

ONEIDA COUNTY PLANNING & ZONING

March 03, 2010

12:30 P.M. CLOSED SESSION

1:00 P.M. REGULAR SESSION

2:00 P.M. PUBLIC HEARING

COMMITTEE ROOM #2

2ND FLOOR ONEIDA COUNTY COURTHOUSE, RHINELANDER WI 54501

Members present: Scott Holewinski
Ted Cushing
Larry Greschner
Charles Wickman
Dave Hintz

Department staff present: Karl Jennrich, Zoning Director
Steve Osterman, Planning Manager
Nadine Wilson, Land Use Specialist
Kathy Ray, Land Use Specialist
Lila Dumar, Secretary

Other County Staff: Brian Desmond, Corporation Counsel

Guests Who Signed In: Gary Baier, Town of Nokomis Chairman, Robert Winat, Cliff &
Jean Eggett, Jim DeBiase, Dick Dvorak

Call to order.

Chairman Scott Holewinski, Chair called the meeting to order at 12:30 p.m., in accordance with the Wisconsin Open Meeting Law. Mr. Holewinski noted the agenda was properly posted and the courthouse is handicap accessible.

Approve the agenda.

Motion by Ted Cushing, second by Larry Greschner to approve the agenda as posted. With all members present voting "aye", the motion carried.

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. Conditional Use Permit Violation in the Town of Woodruff
- b. Lot line encroachment in the Town of Three Lakes
- c. Legal opinions on Ordinance Amendments

Motion by Larry Greschner, second by Ted Cushing to go into closed session. Roll call vote Dave Hintz "aye", Charles Wickman "aye", Larry Greschner "aye", Ted Cushing "aye", Scott Holewinski "aye". The motion carried.

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

Motion by Larry Greschner, second by Ted Cushing to return to open session. With all members present voting “aye”, the motion carried.

Mr. Holewinski announced that there was one motion made while in closed session pertaining to item (b) Lot line encroachment in the Town of Three Lakes. The motion was read into the record.

Motion by Ted Cushing, second by Larry Greschner not to seek daily forfeitures against the property owner while he is seeking adverse position. The motion carried with all “ayes”.

Approve regular and public hearing meeting minutes of January 20, 2010.

Motion by Ted Cushing, second by Dave Hintz, to approve the meeting minutes of January 20, 2010. With all members voting “aye” the motion carried.

Six-month time extension (until July 15, 2010) for Willow Haven, Inc., owner; Jim Rein, agent of a 35 unit condominium to be known as Willow Haven Condominium, which includes a supper club and a 34-unit manufactured home community at 4877 Haven drive, described as part NE NW and NW NE, Section 15, T37N, R5E, PIN# LR 801 and LR 804, Town of Little Rice.

Nadine Wilson, Land Use Specialist, reviewed the request for a six month time extension for Willow Haven, Inc. with the Committee. Ms. Wilson stated that there were some issues with easements and the town road. Additional time is needed to finalize these issues. The request is for an extension to July 15, 2010.

Motion by Larry Greschner, second by Charles Wickman to approve an extension to July 15, 2010 for Willow Haven, Inc. as requested. With all members voting “aye” the motion carried.

Review and approve the application for Utility Access Review, Minor, or County Subdivision form.

Karl Jennrich, Zoning Director, reviewed the new form with the Committee. Mr. Jennrich noted that there will be more work done on the form, and it will be brought back to the Committee at a future date.

Discuss citations #2489 and #2490 issued to Richard Trapp on property described as being part of the fractional NW ¼ and part NE SW, Section 2, T39N, R6E, PIN# WR 12-4 and WR 12-3A, Town of Woodruff.

Karl Jennrich, Zoning Director, informed the Committee that this involves a violation of a CUP in the Town of Woodruff. Two citations were issued for violations of Section 9.40 C (failure to obtain a conditional use permit.) The citations were erroneously issued to Jack Trapp due to the fact that the property is recorded with Jack Trapp, etal, owner. As a result, the citations were dismissed and re-issued to Richard Trapp. Richard Trapp failed to appear on the court date and

was found guilty by default. Richard Trapp then corresponded with Judge Mangerson, who referred him back to the zoning department to see if it could be worked out.

Peter S. Wegner, Assistant Zoning Director, reviewed the complaint file with the Committee. The complaint was filed on September 23, 2009. An enforcement letter was sent to Jack Trapp on October 6, 2009. Jack Trapp met with Minocqua staff on October 20, 2009. A stop work order was placed on the property on October 21, 2009. A follow-up letter was sent to Rick Trapp on October 22, 2009, which he on received October 23, 2009. On November 2, 2009, Rick Trapp met with Minocqua zoning staff and was advised of what needed to be done. The citations were issued on November 9, 2009—after the stoves had been removed.

Jim Rein, Wilderness Surveying, stated that the plumbing business has been at this site for 70 years (Ed Trapp Sr). The property has been used for the plumbing business and to sell miscellaneous merchandise outdoors for years. The business was in the process of being re-established by Rick Trapp and Nick Trapp and a sign permit was issued to advertise that. The woodstoves were placed near the new sign for display. When the complaint was filed regarding the woodstoves, Jim Rein started working on a CUP application. A second complaint was filed regarding the woodstoves and at that time, the woodstoves were removed from the property. Jim Rein questioned whether a conditional use permit should be required because this is an existing business and has been in operation for 70 years. Mr. Rein also discussed “outdoor operations” versus “outdoor displays” being a grey area in the ordinance.

There was discussion held by the Committee on whether the citations were properly issued and should be dismissed.

Motion by Larry Greschner, second by (no second) that citations #2489 and #2490 issued to Richard Trapp that this committee take no action and let the court handle this issue. The motion failed due to no second.

Motion by Scott Holewinski, second by Larry Greschner that if Rick Trapp pays one citation the committee will drop (vacate) the second citation, as was offered to Jack prior to taking this to court. (Much discussion) Dave Hintz “nay”, Charles Wickman “nay”, Larry Greschner “nay”, Ted Cushing “nay”, Scott Holewinski “nay”. The motion failed.

Mr. Desmond commented that Mr. Rick Trapp will still have to appear on Monday and talk to the Judge about the citation and request a payment extension. The county will request to vacate one citation at the hearing.

Mr. Jennrich read into the record the letter from Judge Mark Mangerson regarding forfeitures.

Mr. Holewinski commented that he does not believe there was proper notice.

Mr. Jennrich commented that Jim Rein and Rick Trapp wanted their “day in court”, however, did not show up for the hearing.

Mr. Hintz commented that he believes the department did what they were suppose to do and can not research every owner’s name on the tax role that may be involved. Mr. Hintz commented that

he believes the issue is whether or not the citation should have been issued. However, Mr. Trapp did make a mistake by not showing up in court. A court date is a very serious thing. Mr. Hintz commented that he believes the committee/department should vacate both citations.

Mr. Wickman commented that he agrees with Mr. Hintz.

Motion by Ted Cushing, second by Larry Greschner to vacate both citations of Mr. Trapp. Dave Hintz “aye”, Charles Wickman “aye”, Larry Greschner “aye”, Ted Cushing “aye”, Scott Holewinski “aye”. The motion carried.

Preliminary 2-lot Certified Survey Map for Heidi Trapp on Marion Lake for property described as part of Gov't Lot 6, Lot 2 CSM V15 P3472, Section 11, T39N, R5E, Rolling Bear Trail, PIN# MI 1721-8, Town of Minocqua.

Mr. Jennrich indicated this was approved at the last committee meeting; however, Mr. Rein was not present and did not like the conditions that were imposed at that time. Mr. Jennrich noted there were also questions raised about the road that serves existing lots and the department has information pertaining to that issue.

Jim Rein indicated he has been traveling a lot lately and was unable to attend the meeting pertaining to this issue.

Kathy Ray, Land Use Specialist read the conditions imposed on Ms. Trapp upon approval. Mr. Rein indicated he has a problem with the maintenance agreement due to the property owners residing here for some time and already have an informal arrangement in place for maintaining the private road.

Mr. Jennrich indicated the previous language states that the town and county are not responsible for road maintenance. Mr. Jennrich noted the problem is that this statement is not on the maps filed with the register of deeds.

Ms. Ray presented a time line of events (Exhibit #1) related to the Trapp division.

Committee discussion on past requirement/conditions on this property related to a road maintenance agreement. Committee informed Mr. Rein that on the new CSM he must add the statement that the town and county are not responsible for the maintenance of the private road.

Motion by Ted Cushing, second by Dave Hintz to remove the road maintenance agreement on the CSM V15 P3472, (Trapp). With all members present voting “aye”, the motion carried.

Review and approve the 2009 Planning and Zoning Annual Report.

Mr. Jennrich presented the 2009 annual report (Exhibit #2).

Motion by Larry Greschner, second by Charles Wickman to approve the 2009 Planning and Zoning annual report and forward to the full county board. With all members present voting “aye”, the motion carried.

Review and approve the application for Utility Access Review, Minor, or County Subdivision form.

Mr. Jennrich provided information to the committee pertaining to electronic data entry (Exhibit #9).

Recess at 1:57 p.m. until Public Hearing.

CONDUCT PUBLIC HEARING ON THE FOLLOWING:

Conditional Use Permit application of Glenn and Rose Bean, owners, to operate a retail outlet selling new and used items and plants from home and yard at 7158 Lilly Street, further described as Lot 4, Block 3 M A Ebert's 1st Addition, in Section 3, T38N, R7E, PIN# LT 645, Town of Lake Tomahawk.

Mr. Jennrich read the notice of public hearing into the record. The publication was printed in the Rhinelander Daily News on February 16, 2010 and February 23, 2010 along with the Tomahawk Leader and Lakeland Times the week of February 15, 2010. The notice was posted on the Oneida County Courthouse bulletin board on February 11, 2010 and sent out certified mail to those on the mailing list located in the permit file. Mr. Jennrich indicated the department received an email from the Town of Lake Tomahawk approving the permit, as read.

Nadine Wilson, Land Use Specialist presented a report pertaining to the issue at hand (Exhibit #3). Ms. Wilson indicated Mr. Osterman has also reviewed this application, the general standards have been supplied and the department recommends approval with the following 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. Outdoor sales of yard ornaments, antique pieces, weathered furniture, etc. to be restricted to outdoor sales yard as indicated on site plan.
3. Lilly Street to remain open for vehicle traffic.
4. Outdoor lighting shall be directed downward and shielded from above. Care should be taken to prevent light pollution.
5. Signage in accordance with the Oneida County Zoning and Shoreland Protection Ordinance.
6. Town of Lake Tomahawk concerns, if any.

Mr. Holewinski asked if there was any public comment for or against the conditional use.

Glenn and Rose Bean comment they are for approval.

Motion by Larry Greschner, second by Dave Hintz to approve the conditional use permit of Glenn and Rose Bean, Town of Lake Tomahawk, agenda item number sixteen, with staff and town concerns and the general standards of approval having been met. With all members present voting "aye", the motion carried.

Rezoning Petition #1-2010 of the Nokomis Town Board to rezone lands currently zoned District 1-A Forestry, District 2 Single Family Residential, District 4 Residential Farming, District 5 Recreational, District 7 Business and District 15 Rural Residential to all lands zoned District 10 General Use. This

request affects the entire Town of Nokomis and consists of approximately 2344 parcels of land located in Sections 1-36 all in T36N, R6E.

Mr. Jennrich read the notice of public hearing into the record. The notice was published in the Rhinelander Daily News on February 16 & 23, 2010; the Tomahawk Leader the week of February 15, 2010; and the Lakeland Times the week of February 15, 2010. The notice of public hearing was posted on the Courthouse bulletin board on February 11, 2010. The mailing list was noted and is located in the file for review.

Karl Jennrich, Zoning Director, stated that the petition for rezone was received January 16, 2010 from Wendy Smith, Nokomis Town Clerk. Mr. Jennrich read the request for rezone into the record. For the record, the Town of Nokomis conducted a public hearing on the Town's Land Use Plan on December 30, 2009 which was approved. This change does conform to the Town's Land Use Plan.

Karl Jennrich, Zoning Director, read into the record correspondence received pertaining to the rezone petition.

- Letter from Robert Winat, landowner, in opposition to the rezone.

Karl Jennrich, Zoning Director, described the general use zoning district and permit requirements. Permits are required, but general use is the most liberal zoning district, which will allow a wide range of uses throughout the town.

Steven R. Osterman, Planning Manager, provided his report to the Committee (Exhibit #4). He also noted that general use is the most liberal zoning district and that the Town has initiated the change in conformance with the Town's Land Use Plan. Letter from Mr. Winat was read (Exhibit #5).

Gary Baier, Nokomis Town Chairman, discussed the process that the town has gone through and the reasons for the change. Mr. Baier stated that the public hearing was held on December 30, 2009 to develop a land use plan. During this process zoning maps were provided to compare the current land uses with the current zoning district. There were discrepancies found where well established businesses were zoned ½ Business and ½ Single Family Residential; or where a business has been operating for many years in the Single Family District. The rezone will clean-up these areas. Another concern was the Forestry Zoning District, where in order to build a year-round home; the property would have to be rezoned before a zoning permit could be approved. These areas would now be open for year-round use. There were approximately 28-30 residents at the public hearing and there were no objections raised, other than a question on property values.

2:20 PM – The public hearing was opened for public comment.

The following Individuals spoke in favor of the rezone: Cliff Eggett and Jean Eggett, 2871 Prairie Lake Road, Town of Nokomis; Jim DeBiase, 3004 Prairie Lake Road, Town of Nokomis; and Gary Baier, 9378 Norway Lane, Town of Nokomis

Bob Winat 3406 Lakewood Road, Town of Nokomis, spoke in opposition to the rezone.

Larry Greschner asked for clarification that there was a public hearing held by the town. Gary Baier confirmed that this was correct, due to the approval of the land use plan.

Bob Winat, stated that under the present zoning, development has to go through more scrutiny than in general use, there are a number of uses that are allowable uses without a permit.

Motion by Ted Cushing second by Dave Hintz, to approve Rezone Petition #1-2010 of the Town of Nokomis. With all members voting “aye”, the motion carried.

Rezone Petition #2-2010 authored by the Schoepke Town Board, Dick Dvorak, Clerk to rezone the following described lands which only applies to the shoreland district.

- A) Section 11, T35N, R10E – Gov’t Lots 1, 2 and 3 all portions south of County Hwy Q to be rezoned from District #3 Multiple Family to District #2 Single Family Residential; balance of lands to remain zoned District #3 Multiple Family.
- B) Section 14, T35N, R10E – Gov’t Lot 4; all portions west of County Hwy Q to be rezoned from District #3 Multiple Family to district #2 Single Family Residential; remainder zoned district #3 Multiple Family.
- C) Section 15, T35N, R10E – Gov’t Lot 1; portion south of Norway Point Rd. to be rezoned from District #3 Multiple Family to District #2 Single Family Residential; remainder zoned District #3 multiple Family. Gov’t Lot 2 – south of Uncle Ben Rd. and south of West Bay Rd. and south of all points in between the two Roads to be rezoned from District #3 Multiple Family to District #2 Single Family Residential. Balance to remain zoned District #3 Multiple Family. Gov’t Lot 3 – to be rezoned from District #3 Multiple Family to District #2 Single Family Residential. Gov’t Lot 4 – rezoned from District #3 Multiple Family to District #2 Single Family Residential. Gov’t Lot 5 – portion east of County Hwy Q to be rezoned from District #3 Multiple Family to District #2 Single Family Residential. Balance to remain zoned District #4 Residential Farming.
- D) Section 23, T35N, R10E – All of Gov’t Lot 2 (Crescent Island) to be zoned District #2 Single Family Residential
- E) Section 18, T35N, R11E – Gov’t Lot 3 west of Hwy 45 and 47 rezone from District #2 Single Family Residential to District #5 Recreational. Portion east of Hwy 45 and Hwy 47 to remain District #4 Residential Farming. Gov’t Lot 2, portion west of Hwy 45/47 and south of Hwy Q to be rezoned from District #2 Single Family Residential to District #5 Recreational. Balance to be zoned District #4 Residential Farming. NW SE portion west of Hwy 45 and Hwy 47 to be rezoned from District #2 Single Family Residential to District #5 Recreational. Balance to remain zoned District #4 Residential Farming.
- F) Section 19, T35N, R11E – Gov’t Lot 1 west of Hwy 45 / 47 rezoned from District #2 Single Family Residential to District #5 Recreational; portion east of Hwy to remain zoned District #4 Residential Farming. Gov’t Lot 2 west of Hwy 45 / 47 including the Loon Crest Resort Condominium to be rezoned from District #2 Single Family Residential to District #5 Recreational; portion east of Hwy 45 / 47 to remain zoned District #4 Residential Farming. Gov’t Lot 5 to be rezoned from District #7 Business and District #3 Multiple Family to District #5 Recreational.
- G) Section 30, T35N, R11E – Gov’t Lot 1 west of Hwy 45 / 47 and north of County Hwy B to be rezoned from District #2 Single Family Residential to District #5 Recreational; balance to remain zoned District #4 Residential Farming. SW NW portion north of County Hwy B to be rezoned from District #2 Single Family Residential to District #5 Recreational; balance to remain zoned District #4 Residential Farming.

Mr. Jennrich read the notice of public hearing into the record and indicated the notice was published in the Rhinelander Daily News on February 16 & 23, 2010; the Tomahawk Leader the week of February 15, 2010; and the Lakeland Times the week of February 15, 2010. The notice of public hearing was posted on the Courthouse bulletin board on February 11, 2010. The mailing list was noted and is located in the file for review.

Mr. Jennrich indicated this rezone was filed by Mr. Dvorak, Town Clerk, on behalf of the town and there is no correspondence in the file for or against the issue at hand.

Mr. Osterman presented a report related to rezone petition #2-2010 (Exhibit #6) to clean up a zoning error discovered while looking at the town's land use plan.

The committee requested that a map be provided of only the rezone areas for the county board resolution and a second map to show what the existing zoning is.

Motion by Larry Greschner, second by Ted Cushing to approve Rezone Petition #2-2010 authored by the Schoepke Town Board, Dick Dvorak, Clerk to rezone lands which only applies to the shoreland district. With all members voting "aye" the motion carried.

Administrative Review Permit application of Victor Ceron (PR) for El Mezcal, Jim Rein, Agent to open a Mexican Food Restaurant in an existing building owned by Joan Long and Donald Walker on property described as part of NW NE, Parcel 2 CSM V2 P560, Section 11, T39N, R6E, 8700 Hwy 51, PIN# MI 2170-2A and to utilize the existing parking lot on an adjacent property owned by Min-Wood Real Estate Assoc. further described as part NW NE and SW NE, Parcel 1 CSM V2 P481, Section 11, T39N, R6E, PIN# MI 2170-38, Town of Minocqua.

Kathy Ray presented maps of the area for the committee to view.

Jim Rein, Agent indicated the purpose for this agenda item is not about the restaurant itself but about outdoor operations. Mr. Rein indicated the issue is the outdoor portion of the building which is not a patio, as it has three foot concrete walls which are part of the structure with a pergolas style roof. Mr. Rein commented that he had to apply for a permit for this part of the structure; however, the county is calling these outdoor operations. Mr. Rein asked for clarification on outdoor operations as it relates to this project. Mr. Rein indicated what is being presented is preliminary.

Mr. Jennrich indicated the new project is also a restaurant in a pre-existing restaurant structure. The use is allowed. The only reason why the department is requiring an ARP is due to the remodeling greater than 25% and/or the addition.

Committee discussion if a CUP or an ARP is needed in this case. The committee will address outdoor operations in the future and in this case consider staff recommendations.

Motion by Larry Greschner, second by Charles Wickman that the administrative review permit application of Victor Ceron PR, El Mezcal, Town of Minocqua agenda item number nine to be upgraded to a conditional use permit. With all members present voting “aye”, the motion carried.

Mr. Rein asked that the ARP be approved and then later require a CUP. Mr. Jennrich agreed to work with Mr. Rein on the application.

Line items, transfers, refunds, purchase orders and bills.

Mr. Jennrich presented bills and purchase orders in the amount of \$838.25 and \$1255.00, as presented (Exhibit #7 and #8).

Motion by Ted Cushing to approve the bills and purchase orders and vouchers as presented, second by Scott Holewinski. With all members present voting “aye”, the motion carried.

Approve future meeting dates.

March 17th and April 7th and April 21st.

Public comments.

No public comment made.

Future agenda items.

- Outdoor operations.
- Naming “etl” on property listings.
- NR115.

Adjourn

Motion by Ted Cushing to adjourn, second by Larry Greschner. With all members present voting “aye”, the motion carried.

Scott Holewinski, Chair

Karl Jennrich, Zoning Director