

ONEIDA COUNTY PLANNING & ZONING  
December 2, 2009

1:00 P.M. REGULAR MEETING – COMMITTEE ROOM #2  
2:00 P.M. PUBLIC HEARING – COMMITTEE ROOM #2  
2<sup>ND</sup> FLOOR ONEIDA COUNTY COURTHOUSE, RHINELANDER WI 54501

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

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

Other County Staff: (None)

Guests Present: Peter Schau, Gene Uttech, Len Hyke, Robert Winat, Bill Liebert, Mark Patulski

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ALL AGENDA ITEMS ASSUMED TO BE DISCUSSION/DECISION.

Call to order.

Chair, Scott Holewinski called the meeting to order at 1:00 p.m., in accordance with the Wisconsin Open Meeting Law. Mr. Holewinski noted the agenda has been properly posted, the media notified.

Approve the agenda.

**Motion by Ted Cushing, second by Charles Wickman to approve the agenda. With all members present voting "aye", the motion carried.**

Approve regular and public hearing meeting minutes of October 5, 2009.

**Motion by Larry Greschner, second Charles Wickman to approve the regular minutes of October 5, 2009. With all members present voting "aye", the motion carried.**

Approve regular and public hearing meeting minutes of November 4, 2009.

**Motion by Charles Wickman, second Ted Cushing approve the regular and public hearing meeting minutes of November 4, 2009. With all members present voting "aye", the motion carried.**

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Approve regular meeting minutes of November 18, 2009.

**Motion by Larry Greschner, second by Dave Hintz to approve the regular meeting minutes of November 18, 2009, as presented. With all members present voting “aye”, the motion carried.**

Preliminary 5-Unit Condominium Plat identified as Rustic Acres Resort, Karl Miller owner for property described as Lot 2, Certified Survey Map V16 P3719 (formerly known as Lot 3 of Borges Lots) located in part Gov't Lot 4, Section 10, T38N, R11E, PIN# TL 1394, Town of Three Lakes.

Mr. Osterman presented a map of the condominium plat. Kip Soder was present to answer any questions. Mr. Osterman indicated the town approved with no concerns. Mr. Soder indicated the well will be depicted on the map for unit five on the final. Mr. Osterman indicated the standard language must be placed on the final map and the condo declarations were reviewed by the department.

**Motion by Larry Greschner, second by Ted Cushing to approve the pre-liminary plat of Rustic Acres Resort, Karl Miller owner, town of Three Lakes with town and staff concerns. With all members present voting “aye”, the motion carried.**

NR 115 updates

Mr. Jennrich referred to the handout provided summarizing NR115 (Exhibit #1). Mr. Jennrich indicated Oneida County testified against NR115 along with the Wisconsin Code of Administrators expressing opposition. Mr. Holprein has responded to the department with a letter as indicated. Mr. Jennrich indicated legislation has not acted and so the proposal will be law and may go into affect 12/31/09, with counties having two years to adopt the ordinance. Mr. Jennrich noted a model ordinance will be available from the State; however Oneida County will develop their own.

The Committee recommended Oneida County develop language towards the end of the tow year time frame that would be adopted at that time, but begin the process now as this will take some time. The Committee also recommended a handout be developed for the public which will explain what can be done as of the affective date.

Mr. Holewinski also asked how long a permit will be affective under the old ordinance. Mr. Jennrich will research this further.

Ordinance Amendment #9-2009, revisions to Section 9.42 E, General Standards for Approval of Conditional Use Permit. The Committee will be forwarding to the Oneida County Board of Supervisors

Mr. Jennrich referred to ordinance amendment #9-2009 as presented (Exhibit #2).

**Motion by Ted Cushing, second by Larry Greschner to approve ordinance amendment #9-2009, agenda item number eight and forward onto the County Board. With all members present voting “aye”, the motion carried.**

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Ordinance Amendment #10-2009, revisions to Section 9.52, Mobile Home, Manufactured Home and House Trailer Parks. The Committee will be forwarding to the Oneida County Board of Supervisors.

Mr. Jennrich referred to ordinance amendment #10-2009, as presented (Exhibit #3).

**Motion by Larry Greschner, second by Charles Wickman to approve ordinance amendment #10-2009 in resolution form and forward onto the County Board. With all members present voting “aye”, the motion carried.**

Line item transfers, refunds, purchase orders and bills

Mr. Jennrich indicated there was one refund for H&H Septic in the amount of \$175.00

**Motion by Ted Cushing, second by Charles Wickman to approve the refund as presented. With all members present voting “aye”, the motion carried.**

Mr. Jennrich presented bills and purchase orders in the amount of \$532.30 and 26091.81 (Exhibits #4 & #5).

**Motion by Ted Cushing, second by Charles Wickman to approve bills and vouchers as presented. With all members present voting “aye”, the motion carried.**

Approve future meeting dates: December 16, 2009.

The Committee received a 2010 calendar of meetings scheduled.

Public Comments

There was no public present.

Future agenda items

- NR115 update.

**Time: 1:52 p.m. Recess until public hearing.**

**CONDUCT PUBLIC HEARING ON THE FOLLOWING:**

Conditional Use Permit Application of Verizon Wireless, Peter Schau, agent and The Lakeland Sanitary District No.1, owner to co-locate communication equipment on the existing water tower on property described as part of Gov't Lot 2, Section 14, T39N, R6E, 800 Hwy 51, PIN# MI 2205-12, Town of Minocqua.

Mr. Jennrich read the notice of public hearing for the above agenda item. The notice was published in the Rhinelander Daily News on November 17, 2009 and November 24, 2009 along with the Tomahawk Leader, Lakeland Times and Vilas County News Review the week of November 16, 2009. The notice was posted on the Courthouse bulletin

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board on November 12, 2009. The mailing list was noted and located in the file for review.

The following correspondence was received:

- Letter dated November 5, 2009 from the Town of Minocqua approving of the conditional use permit.

Kathy Ray, Land Use Specialist referred to the report provided (Exhibit #6) noting the general standards were 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 CUP.
2. Must comply with all Federal regulations specifically FAS and FCC.
3. Proper permits to be obtained for the equipment building prior to construction (Town/County/State).
4. May be subject to Department of Transportation review.
5. Placement of additional towers and/or antennas will require additional approval.
6. Additional P&Z Committee concerns if any.

Ms. Ray indicated the DOT has some concerns initially pertaining to additional maintenance of traffic and this is the reason for the condition.

Mr. Holewinski asked if there was any public comment for the issue at hand.

Peter Schau, agent commented he is for approval and explained that the merger with Verizon held things up initially. Mr. Schau indicated the Lakeland Sanitary District has approved of the co-location. Mr. Schau indicated there will be back-up generators on site.

There was no other public comment. Therefore, the public comment portion of the meeting was closed.

**Motion by Ted Cushing, second by Charles Wickman to approve the conditional use permit of Verizon Wireless, Peter Schau, applicant, agenda item fourteen with the general standards having been met and the conditions as described. With all members present voting "aye", the motion carried.**

After-the-Fact Conditional Use Permit Application of Jesse Abrahamson, agent and Molly Beloff, owner to operate North Lakes Brick and Block Landscape Supply including outdoor and indoor retail sales and design consulting services on property located at 7630 Hwy 32/45, described as SE SW, Section 25, T39N, R10E, PIN# TL 298-1, Town of Three Lakes.

Mr. Jennrich read the notice of public hearing for the above agenda item. The notice was published in the Rhinelander Daily News on November 17, 2009 and November 24, 2009 along with the Tomahawk Leader, Lakeland Times and Vilas County News Review the week of November 16, 2009. The notice was posted on the Courthouse bulletin board on November 12, 2009. The mailing list was noted and located in the file for review.

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The following correspondence was received:

- Letter from the Town of Three Lakes dated November 4, 2009 approving the after the fact conditional use permit.

Nadine Wilson, Land Use Specialist referred to the report provided (Exhibit #7) and read the general standards as they were not included in the report. Ms. Wilson indicated 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 CUP.
2. Any hazardous materials/chemicals shall be used, stored and /or disposed of in accordance with State and Federal regulations.
3. Landscaping materials and equipment to be stored in areas as designed on site plan.
4. Zoning permits required for remodeling of building. Additional state approved plans may need to be applied for and approved prior to construction.
5. Sanitary permit to be taken out prior to bathroom addition. State approved plans may be required.
6. When landscaping is done, care must be taken to prevent direct runoff of storm water/sediments onto neighboring property and state highway.
7. Outdoor lighting shall be directed downward and shielded from above. Care should be taken to prevent light pollution.
8. Signage to be done in accordance with Oneida County Zoning and Shoreland Protection Ordinance.
9. Lot cannot be further subdivided as long as both businesses utilize existing sanitary system.
10. Town of Three Lakes concerns.

There was no public comment made regarding this matter.

**Motion by Ted Cushing, second by Dave Hintz approving the after the fact conditional use permit of Jesse Abrahamson and Molly Beloff if conditional use permit standards can be met with general standards and the conditions met. With all members present voting “aye”, the motion carried.**

The Non-metallic Mining Registration and Reclamation Plan of Hatchet Creek Rock and Dirt LLC, Duane Belling Sr., for property owned by Frank Klaver described as part of SW NW, Section 4, T36N, R8E, and PIN #CR 54, Town of Crescent.

Mr. Jennrich read the notice of public hearing for the above agenda item. The notice was published in the Rhinelander Daily News on November 17, 2009 and November 24, 2009 along with the Tomahawk Leader, Lakeland Times and Vilas County News Review the week of November 16, 2009. The notice was posted on the Courthouse bulletin board on November 13, 2009. The mailing list was noted and located in the file for review.

The following correspondence was received:

- Letter dated November 17, 2009 from the Town of Crescent approving of the reclamation plan.

Mr. Jennrich noted the department took over the non-metallic mining registration and reclamation and a public hearing is required for use and reclamation. Mr. Jennrich explained that Mr. Klaver will take over the portion that is not Oneida County owned and Mr. Belling will manage this portion of the property. The plan was supplied to the Committee (Exhibit #8).

Gene Uttech was present and noted this was a five year process.

Duane Belling was present and commented on the property boundaries.

Nick Schultis, Oneida County Highway Department commented there are no concerns on behalf of the department. Mr. Schultis noted Mr. Klaver and Mr. Belling have been good to work with over the years.

Mr. Jennrich concluded that the area at issue is a 5.8 acre parcel of land and this is a "win-win" for all involved. The department will require financial assurances and the bond must be paid to Oneida County no later than May 1, 2010.

Mr. Holewinski asked if there was any public comment for or against the issue at hand.

Mark Patulski commented he is for approval.

No other public comment was made.

**Motion by Larry Greschner, second by Ted Cushing to approve the non-metallic reclamation and mining registration with staff conditions and concerns. With all members present voting "aye", the motion carried.**

Ordinance Amendment #12-2009, Section 9.93 D, Minimum Lot Area, authored by the Planning and Zoning Committee to amend Section 9.93 D, Minimum Lot Area of the Oneida County Zoning and Shoreland Protection Ordinance as follows (see agenda).

Mr. Jennrich read the notice of public hearing for the above agenda item. The notice was published in the Rhinelander Daily News on November 3, 2009 and November 10, 2009 along with the Tomahawk Leader, Lakeland Times and Vilas County News Review the week of November 2, 2009. The notice was posted on the Courthouse bulletin board on October 29, 2009. The mailing list was noted and located in the file for review.

There was no correspondence received regarding this matter.

Mr. Jennrich read the changes to Section 9.93(D) as shown on the agenda.

Mr. Holewinski asked if there were any public comments for or against the issue at hand.

Mark Patulski, Prune Lake Road, asked about appendix B and commented he believes this takes away the percentage from the city lots in Minocqua and Three Lakes.

Mr. Osterman noted the Committee wanted a straight line number to simplify things and there are very few sewerred lots being split or divided today.

Mr. Patulski asked under Section 9.93(D)(8), what “c” means.

Mr. Jennrich explained this is a percentage of the property or 10,000 square feet has to be at least two feet.

Mike Fugle, Assistant Corporation Counsel explained the undefined portion that requires two feet elevation.

Mr. Patulski also questioned “d”, dry land access can be obtained by the DOT and why zoning is saying no to this.

Bill Liebert, Highview Parkway, referred to Section 9.93(D)(2) and commented if taxable land is below the ordinary high water mark who owns that landward. Regarding (3), if these areas are being assessed and owners paying taxes then don't take this portion of their property away. Mr. Liebert referred to (4), indicating he appreciates this language but the easement is private property and should be used in the calculation. Regarding (6) (a), Mr. Liebert asked who owns the wetlands and pays the taxes?

Mr. Holewinski commented that an owner is still allowed the property but can only build within the 10,000 contiguous square feet. This would make it more usable to create these lots.

Mr. Liebert commented that the 10,000 contiguous square feet does not consider the fact that I may own high ground or low ground and may not be able to sub-divide my property. Regarding Section 9.93(D)(6) and (7) Mr. Liebert asked that the committee consider the water body name of “any body of water” may be an issue. Also, the dry land access requirement may defer people to use their hunting land and so Mr. Liebert recommended removal of this due to the DNR authority.

Len Hyke commented on his concern with eliminating dry land access. Mr. Hyke commented that he believes this could eliminate the value of property and NR115 will control what can be placed on a property.

Dave Schmitz, Northwestern Drive, asked why (6) in this section is not combined to Class I, II waterways. Mr. Schmitz commented that other than this concern he believes the language is good and appreciates the 10,000 contiguous square feet.

Mr. Holewinski and Mr. Greschner agreed that this should be discussed by the committee further after hearing from the public.

Mr. Holewinski indicated that he needed to leave for an appointment and suggested that the department check into the dry land access issue and the question of subdividing.

**Motion by Larry Greschner, second by Dave Hintz directing ordinance section 9.93 go back to the Planning and Zoning Department for consideration of the public information at no defined date. With all members present voting “aye”, the motion carried.**

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Mr. Holewinski excused himself and Vice Chair; Ted Cushing read the next agenda item.

Ordinance Amendment #1-2009, authored by the Oneida County Planning and Zoning Committee to repeal and recreate Chapter 15, the Oneida County Subdivision Control Ordinance, of the General Code of Oneida County. A previous Public Hearing was held on April 15, 2009.

Mr. Jennrich read the notice of public hearing for the above agenda item. The notice was published in the Rhinelander Daily News on November 3, 2009 and November 10, 2009 along with the Tomahawk Leader, Lakeland Times and Vilas County News Review the week of November 2, 2009. The notice was posted on the Courthouse bulletin board on October 29, 2009. The mailing list was noted and located in the file for review.

There was no correspondence received regarding this matter. Mr. Jennrich indicated the public hearing for this was held in April 2009, and then staff made changes to page 5, 7, 8, 10 and 26 as noted in handout (Exhibit #9). The revised document is now before the committee for a public hearing with the changes made.

Mike Fugle, Assistant Corporation Counsel, noted that on page 17, Chapter 15.24 (2) A is unsewered lots and B is sewerred lots and both should mirror the same language and change the formatting with the 10,000 sq. feet language and taking out the percentages.

Mr. Cushing asked if there were any public comments for or against the ordinance amendment.

Mark Patulski, 6730 Prune Lake Road, asked that the drafts be numbered. Mr. Patulski made the following comments: why on the cover "reserved for future use"; then on page 3, under Chpt. 15.13 there is concern of consolidation of land, as each forty will be taxed. Mr. Patulski indicated he does not think this is fair to the landowner to take for the purpose of this ordinance. On page 7, (N) if the lot is on water the county is acknowledging that people own lake beds on lakes smaller than fifty acres.

Mr. Jennrich indicated the language on page seven is for Land Information to account for all property accounted for on the map.

Mr. Patulski commented that on page 7, (O) if a surveyor will be required to walk the land in four foot contours this will be an added expense to the land owner.

Mr. Jennrich indicated he believes the intent was 25% graphically or by topographic survey as described.

Mr. Patulski commented on page 7, (P) asked if the DNR issued a letter to the county that you are out of compliance with NR116. The maps are not accurate (FIRM) and (LOMA) and should be updated. Regarding page 16, (2)(B) d., the maximum grades of 8% to 11% will never allow subdividing because a road can't be constructed. Regarding (2)(B)2, inspection should be a town issue. A driveway will never be constructed with this percentage on some lots. Mr. Patulski recommended a specific percentage not a range.



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Mr. Jennrich indicated the town road standards came from Wisconsin Statutes as read. The committee previously indicated that if there are no town roads then private roads that access subdivisions should be brought up to town road specifications.

Mr. Patulski commented on page 18, regarding sewered lots and the need for formatting corrections as previously mentioned. In the Addendum residential farming indicates "wholesale farming" and believes "retail" should be included also.

Dave Schmitz commented that he believes the county is heading in the right direction with this ordinance and hopefully there will be a lot of towns who drop out of this regulation, as many are over their head in subdivision regulation. Mr. Schmitz also commented that the draft he obtained was from the web page and changes have been made but not shown on the web draft. Mr. Schmitz indicated there is no definition of subdivision. One possible definition would be to call it a "land division" ordinance. Regarding land divisions, Mr. Schmitz indicated "major land divisions" and "minor land divisions" would define the terms. Regarding Section 15.23(1) on page 15, there is an exception for an existing road and asked that this be explained.

Mr. Jennrich described the reasoning for this language as a possible waiver depending on the town.

Mr. Schmitz commented that regarding the Appendix he would like to see the department research each town and see what standards are in place and hopefully this ordinance would allow town's to get out of the subdivision restrictions. Mr. Schmitz commented that the Town of Newbold is not handling this well and the zoning department will hopefully have more experience in this area.

Bill Liebert, Highview Parkway, commented that he appreciates the committee looking at the public comments made at the previous public hearing in April. Mr. Liebert noted the notice in the paper was written correctly however, the document the committee is working with today is not the document on the website and the county should consider using the internet for publication as it is more user friendly. Mr. Liebert referred to page 1, Chpt. 15.04 and reminded the committee of the "minimum requirements" and the official's obligation to serve the public. Regarding Chpt. 15.05(1), this language should coincide with the above language since you are recognizing this but should also uphold this language. Regarding Chpt. 15.12(1), noted this is concerning as the terms inadequate drainage, severe erosion potentials adverse soil or rock formation could be interpreted differently and should be removed and simplified. Under Chpt. 15.13, this is a serious flaw and should be removed and should possibly say "indigous parcel or tracks" or just taken out of the ordinance completely. This forces someone who owns two parcels into a contiguous parcel and this is a taking. Regarding page 4, (1) what is the purpose of access and utility review and should not be forced on a land owner. Regarding Chpt. 15.15, access is not necessary and page 6, Chpt 15.16, why require listing the zoning district on the land division map. Under Chpt. 15.16(2) (D), the OHWM and waters edge should not both be used in this language. This "waters edge" term is used through out and a very bad use of the language. Mr. Liebert believes this is a serious misuse of terms and may perpetuate a lawsuit. Use the terms wetland and ordinary high water mark. Mr. Liebert referred to page 8, (3) and asked what the purpose of this review would be and how would it be beneficial. This should be specific

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to the municipality involved. Mr. Liebert asked under (4) on the same page if there are examples and under (B) what are cultural resource inventories.

Mr. Greschner indicated this is Indian Burials Grounds.

Mr. Liebert continued with page 14, Chpt. 15.23(C) and asked why the ordinance is requiring 66 feet for an easement road and the responsibility should be placed on the seller. Regarding page 15 (I), Mr. Liebert asked if this is retroactive (easement road specifications). Also on page 15 (2) b, this percentage (11%) is too large of a requirement. Regarding page 16 (4), cull de sac should be allowed as described. Regarding page 17, Chpt. 15.24 taxes have been paid on wetlands and this is a taking. Also, under Chpt. 15.24(2) why is there a minimum, as this is too much like an overlay. Mr. Liebert asked that the county not take land away with this language. Mr. Liebert noted sewer and non-sewered lots concern as this could be a case by case issue. Pertaining to page 19, Chpt 15.27(3), Mr. Liebert commented that this is a lawsuit waiting to happen and would like to know how many times this occurs. Mr. Liebert asked that the department research how many times this has been enforced in the last ten years on subdivisions in this county. Mr. Liebert recommended this be taken out of the language and asked what triggers this.

Mr. Jennrich commented that the last one he is aware of is on Clear Water Lake, where they converted to a condominium form of development and we rarely see State or County plats creating these divisions.

Mr. Liebert indicated this answers his question on that matter. Mr. Liebert also asked on page 24, what "bulkhead line" means. Mr. Jennrich explained.

Mr. Leibert also referred to page 26, "navigable waters" and "waters edge" and again asked why this is being used and recommended this be removed. Mr. Liebert thanked the committee for their time.

Len Hyke, commented that government at all levels should refrain from their involvement with private land. Mr. Hyke gave an example of an elderly person who sells their land who have access to their land with physical gates but allow horse traffic and asked why a regulated width would be required on this type of easement road. There should be some differentiation in an easement of this matter that would not allow such width as a vehicle access easement would require. Mr. Hyke recommended the language not require a 20 foot access road and leave it up to the private parties what the width should be. The easement road is Mr. Hyke's biggest concern and applies with hunting land access also.

Mr. Cushing asked if there was any other public comment for or against.

Mr. Patulski asked for the definition of "track of land".

No other public comment was made.

Mr. Cushing noted that Scott Holewinski, Chair asked that the committee take the public comments and discuss at a later meeting when Mr. Holewinski is present.

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Mr. Greschner commented that he agrees with Mr. Liebert regarding “waters edge” and agrees it should be taken out.

Mr. Wickman commented that he believes the public comment today was very statesmen like and he welcomes the input. Mr. Wickman noted no ordinance will be perfect and regarding the easement they could be a footpath and not needed to be 60 feet wide. Regarding State Statute this is the county’s obligation to conform to this part of the language. Regarding taxes and assessment this can all be reviewed with an appeal and challenged at that level.

Mr. Greschner commented regarding width, cull de sac and driveway widths he believes town’s have this specification in place already.

**Motion by Larry Greschner, second by Charles Wickman to delay Chapter 15 to a later date, not to be determined today, for staff and Corporation Counsel review based on the public input and bring back for further discussion and possible decision. With all members present voting “aye”, the motion carried.**

Adjourn

**Time: 4:05 p.m.**

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

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Scott Holewinski, Chair

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Karl Jennrich, Zoning Director