time limit on this gravel, the pit would be done in 2020 and I am not in favor of that."

Frank Greb, "I have to agree with Mr. Holewinski, you can't limit him on how many years and if he only sells a small amount every year, it could go on for one long time." "I would also suggest that if the state comes along and does Highway 47, the state comes to Mr. Dunbar and they say that they want 140,000 yards in one year, I suggest Mr. Dunbar to come to the Planning & Zoning Department and ask for an extension over the 8 weeks."

Mr. Jennrich, "Mr. Dunbar would have to go through the whole conditional use permit process again."

The Committee reviewed the conditions again.

Mr. Jennrich, "The modifications to the conditions are as follows:"

5. Hours of operations will stay the same from 6:00 a.m. to 7:00 p.m. Monday thru Friday and 8:00 a.m. to 1:00 p.m. on Saturday, no work on Sundays and holidays
7. Crusher not to be placed any closer then 200' from the neighboring property lines

   Remove condition #17

22. Limit the crushing to 8 weeks
23. Limit the size of the pit to 10 acres and then you are required to reclaim starting from the Southern lot line moving North
24. Access shall be along the Easterly lot line so that the access road would not run along the entire North property line, with the understanding that the gravel pit progresses North
2. Maintain a 30' buffer around the perimeter of the property per Section 9.60, and per Ms. Wilson's diagram which is the 200' x 200' triangular on the Northwest corner along with a 50' buffer on the northern lot line (30' of that remain tree covered and undisturbed) accept for the 20' cut strip on the Northwest corner

MOTION: (Scott Holewinski/Frank Greb) to approve the non-metallic mining request, Conditional Use Permit of Jack Dunbar, Dunbar Excavating, with conditions outlined by staff. Roll Call Vote: Frank Greb "aye" Holewinski "aye" Patricia Peters "aye" Ted Cushing "aye" Gary Baier "aye". Motion carries.

Committee recessed – 4:15 P.M.

Committee reconvened – 4:20 P.M.

Discussion/decision concerning a retaining wall for property owned by Michael Lazarus on property located at 569 Cedar Rd and further described as Lot 2, Norway Point, Section 14, T39N, R6E, in the Town of Minocqua, PIN# MI 5569.

Mr. Jennrich stated to the committee that this is a case that the Planning and Zoning Department has up in the Town of Minocqua and the Planning & Zoning Committee met on an onsite because Mr. Lazarus had some concerns on how the department was going to perceive with enforcement. The committee met at the site with Mr. Handrick, not to take any action but just to see the site and now the committee would be talking about enforcement. The committee, Pete Wegner and Tom Handrick had some discussions on this.

Mr. Jennrich explains to the committee that if they want to discuss enforcement that they should enter into closed session.

Scott Holewinski, "Just to voice my opinion, we weren't out there to make any variances or anything, we were out there to get a good idea of what situations the Planning & Zoning Department is running into because we are working on that ordinance."

Mr. Jennrich, "And I articulated that to Larry Heath."

Mr. Holewinski, "All right, so whatever you are enforcing you guys have decided anyway."

Mr. Jennrich, "I don't like to talk about enforcement because it is not proper."

Mr. Handrick, "Why don't we go by the last letter we received from Mr. Wegner of what we were told to do?"

Chair Baier, asking Mr. Pete Wegner, "Did you draft them a letter?"

Mr. Wegner, "Yes."

Mr. Jennrich, "If Pete doesn't have a problem with the previous letter that was sent out then we might as well direct staff to go forward with enforcement." "I think what Mr. Handrick is concerned about are some of the statements made by the committee at the site because the committee wanted to take a more astringent approach."

Mr. Handrick, "What Pete came up with was leave the steps where they are, move the wall over so it falls within the 30' from the south end of the boathouse and the outside of the wall."

Mr. Wegner, "And remove the back wall."

Scott Holewinski, to Mr. Handrick, "I don't think, as long as you guys work out the enforcement, I don't think the committee wants to get involved in it."

Mr. Jennrich, "Correct." "Staff will stick to the last letter that was sent and if there are problems the staff will come to the committee to ask for further enforcement action and a long form complaint against Mr. Handrick, but we'll have Tom and Peter work it out."

NO ACTION TAKEN – STAFF STILL WORKING ON THIS

<u>Discussion/decision concerning amending Section 9.55 Adult Oriented Business Ordinance within the Oneida County Ordinance and Shoreland Protection Ordinance.</u>

TABLED

Discussion/decision concerning the Planning & Zoning Department's long range departmental plan.

MOTION: (Ted Cushing/Patricia Peters) to approve the Planning & Zoning long range departmental plan and pass on to the Finance and Insurance Committee. All "aye" on voice vote, motion carries.

Discussion/decision concerning the Permit Specialist vacancy.

MOTION: (Ted Cushing/Patricia Peters) to approve the filling of the Permit Specialist vacancy. All "aye" on voice vote, motion carries.

Discussion/decision of line item transfers, refunds, purchase orders and bills.

Karl Jennrich, Zoning Director, noted the following Submittals for Payment (Exhibit #2) Mileage for $974.96

MOTION: (Scott Holewinski/Ted Cushing) to approve the vouchers as presented. With all members present voting "aye", motion carries.

Discussion/action concerning pending Ordinance Amendment and/or Resolution proposals scheduled for the County Board of Supervisors.

Mr. Jennrich stated that he had some ordinances to go to the April County Board meeting. They are: Ordinance #01-2006 concerning the removal of 9.98 piers, Ordinance #02-2006- concerning 9.94, Ordinance #03-2006 - rezone in the Town of Stella, Ordinance #04-2006 – regarding rezone for Theodore Simon, Planning & Zoning Committee recommending denial.

MOTION: (Ted Cushing/Patricia Peters) to approve all four ordinances and forward on to the Full County Board as presented by Mr. Jennrich. All "aye" on voice vote, motion carries.

Communications.

Chair Baier, "Today could be the last Planning & Zoning meetings that we are all together and that we could have a whole new committee and we are losing a real good friend and a real good ally. Patsy, we love ya."

Public comments. Mr. Handrick, "I'd like to tell the committee that it's just nice to have people that try to use some common sense and hopefully whatever new committee we will have will also go in that direction." "I just want to thank everybody."

Discussion/decision regarding future agenda items. NONE

It is anticipated that the Committee may meet in Closed Session pursuant to Wisconsin Statutes, Section 19.85 (1)(g), conferring with legal counsel concerning strategy to be adopted by the governmental body with respect to litigation in which it is or is likely to become involved. A roll call vote will be taken to go into closed session.

A roll call vote will be taken to return to open session.

COMMITTEE DID NOT ENTER INTO CLOSED SESSION

Adjourn.

4:34 PM There being no further matters to lawfully come before the Committee, a motion was made by Ted Cushing, second by Patricia Peters to adjourn the meeting. With all members present voting "aye", the motion carried.

Chairman Gary Baier

Karl Jennrich
Zoning Director