

Mike Weinkauf called the meeting to order at 7:00 p.m. with Paul Beere, Maureen Eckert, Chris Johnson, James Joseph, Tom Rowntree and Mark Tamblyn present.

Betty Novy, Secretary; Jonathan Schattner, Zoning Administrator; and John Tierney, Engineer; were also present.

Pledge of Allegiance.

Joseph moved, 2nd by Eckert to approve the minutes of the October 5, 2009 meeting as printed. Motion carried.

**Public Hearings:**

**A-2 Conditional Use to park a commercial vehicle at 511 N. Honey Lake Road**

**Owners/ Applicants: Scott and Sandra Koch**

**Parcel ID#176031917029010**

Schattner displayed an aerial photograph of the subject property with a site plan overlaid. He explained parking a commercial vehicle in A-2 zoning requires a conditional use permit. This allows the Plan Commission to impose conditions to regulate and/or limit the activity. A picture of the commercial vehicle was also displayed.

Scott Koch addressed the Commission. He explained he has been parking trucks on his property for ten years and this is the first he has become aware of the requirement. He described the truck as a twenty-foot box truck with a separate refrigeration unit. The box generally contains product Monday and Tuesday nights, and is then parked empty for the rest of the week. He leaves his home daily at approximately 2:00 a.m. and returns by 2:00 p.m. He turns off the refrigeration unit by 8:00 p.m. at night. He indicated the truck he owns is not the same as a semi-truck that runs all night.

Schattner read his conditional use recommendations, outlined in his memorandum of October 29, 2009, as follows:

I have reviewed the above subject request that is scheduled to be heard by the Village of Rochester Planning Commission on November 2, 2009 and determined that this proposal complies with the standards outlined in Division 5, Section 20-1226 Uses Permitted Conditionally, found in Chapter 20 (Zoning) of the Village of Rochester Zoning Ordinance. Therefore it is my recommendation to the Village Planning Commission that this request be approved subject to the following conditions:

- 1) Before beginning this project, the owners of the above referenced property must obtain a zoning permit card from the Village Zoning administration after paying the required zoning permit fee of \$125.00. This card must be displayed in a prominent location on the site and a copy of the conditions must be kept at the site at all times.
- 2) Failure to comply with the terms and conditions stated herein could result in citations being issued and/or the approval/permit being revoked.
- 3) This approval will expire May 2, 2010, unless substantial work has commenced following such grant. If the Zoning Administrator determines that no substantial work has commenced the project may not occur unless the Village of Rochester Planning Commission grants a written extension. Written extension requests must be submitted to the Village Zoning Administrator must be submitted to the Village Zoning Administrator by April 2, 2010.
- 4) The proposed refrigerated box truck parking must be located and utilized in accordance with the plans and documents received by the Zoning Administrator on October 9, 2009. This conditional use approval only applies to parking one (1) "Charcoal Grill" box truck on this property as indicated in your petition, dated October 9 2009.
- 5) The operator/applicant(s) must ensure that the truck driver strictly obeys all posted speed limits and all traffic laws. This includes coming to a full stop before entering the public roadway. Should this office receive substantial complaints that such laws are being broken, the Village of Rochester Planning Commission reserves the right to review and revoke this permit for noncompliance.
- 6) No overnight or long-term engine idling of the box truck is permitted. The refrigerator unit on the box truck shall not operate after 8:00 p.m. and shall remain off until the applicant/operator leaves the subject property.

- 7) The applicant/operator is prohibited from backing out into the right-of-way of North Honey Lake Road and backing in from North Honey Lake Road into the subject property.
- 8) The project must comply with State of Wisconsin Air pollution regulations.
- 9) The applicant must obtain all necessary federal, state, and local permits, approvals and licenses and comply with all applicable codes and regulations.
- 10) The applicants must comply with the provisions of Article VII, Division 4. Performance Standards found in Chapter 20, Zoning, of the Village of Rochester Zoning of Ordinances. (See attached copy)
- 11) No additions, deletions, or changes may be made to the project, site plan or these conditions without prior approval of the Village of Rochester Planning Commission. All additions, deletions, and/or change requests must be submitted in writing to the Village Planning Commission for their review and approval.
- 12) The applicant must allow the Zoning Administrator or a Village employee full and unlimited access to the project site at a reasonable time to investigate the project's construction, operation, and maintenance.
- 13) Your acceptance of this approval/permit and beginning the project means that you have read, understand, and agree to follow these conditions. Therefore, Scott & Sandra Koch and their heirs, successors, and assigns are responsible for full compliance with these conditions.
- 14) It is the property owner's responsibility to inform any subsequent owner or operator of these conditions.

There was a question regarding item #14 and whether this use was transferable to a new owner. Schattner explained the conditional use permit is only applicable to the described "Charcoal Grill box truck". The likelihood of a new owner having the same truck is very slim.

Fred Jaeger, 33701 Academy Road, addressed the Commission. He stated concern over the direction of headlights when the truck is parked. If facing east, the lights could end up shining in his bedroom window.

Koch indicated his truck is always parked with the headlights facing his house (to the south). He turns west to leave his driveway.

Jacqueline Bush, 33753 Academy Road, addressed the Commission. She indicated some inconsistencies with how Koch is describing his use of the truck compared with what she has experienced. She reported three nights this past summer when the truck ran all night. She reported having medical problems that are worsened when she does not get adequate sleep. She feels she should be able to sleep with her windows open and not be bothered with truck noise.

Koch indicated he generally starts his truck and then returns to the house for about ten minutes so the vehicle has time to warm up. Commissioners indicated he should not run the truck in his driveway for any extended period of time at night.

Weinkauf called for any more comments. There were none.

Beere moved, 2<sup>nd</sup> by Tamblyn to adjourn the public hearing. Motion carried.

**Action Items:**

**A-2 Conditional Use to park a commercial vehicle at 511 N. Honey Lake Road**

**Owners/ Applicants: Scott and Sandra Koch**

**Parcel ID#176031917029010**

Johnson moved, 2<sup>nd</sup> by Eckert to approve the conditional use permit subject to the conditions outlined in Schattner's zoning memorandum dated October 29, 2009 (above). Motion carried.

**Site Plan Review to create a 80' wide by 120' length wildlife pond having a maximum depth of 5 feet east of 32033 Washington Avenue  
Owners/ Applicants: Michael Pitsch/ Debra Bathke**

Schattner displayed an aerial photograph of the property with a site plan overlaid. Site photographs from multiple directions were presented along with a survey showing the location of the pond and where excavated materials would be placed. Schattner described the proposed pond as a wetland scrape and explained that a Department of Natural Resources permit had already been approved.

John Tierney reported on engineering review of the site plan. He found the plan meets code requirements and should not cause area drainage problems. His only concern would be when the house is constructed on the lot. He indicated foundation and floor elevations should be reviewed in correlation to pond elevations to avoid basement flooding problems.

The plan indicates six-inch to two-foot berms around the pond. There was question on whether this will restrict any surface flow from adjacent properties. It was explained that all water drains from Washington Avenue to the south into this wetland area. There is a significant ravine to the west which captures most of the drainage. It was not felt that this pond will inhibit flow.

There was question as to how the area will be stabilized during and after the project. Weinkauff indicated concern about a culvert running under Rodaza Drive that could potentially get clogged if silt or debris were not controlled. It was noted disturbed areas will be seeded and netted after completion. Silt fences and/or hay bales will also be used to control erosion. Due to slopes on the subject property, double silt fences were recommended. The timing of the project was noted as winter.

Tamblyn questioned why Pitsch was disturbing the wetland area prior to building the house and asked why this was not being done at the same time the house is built. Tamblyn was concerned that excavations required to build the house may end up silting in the pond.

Michael Pitsch addressed the Commission. He reported a 20-foot drop in elevation from Washington Avenue to the pond. Spoils will be used to taper off an eight-foot drop from the road to his house. He reported no one is more concerned about a dry basement than him. However, he is comfortable with the elevations from where his house will be situated to the pond. He indicated that the wetland area is already there. The level of existing water will not be greatly affected by the pond.

Schattner read his site plan recommendations, outlined in his memorandum of October 29, 2009, as follows:

- 1) The proposed 80' x 120' wildlife pond must be located and constructed according to the revised plans prepared by Gary Foat Registered Land Surveyor, dated October 5, 2009 and labeled, "Exhibit A". The side slopes of the pond must be no steeper than 4:1 and the pond will have a maximum depth of 5 feet.
- 2) The applicants are responsible for complying with all conditions prepared by John Tierney, Village Engineer and outlined in his memorandum dated October 22, 2009.
- 3) The applicants are subject to complying with all of the conditions of the State of Wisconsin Department of Natural Resources "Wetland Conservation Activities" permit prepared by Heidi Kennedy, Water Management Specialist, and signed on August 31, 2009. The applicant is also required to comply with the conditions outlined in Heidi Kennedy's e-mail to the Rochester Zoning Administrator regarding the placement of fill in the designated wetland area dated, October 21, 2009. (See attached e-mail)
- 4) The property owner is responsible for repairing or replacing broken field tile on this property and in perpetuity with this property and keeping it in good working condition at all times. All existing tiles draining into this pond shall have rodent guards place at the end of the tile to prevent small animals from blocking the tile outlets. Do not block or create surface drainage problems on your property that would adversely affect the adjacent property owners.
- 5) All excavated material must remain on the subject property and maybe relocated around the north, east and west side of the proposed pond as outlined in Heidi Kennedy's e-mail dated, October 21, 2009 and in the upland area as shown on the plat of survey label, Exhibit A-1".

- 6) To prevent any additional sedimentation placed upslope from the wetland area a diversion must be placed along the staked wetland boundary line consisting of a filter fabric fencing placed into a four-inch by four inch V-shaped trench, backfilled with fill material, and compacted. This diversion must be installed before any excavation begins, and it must remain in place and be maintained until permanent seeding is established as determined by the Village Zoning Administrator. See attached copy of "Filter Fabric Fences" for installation requirements.
- 7) A temporary seeding of five pounds of perennial ryegrass per 1000 square feet must be applied to all disturbed areas outside the wetland area within seven days of completing this project. Permanent seeding must be completed June 1, 2010. (See Attached WI-CPA\_123.)
- 8) No excavated material may be sold or given away without obtaining rezoning to an M-4 Quarry District and obtaining a conditional use permit approval from the Village of Rochester Planning Commission and Village Board.
- 9) Upon receiving approval from the Village of Rochester Planning Commission, it is the responsibility of the applicant to obtain a zoning permit card at a cost of \$125.00 from the Village Zoning Administrator prior to constructing the pond on this property. The zoning permit must be displayed in a prominent location at the project site, and a copy of these conditions must be kept at the project site at all times, until the project has been completed.
- 10) The applicant must obtain all necessary federal and state, permits, approvals and licenses and comply with all applicable codes and regulations.
- 11) No additions, deletions, or changes may be made to the project, site plan or these conditions without the Village of Rochester Planning Commission, prior to approval. All additions, deletions, and or change requests must be submitted in writing to the Village of Rochester Planning Commission, for their review and approval.
- 12) The property owner must allow the Village Zoning Administrator or a Village employee full and unlimited access to the project site at a reasonable time to investigate the project's construction, operation, and maintenance at the beginning, during and completion of this project.
- 13) **The project must be completed by June 1, 2010.** Written extension requests must be submitted to the Village of Rochester 30 days before permit/approval expiration.
- 14) Please be advised that the Village of Rochester does not warrant or certify that the design of the pond or the drainage plan for this site is functionally and/or structurally adequate; therefore, the Village of Rochester accepts no liability through this permit.
- 15) Failure to comply with the terms and conditions of this approval could result in the issuance of citation(s) and permit revocation.
- 16) Your acceptance of this approval/permit and beginning the project means that you have read, understand, and agree to follow these conditions. Therefore, Michael Pitsch & Debra Bathke and their heirs, successors, and assigns are responsible for full compliance with these conditions.
- 17) It is the property owner's responsibility to inform any subsequent owner or operator of these conditions.

Joseph moved, 2<sup>nd</sup> by Johnson to recommend approval of the site plan review/ pond permit subject to the conditions outlined in Schattner's zoning memorandum dated October 29, 2009. Motion carried.

**Review and recommendation to Village Board regarding Ordinance No. 2009-5 creating an M-4 "Quarrying District" and special conditional use provisions applicable to quarrying operations**

Schattner explained the ordinance was drafted to reconcile previous Town and Racine County ordinances and provide one permit process. He reported confirmation from Racine County that they are exclusively responsible for regulating reclamation of quarry sites according to the Department of Natural Resources Administrative Code NR135. The Village will work closely with the County in regards to reclamation and how it may tie into conditional use permit requirements. The permit process is completely outlined in the ordinance and is written so that permits are renewable every two years. This

gives the Plan Commission the ability to monitor any complaints and also allows the operator to propose any changes in operations.

Schattner reported drafts of the ordinance were forwarded to all gravel pit operators. Amendment requests were received from Payne & Dolan as follows:

**Request 1:** Page 2. Section 2(A) Delete the word "*batch*" after asphalt in line 3. They are concerned with the following language: " ... *may occur on a parcel only during the duration of the on-site extraction activity.* " Even though the Honey Creek aggregate site is considered one site, it is located in two different municipalities with two different conditional use permits. The concern is the definition of "onsite" as it would relate to utilizing material from the Town of Waterford for the asphalt plant which is located in the Village of Rochester. They questioned whether the Town of Waterford portion would be viewed as not "on-site" as it is operated under a different conditional use permit?

Schattner reported on consultation with the Village Attorney. The term "site" includes the entire operation, including that part which exists within adjacent municipalities. Schattner recommended retaining the term "batch".

**Request 2:** Page 2. Section 2(8)(1) & (2) Add the words "including concrete and asphalt plants" in both 1& 2. Delete the word "*batch*" plant in no. 3.

Schattner indicated no objection to this request, but the word batch should be inserted as follows "including concrete and asphalt batch plants" in both 1 and 2.

**Request 3:** Page 4. Section 3(1)(b) Wisconsin Administrative Code NR-135 limits financial assurance be "payable exclusively to the regulatory authority that has jurisdiction and who issues the approval of the reclamation plan." At this time, the regulatory authority for reclamation ( R-135) is Racine County. The following language would then need to be deleted " ... *which names both Racine County and the Village of Rochester as beneficiaries thereunder ... and/or the Village of Rochester ...* " However, Payne & Dolan indicated willingness to issue a joint bond if so approved by Racine County.

Schattner indicated no objection to changing the bond requirement the County's responsibility to oversee reclamation has been clarified.

**Request 4.** Page 5. Section 3(2)(a)(2)(n) This paragraph should be deleted. It would be very difficult and onerous to provide in the site plan "existing trees two inches or more diameter on a heavily wooded site like our Honey Creek aggregate site.

Schattner indicated this language was pulled from the previous Town ordinance, but noted it could be cumbersome and expensive to inventory all trees on a site. Schattner recommended the ordinance be changed to inventory only the trees around the perimeter of the planned excavation area that are over a certain circumference (to be determined).

**Request 5.** Page 5. Section 3(2)(a)(2)(u) The word "*public*" should be changed to Village. State and county roads are built to handle the traffic and types of trucks associated with a nonmetallic mineral extraction operation.

Schattner reported discussion with Racine County Public Works. They indicated roads are constructed to withstand gravel truck traffic. He indicated no objection to changing the language to "village" roads vs." public".

**Request 6.** Page 8. Section 3(S)(a)(3) The concern with this section is with the following language: " ...*permit shall terminate: (3) In the event the use specified in the permit is not carried on in accordance with the representations contained in the application or conditions required by the Village Board*" They questioned who makes this determination and does the ordinance define a process that needs to be completed before the permit is terminated? There is a process for revocation but the language of this section does not refer to the revocation procedures.

Schattner reported on consultation with the Village Attorney. The section will be moved under "revocation procedures".

**Request 7.** Page 8 Section 3(S)(b)(1)(a) The concern with this section is with the following language: " ... *will not interfere with the lands, drain, and ditches of other person, firms or corporation, or municipalities whether owned or otherwise.*"

The definition of "*interfere*" may need to be more narrowly defined to eliminate a broad interpretation that was not intended at the time the ordinance was written.

Schattner reported on consultation with the Village Attorney. The word "interfere" will be replaced with the following language "disturb, hinder, infringe, damage, or hamper".

Greg Reesman Jr., Reesman Group II, addressed the Commission. He reported concern over scale setbacks specified in s. 5.07d.2. He reported his scale as being less than 100 feet from the public road right of way. It is setback approximately 85 feet and was approved by Racine County that way.

Bill Pavin and Paul Loppnow, Parkview Sand and Gravel, addressed the Commission. They also reported their scale being closer than 100 feet to road right of way. They also have a 50' setback on the west side of their operation which was, again, approved by Racine County in their original operations plan.

Consensus of the Committee was to amend the ordinance to include a grandfathering provision, but to retain noted setbacks as being applicable to new operations.

Clint Weninger, Payne & Dolan, addressed the Commission. He requested that a clause be added to the setbacks section indicating "or as otherwise authorized by the Plan Commission". He noted each site is unique and setbacks may not be easily observed in some situations. He suggested the Plan Commission be given more flexibility on this matter.

Eckert moved, 2<sup>nd</sup> by Johnson to recommend approval of Ordinance #2009-5 creating an M-4 Quarrying District incorporating the above revisions. Motion carried.

**Conceptual Plan to revise the previously approved layout of "The Settlement of Rochester" condominium project located at the intersection of English Settlement Avenue and Settlement Drive.**

Mike Schiltz, Cornerstone Development, addressed the Commission. He reported Equitable Bank has taken the project back from the original developer. They are maintaining ownership and have pledged to finance mortgages for individuals wishing to purchase condominiums in the project. Cornerstone is working as project manager and intends to maintain a sales presence on site.

A conceptual plan was presented showing modification to the original layout with clustering and different building products including:

- Street layouts that had been redesigned to create two sets of clustered units in Phase 2.
- An increase in housing units from 86 to 92.
- Re-designation of the area previously designated commercial to residential.
- EPCON housing units, ranging from 1600 to 2000 square feet, are proposed to build out the rest of Phase 1.
- EPCON housing units, ranging from 1200 to 1400 square feet, are proposed to build out Phase 2. These units are in a price range they feel the current market will support: \$210,000 to \$270,000.
- High quality exteriors including hardi-plank, brick and/or stone that have the look of single family homes.
- A 3,000 square foot club house with a large great room, full kitchen and fitness center. The club house is proposed to serve as a temporary sales office where someone will be on site six days a week from 10a.m. to 6p.m.

John Tierney commented on sewer approvals. The development was approved with an estimated population of 264. An increase to 92 units will increase the population estimate to 282 people. The revised plan should be submitted to the Western Racine County Sewerage District for approval.

Weinkauf questioned mountable curb designs in the current development. It was noted they have not held up well. Schiltz indicated Phase 2 is proposed with vertical face curbs and depressions through the driveways. The bank has replaced 85% of the mountable curbs in the current development.

Tom Iverson, 403 Oak Hill Circle; Jim Filer, 343 Oak Hill Circle; and David Lesh, 391 Oak Hill Circle; addressed the Commission. Iverson stated they were at the meeting to represent existing condominium owners. He was thankful to hear of the bank's commitment to financing, noting this as significant due to current limitations placed on the condominium market. He reported on a meeting hosted by Equitable Bank on October 27<sup>th</sup> where the conceptual plan was introduced to existing condominium owners. He stated the meeting did not provide current condominium owners adequate time to think over the proposed plan. After the meeting, they discussed the plan and discovered several shortcomings. They felt they should have been consulted earlier in conceptual plan process.

Iverson noted a handicap accessible connection to the county bike trail on the northwest end of the development is required in the original development agreement and is not represented in the conceptual plan. Condominium owners do not feel enough common parking spaces are provided in the new plan either and noted condominium restrictions limit the ability of vehicles to park on the street. Also noted, the new street layout creates the need for more complex snow removal operations. This will end up costing the condominium association more money to provide the service. Existing condominium owners are also concerned with a style of home in Phase 2 that is proposed to be built without basements. They feel this will bring the value of all homes down.

Iverson requested that Cornerstone take current condominium owner's concerns into consideration with the re-design. He noted the proposed expansion of the number of units higher than the original 86 units. It will require 100% participation of current condominium owners in order to amend the condominium documents.

Commission members made the following observations and/or comments regarding the conceptual plan:

**Street layout.** They were not receptive to proposed cul-de-sacs and preferred that the original street layout, or something similar, be continued. The southern cul-de-sac should be eliminated entirely and the southeastern loop of Oak Hill Circle should be retained in approximately the same location it was in the original plan. The northern cul-de-sac area could be retained if redesigned with a boulevard entrance that included interior parking.

**Curb and Gutter.** Vertical face curbs, with depressions through the driveways, are preferred.

**Parking Spaces.** Commissioners were concerned about whether adequate parking spaces were provided. It was noted that one sided on-street parking could be accommodated as the proposed streets are 31 feet wide. This allows adequate room for parking and for emergency vehicles access. However, Iverson reminded the Commission that there are restrictions in the covenants regarding on street parking. More designated parking areas are desired.

**Open Space.** Schattner reported open space as 58.4% with the previous design. The conceptual plan includes 62.2% open space. It was noted that the proposed design requires that a large stand of trees be removed. Current condominium owners prefer that the stand remain.

**Housing units.** The increase in the number of proposed housing units is acceptable if the commercial area is reclassified residential. Commissioners found the proposed building styles acceptable and felt they blend in with what is already there.

**Reclassification of Commercial Area:** Tamblyn was concerned about elimination of commercial areas throughout the Village. However, condominium owners countered with a preference for the commercial area to be changed to residential. One suggestion was that use of the commercial area remain as is until it is seen how the rest of the development continues.

**Clubhouse and Pool:** There were concerns stated about the proposed location of the clubhouse and pool, noting that they were located in an area of significant drainage. Schiltz noted Phase 2 would have to be re-engineered, but that they intended to comply as much as they can with the original storm-water management plan.

Consensus of the Commission was to table further consideration of the Plan until such time as the bank and Cornerstone Development come to agreement with current condominium owners on plan revisions.

Johnson moved, 2<sup>nd</sup> by Joseph to adjourn at 9:32 p.m. Motion carried.

Respectfully submitted,  
Betty J. Novy, CMC, Clerk-Treasurer