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**Minutes are generally approved at the following meeting**

## **MINUTES - Pierce County Land Management Committee Meeting, January 7, 2009**

**Present:** Paul Barkla, Jeff Holst, Don Rohl and Eric Sanden

**Others:** Andy Pichotta, Jim Kleinhans and Shari Hartung

**Excused:** Joe Fetzer

Chairperson Barkla called the Pierce County Land Management Committee meeting to order at 7:00 pm in the Pierce County Board Room, Ellsworth, Wisconsin.

Next meeting dates: January 21<sup>st</sup>, February 4<sup>th</sup> & 18<sup>th</sup>, March 4<sup>th</sup> & 18<sup>th</sup>, April 1<sup>st</sup> & 15<sup>th</sup>, all in 2009.

Approve Minutes: **Sanden moved to approve the December 3, 2008, LMC minutes/Rohl seconds. All in favor. Passed.**

**Public hearing to consider a request for a conditional use permit for Filling and Grading in the Floodplain/Shoreland District for the Town of Diamond Bluff, Fred Ottem, agent on property located on Lots 2 – 4 of Block E, Lots 1 – 5 of Block B, including the Levy in the Enoch Quimby Addition, all in Section 13, T25N, R19W, Town of Diamond Bluff, Pierce County, WI.**

**Chairperson Barkla invited Fred Haverlandt and John Norquist forward:** Mr. Haverlandt explained they are putting a park improvement plan together. One of the integral issues was the grants received; one was for water runoff, the culvert and grade change to the park access along with the improvement to the parking on the top and the access to the beach. The present road has a 20% grade and is not handicap accessible. The fishing piers will be handicap accessible. They will put a parking area down there also and small piers for people to fish from. Sanden asked if they had considered lunker structures for fish habitat? Mr. Haverlandt stated they are right on the river and it should form some eddies. At the end of these piers it should be 6 to 8 ft deep. Mr. Norquist stated there are supposed to be 40 species of fish in the Mississippi in that general area. **Staff Report – Jim**

**Kleinhans:** This is a conditional use permit for filling and grading in the floodplain/shoreland district. This project has been in the works for several years. Staff received another revision from TEC Design on the 6<sup>th</sup>. The project has evolved for the better. The Town of Diamond Bluff supervisors approved this plan at their November 13, 2008 meeting. WI DNR staff reviewed and approved this project on December 5, 2008 for Chapter 30 requirements. A minor portion of the park development involves encroachment on the upstream adjacent property owner. Mr. Wentz submitted a statement of approval provided the ground disturbance is graded for easier maintenance. The staff report covers a few things to consider for review and approval.

- A. Park access road realignment/reconstruction to reduce the grade.
- B. Reconstruct 290<sup>th</sup> Avenue with a pipe inlet to improve surface water drainage in conjunction with extension of the road culvert to control surface water runoff.
- C. Develop hiking paths, picnic areas plus handicap parking and river access.
- D. Develop fishing piers with fill placement in the floodplain.
- E. Stabilize all graded and filled areas with suitable ground cover and mulch.

The TEC Design covered some of these in the revised plan and considered the best management plans. The fill placed for the fishing piers was analyzed by the DNR staff and the engineers felt there was no conflict. In the handicap parking area, they decided to place wet detention base at the outlet to help collect sediment and lessen the chance of debris floating out into the flume. Scourstop material was recommended but was not incorporated into the plan. The land disturbance associated with this directly flows into the river so stabilization should be done immediately after final grading. Timing of the project should be effective so that seeding will be established before fall. Erosion control plans are in

the staff report. The silt fence locations were revised on the current plan. Proposed seeding mix is a #20 seed mix at 3 pounds per 1,000 square feet. Land Conservation staff and I thought they could make it look more natural by incorporating native plants like little bluestem which is located down by the boat landing and would do well there. The plan shows the detail of the culvert which slopes down to the beach and goes underneath the proposed realignment of the road. The project will go out for bids early this year. **Staff Recommendation:** Staff recommends the Land Management Committee approve this conditional use permit with the following conditions:

1. Contractor shall follow plans dated January 6, 2009 and conditional approval items.
2. The Land Management Department shall be notified at the project initiation.
3. Streamside construction should commence after the Mississippi River is managed at the average pool elevation.
4. Riprap exposed above the normal pool elevation of 674.3 should be covered with soil and vegetated with approved plantings.
5. Final graded and seeded areas should be marked off until stabilized to prevent damage by animals and human traffic.
6. Erosion control best management practices shall be implemented immediately after final grading. Seeding be established and maintained until the site is stable.
7. All ground disturbing activities should be completed by September 15, 2009 to establish vegetative cover.
8. The project be completed within 12 months of approval.

**Chairperson Barkla opened the public hearing. No public input. Public hearing closed.** Sanden asked what is the purpose of having the asphalt access concave? Kleinhans stated to take care of sheet runoff with the water running right off the lower bank into the parking area. **Holst recused himself from voting on this issue due to possible conflict of interest. Sanden moved to approve the conditional use permit for filling and grading in the Floodplain/Shoreland District for the Town of Diamond Bluff with conditions #1 - #8/Rohl seconds. All in favor with Jeff Holst not voting. Passed.**

**Discuss take action on a request for a Farmland Preservation Agreement for James & Mary Kay Schaffner on land located in the E ½ of the NE ¼ of Section 19, the W ½ of the NW ¼ of Section 20, the SE ¼ of the SE ¼ and the S ½ of the NE ¼ of Section 18, Town of Spring Lake, Pierce County, WI. Chairperson Barkla asked Andy Pichotta to report: Staff Report:** This request is for a 10 year Farmland Preservation Agreement including 220 acres. The property has been in the program under agreement number 14759-0. The parcel is located in the Town of Spring Lake. The major farm activity is grain and hay (grass). This application states 137 acres are used for cropland, 45 acres used for woodland, 34 acres used as pasture and 4 acres used for other uses. The Land Conservation Committee “certified that the applicant’s farm operation is conducted in compliance with soil and water conservation requirements adopted by the County Land Conservation Committee” on 11-20-2008. The Land Conservation Department stated the applicants have the required Nutrient Management Plan on file with them. The majority of the soils on the property include prime farmland and farmland of statewide importance. **Staff Recommendation:** Staff recommends the Land Management Committee approve this farmland preservation agreement and forward a recommendation to the Pierce County Board of Supervisors. **Rohl moved to approve the Farmland Preservation Agreement for James & Mary Kay Schaffner and forward a recommendation to the Pierce County Board of Supervisors/Sanden seconds. All in favor. Passed.**

**Discuss take action on a request for a Farmland Preservation Agreement for Wallace & Carol Franta on land located in all of the NW ¼ of Section 3 and the W ½ of the NW ¼ of the NE ¼ of Section 3, Town of El Paso, Pierce County, WI. Chairperson Barkla asked Andy Pichotta to report: Staff Report:** This request is for a 15 year Farmland Preservation Agreement including 179.5 acres. The property has been in the program under agreement number 006328-1. The parcel is located

in Section 3 of the Town of El Paso. The major farm activity is dairying. This application states 149 acres are used for cropland and 30.5 acres are used for other uses. The Land Conservation Committee “certified that the applicant’s farm operation is conducted in compliance with soil and water conservation requirements adopted by the County Land Conservation Committee” on 12-18-2008. The Land Conservation Department stated the applicants have the required Nutrient Management Plan on file in their office. The majority of the soils on the property include prime farmland and farmland of statewide importance. The types present are noted in the staff report. **Staff Recommendation:** Staff recommends the Land Management Committee approve this farmland preservation agreement and forward a recommendation to the Pierce County Board of Supervisors. **Rohl moved to approve the Farmland Preservation Agreement for Wallace & Carol Franta and forward a recommendation to the Pierce County Board of Supervisors/Sanden seconds. All in favor. Passed.**

**Departmental Update and Future Agenda Items**

Public hearing for a Farm & Home Based Business for a nursery in the Town of Trenton

**Motion to adjourn at 7:20pm by Rohl/Sanden seconds. All in favor. Motion carried.** Respectfully submitted by S. Hartung

## MINUTES - Pierce County Land Management Committee Meeting, January 21, 2009

**Present:** Jeff Holst, Don Rohl, Joe Fetzer and Eric Sanden

Others: Andy Pichotta, Jim Kleinhans and Shari Hartung

Absent: Paul Barkla

Acting Chairperson Fetzer called the Pierce County Land Management Committee meeting to order at 7:00 pm in the Pierce County Board Room, Ellsworth, Wisconsin.

Next meeting dates: February 4<sup>th</sup> & 18<sup>th</sup>, March 4<sup>th</sup> & 18<sup>th</sup>, April 1<sup>st</sup> & 15<sup>th</sup>, all in 2009.

Approve Minutes: **Rohl moved to approve the January 7, 2009, LMC minutes/Sanden seconds. All in favor. Passed.**

### **Public hearing to consider a request for a conditional use permit for a Farm and Home Based Business in the General Rural Flexible District for Bryan Reuvers, owner on property located in the NW ¼ of the SW ¼ of Section 9, T25N, R18W, Town of Trenton, Pierce County, WI.**

**Chairperson Fetzer invited Bryan Reuvers forward:** Mr. Reuvers explained they would like to expand their business to 5,000 square feet. They have an existing greenhouse 30 ft x 36 ft and would like to construct a new greenhouse that would be 30 ft x 48 ft. Sanden asked if any of the operation is done out of the dwelling and do they employ more than eight people. Mr. Reuvers stated no and they have a few part-time employees. **Staff Report – Jim Kleinhans:** Mr. Reuvers obtained a home business permit in 2005 for a landscaping business that is growing so he is looking to expand. He lives on 340<sup>th</sup> Ave, a gravel road with direct access to County Road K. There is only one person living on that road. They have an evergreen buffer between the road and that home so the dust control shouldn't be an issue when they get busy in the spring. It's a family run business. He has some indoor growing areas right now and outdoor retail spaces. Hours of operation are from 8:30am to 6:00pm 6 – 7 days a week during the growing season. They provide a portable outhouse for the public. There are some advertising signs and on and off-premise directional signs that are in compliance with County zoning codes. The Town of Trenton recommended approval of this conditional use permit as an expansion of the existing use. One issue could be parking. Jim noted that the length of the driveway is several hundred feet and there is an additional spur for unloading of equipment off the Town road. This should provide adequate parking at this time. If he wants to expand in the future, we would have to look at parking. **Staff Recommendation:** Staff recommends the Land Management Committee approve this conditional use permit for a farm and home based business with the following conditions:

1. The applicant shall comply with maximum building size restriction for a farm and home based business.
2. Any proposed advertising signage shall comply with the zoning code standards.
3. This CUP shall be valid for 2 years and may be renewed administratively unless compliance issues arise.
4. The total number of outside employees shall not exceed eight.
5. The number of off street parking spaces provided for this business shall be consistent with the standards set forth in the zoning code. Adherence to parking standards will be assessed by staff in the spring.

**Chairperson Fetzer opened the public hearing. No public input. Public hearing closed.** Sanden asked if there have been any complaints since the business started in 2005. Kleinhans stated no. Holst stated that this is the type use that he likes to see in Pierce County. It borders Diamond Bluff and Diamond Bluff is not opposed to it. **Holst moved to approve the conditional use permit for a farm and home based business for Bryan Reuvers with conditions #1 - #5/Rohl seconds. All in favor. Passed.**

## **Departmental Update and Future Agenda Items**

Public hearing for a communication tower for T-Mobile in the Town of Martell

Convene into closed session for Land Management Director's annual evaluation

Comprehensive Plan Steering Committee will have a public hearing Tuesday night, Jan. 27<sup>th</sup>, in the Emergency Operation Center. Once the plan is approved by the committee, they will pass a resolution and send the plan to the Land Management Committee for consideration. We will go over all the issues at a couple meetings. Pichotta distributed a copy of the draft goals, objectives and policies to the committee. Starting at the next meeting we will systematically go through the plan. Pichotta noted that toward the end of the plan are action steps, and suggested that particular attention be paid to that section. Basically it lays out actions that the Land Management Staff will be charged with doing over the course of the next five years. Sanden asked if the committee would be formally adopting the plan and if there would be a public hearing. Pichotta stated yes, once you are comfortable with it, we will schedule a Class I hearing with a 30-day notice. It will be the same as a new ordinance. We will hold a public hearing and the LMC will make a recommendation to the County Board. I'm hoping to distribute the plan, once the LMC has made any changes, to the full county board prior to it showing up at the County Board. Sanden asked how attendance at the Town meetings has been. Pichotta stated generally not great. There have been 24 meetings throughout the County with a number of folks attending but often more interested in discussing their town plans rather than our plan. Holst stated the last time a comp plan was done there were 200 – 300 people in attendance. People are less apprehensive about it this time around. Sanden voiced concern over the plan moving to the adoption phase and then having people showing up to say they weren't aware of the process. Pichotta suggested that when reading through the goals, objectives and policies, the LMC should keep in mind that this is intended to apply to 17 different Towns and give general guidance to land use decisions County wide, as well as in the Villages and Cities even though we don't have jurisdiction. Noting that if a Village or City doesn't adopt a plan, in theory, our plan is the default.

**Motion to adjourn at 7:16pm by Holst/Rohl seconds. All in favor. Motion carried.** Respectfully submitted by S. Hartung

## **MINUTES - Pierce County Land Management Committee Meeting, February 4, 2009**

**Present:** Paul Barkla, Jeff Holst, Don Rohl, Joe Fetzer and Eric Sanden

**Others:** Andy Pichotta, Jim Kleinhans and Shari Hartung

Chairperson Barkla called the Pierce County Land Management Committee meeting to order at 7:00 pm in the Pierce County Board Room, Ellsworth, Wisconsin.

Next meeting dates: February 18<sup>th</sup>, there may be a conflict with this meeting. It will be discussed at the end of the evening, March 4<sup>th</sup> & 18<sup>th</sup>, April 1<sup>st</sup> & 15<sup>th</sup>, all in 2009.

Approve Minutes: **Rohl moved to approve the January 21, 2009, LMC minutes/Fetzer seconds. All in favor. Passed.**

### **Public hearing to consider a request for a conditional use permit for a Communication Tower in the Primary Agriculture District for T-Mobile, agent for Larry Borgerson, owner on a parcel of land located in the NW ¼ of the NE ¼ of Section 7, T27N, R17W, Town of Martell, Pierce County, WI. Chairperson Barkla invited Ron Gunderson forward:**

Mr. Gunderson with T-Mobile Central LLC explained the application is to construct a 190 foot monopole, multi-tenant cell tower. This primary purpose would fill in the gap between River Falls and Martell on Hwy 29. With the application we submitted propagation maps that show existing coverage and improved coverage. We believe we meet all the criteria as far as tower height and setbacks. Sanden asked about the staff report stating 195 ft tower and Mr. Gunderson requesting a 190 ft tower. Mr. Gunderson stated the steel is 190 ft with the attachments for the lightning rods making it 195 ft. **Staff Report – Jim Kleinhans:** Mr. Gunderson is requesting a communication tower on property located in Section 7, Town of Martell and is zoned Primary Agriculture. Wireless communication service facilities (WCSF) greater than 70 feet in height are conditionally permitted in this district. This proposed site was previously considered on September 3, 2008 where the tower had to be relocated to comply with site conditions.

Application covers all the procedures which are listed in the staff report. Two property owners are located within the 1320 foot setback and have provided waivers. The tower company provided a copy of the lease which is for five years with five year extensions, liability insurance for 1 million dollars per occurrence and 2 million dollars aggregate. They did supply a radio frequency analysis. T-Mobile proposes to lease a 60 ft x 60 ft area for the facility surrounded by an eight foot fence with a grounding ring and several ground bars. The site is equipped with a 911 GPS antennae. The electrical plans show the tower is grounded utilizing a grounding ring and several ground bars. Staff received a petition from several neighboring residents in opposition to this proposed tower facility at the time of the previous request in 2008. Concerns included adverse effect on property values, danger to migrating birds and harm from electromagnetic waves. T-Mobile operates according to FCC standards and regulation. Carl Stine's private airstrip is located slightly over three miles south and east of this proposed site. The Town of Martell Supervisors recommended approval of this facility provided the county considered camouflage or height issues to make the tower less noticeable. **Staff Recommendation:** Staff recommends the Land Management Committee determine whether or not this request is contrary to the public interest and whether it would be detrimental or injurious to public health, public safety or the character of the surrounding area. If found to be not contrary to the above, staff recommends approval if a conditional use permit for a 195 foot WCSF with the following conditions:

1. A land use permit will be issued and then renewed annually for this WCSF based upon current fee schedule.
2. The WCSF will have a surety for abandonment or other arrangement with the Land Management Committee.
3. The Land Management Department must be notified of any change in ownership or management of this tower facility.
4. The tower owner must accommodate additional users at market rates.
5. The tower operators must correct any electrical interference caused by their activities to surrounding landowners.
6. Annual tower inspection reports will be submitted to Land Management Department which warrants the structural integrity and demonstrates that the tower is grounded according to the most current standards.
7. The tower shall be painted light blue.
8. The WCSF shall be constructed within 12 months of the approval date.

9. A uniform address number must be assigned for all T-Mobile facilities.

10. Site development and construction must be conducted to avoid negative impacts to 710<sup>th</sup> Street.

11. All antennae and lighting rod(s) shall be installed no higher than 195 feet above ground level.

**Chairperson Barkla opened the public hearing.** Tom Loosmore has a petition signed by several land owners in the area opposed to the tower. He is concerned about health issues, the drop in property values and the effect on migrating birds. He is also concerned about the property becoming a tower farm. Kiki Augustin lives directly across from where the proposed tower will be. She feels the view will be eroded by the tower and is concerned about the long-term health of T-Mobile and whether they will be there in the future. She questioned if the surety bond is enough and who takes care of the tower if the company goes bankrupt? Kleinhans explained that our bonds are reviewed by Corporation Counsel and the County enforces them. The County would contract out for clean up if T-Mobile defaults. John Kenefick, lives on 810<sup>th</sup> Ave, directly south about a half mile. Two major points, the gap isn't as serious as it's made out to be and the second point is that he read an article about intermittent cell towers being obsolete in the next few years. Mr. Kenefick presented an article to the committee on FEMTO cells, new technology which uses the internet to translate the cell phone into the land line. He questioned the cost for the tower being put toward wireless internet servers for the entire County. Bob Green, lives on 690<sup>th</sup> St, asked several questions. He asked that the 190 ft be put into perspective as to how high the tower is and what a stealth tower is? He stated there have been references to ancillary uses, receivers, transmitters, other equipment; does that mean if the tower is approved it can proliferate if not into a tower farm but into a collection of outbuildings, guide wires and structures? Kleinhans showed a picture of a stealth tower, that looks like a tree. He stated or they put them inside a silo or existing tall structure and put the antennas on top of the building. T-Mobile lost some elevation by going to the new location. In order to get the coverage that they need, they had to go to that height. Regarding proliferation of towers; we require collocation for other communication facilities. If T-Mobile is going to build a tower they have to build it so at least two other users are on this site. They would build another electronics cabinet within the 60 ft compound. There could be an easement issue or electronic issue if attached to the power poles. Mr. Gunderson stated as a point of reference the monopole tower over by the Red Barn is 170 ft high. Randy Johnston stated he is opposed to the tower and supportive of Jack Kenefick's ideas regarding new technology. Vicky Green is an adjacent property owner, stating Mr. Borgerson's property is an L-shape around theirs and doesn't want it to be used as a highway for utilities. Suzanne Loosmore questioned the statement that the tower operators must correct any electrical interferences. She wondered what the interferences could be; satellite TV, appliances, etc and what would it take to correct this. Kleinhans stated cell phones are licensed at certain wavelengths, usually 900 megahertz, televisions and radios operate at different wave lengths. If there is interference in someone's residence, the tower company has to put in filters. **Public hearing closed.** Fetzer asked about two carriers. Mr. Gunderson stated county ordinance states the tower has to be able to hold the equipment for T-Mobile and two additional carriers on the same tower. Sanden asked about a lower height and the nature of lighting on the tower. Mr. Gunderson stated the 190 ft is a compromise from the 250 ft the engineers wanted. Simply precluded by ordinance; they had to come down. There won't be any lighting because it's below the 200 ft ceiling required by FAA and not in close proximity to a FAA regulated air strip. They have applied a 74/60 application to FAA for final determination. Sanden asked if anyone has done a migratory bird study in that area. Kleinhans stated no. Pichotta stated there have been two major bird kills in regards to cell towers, one in Duluth and one in Eau Claire with lighted guyed lattice towers where the birds hit the wires when circling in fog. When we amended our cell phone tower ordinance six or seven years ago we tried to make it so towers would be as unobtrusive as possible. According to the telecommunications act, you can't tell cell phone companies they can't build towers but you can establish parameters within which they can operate. For instance we limit them to under 200 ft, meaning they won't be lit, require that they be monopoles, and painted light blue - which doesn't make them invisible but less obtrusive than some other color. We don't have the ability to say no but we try to protect the residents as best we can. Mr. Gunderson asked to have information entered into the record regarding a report done for MN Public Radio assessing the impact of radio towers and migratory birds in a major flyway. The final conclusion; there was no impact for towers under 500 ft. They found no migratory bird kill in a major flyway along the river. Kleinhans asked Mr. Gunderson if they have ever considered putting the tower on a power pole as suggested. Mr. Gunderson stated wooden poles don't have the structural integrity to hold the coax lines and antennas because of the wind load created on them. The only place he has seen antennas attached to power

poles are along major highways or freeways on those huge poles and can only be in the neutral zone. To service or maintain - the lines have to come off the top and come off service. It's a major inconvenience and engineering nightmare. Sanden stated by WI Law, we have to allow windmills or solar cells unless there is some compelling reason not too. According to the telecommunications act we have the ability to regulate it but we don't have the power to deny it, is that correct? Pichotta read the four federal regulation limitations the Telecommunications Act of 1996 places on local government. If a cell tower company owns or has access to property as part of the spectrum there is an expectation that they will use it and if they don't, they run the risk of it being taken away. Kleinhans stated that he has a real estate value impact study done by Ruppert & Associates in the Stillwater, Golden Valley and New Hope area on residences near 300 ft, 400 ft and 200 ft lattice towers. They found that there was no negative impact on property values and selling price. Chairperson Barkla asked when the study was done. Pichotta stated 1996 and noted that the study was commissioned by a tower company. Chairperson Barkla referred to Mel Pittman. Mr. Pittman stated he is on the County Board but not on this committee so has no voting privileges. He made comments and stated if you live in an area that has the elevation; companies are going to want to put their towers there to serve the customers. If we want electricity and to have communication available; those things have to be somewhere. **Holst moved to approve the conditional use permit for a 190 ft WCSF for T-Mobile with conditions #1- #11 due to the fact this request is not contrary to public interest nor detrimental or injurious to public health, public safety or the character of the surrounding area/Rohl seconds.** Chairperson Barkla asked Kleinhans to clarify condition #9 the address issue. Kleinhans stated that APT put up two towers in the County, that T-Mobile bought out, which do not have uniform address numbers. This is a safety issue for the workers and for coordinating an emergency call. I suggest we get addresses for these two facilities as well. Pichotta stated he isn't sure it is appropriate to attach those to the conditions. A CUP is a mechanism through which you identify conditions necessary to mitigate offsite impacts for the issue at hand. The appropriate avenue would be to request that they obtain them. Mr. Gunderson stated absolutely if they are owned by T-Mobile. **All in favor. Passed.**

**Discuss take action on the Comprehensive Plan.** For the public, Pichotta explained the three-phase process that has taken place on the Comprehensive Plan. Noting a Steering Committee was made up of 11 different members from four areas of the County. 20 public meetings and open houses were held at different times and locations throughout the County. The Steering Committee approved this document by resolution and forwarded it to the LMC. The committee will now go through it and see if any changes are necessary. When the committee is comfortable with it, we will hold a public hearing to consider its adoption as any other ordinance. After this committee adopts it, it will be forwarded to the County Board of Supervisors for two readings. Pichotta read the Vision Statement and proceeded with Agricultural, Natural and Cultural Resources, discussion followed.

#### **Departmental Update and Future Agenda Items**

Chairperson Barkla stated there is training for the County Board members on the 18<sup>th</sup>, the Land Management Committee could meet at 5:00pm before the training or cancel the meeting. Pichotta stated we have one item on the agenda; the renewal of the nonmetallic mine for Wieser. We could bump that to the next meeting but it would kick us out two more weeks on the Comp Plan. Barkla stated he knows the desire to get something adopted before the first of the year. Pichotta stated two weeks won't make that much difference. Mr. Flory, Town of Rock Elm, asked if the Comp Plan items that are going to be discussed could be noted on the agendas. Pichotta stated we will note on the agenda which items will be discussed.

**Committee to convene into closed session pursuant to WI § 19.85(1)(c) considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility; to-wit: performance evaluation of Land Management Director. Holst moved to convene into closed session/Fetzer seconds. Roll call vote. Barkla, yes. Fetzer, yes, Rohl, yes. Holst, yes. Sanden, yes. Passed. Convene into closed session at 8:50 p.m.**

**Motion by Holst/seconded by Sanden to return to open session at 9:30 pm. Roll call vote. Barkla, yes. Fetzer, yes, Rohl, yes. Holst, yes. Sanden, yes. Motion passed unanimously.**

**Motion by Holst/seconded by Sanden to approve a step increase for the Land Management Director based upon a satisfactory annual review. Motion passed unanimously.**

**Motion to adjourn at 9:40pm by Rohl/Sanden seconded. Motion carried.**

Respectfully submitted by S. Hartung

## MINUTES - Pierce County Land Management Committee Meeting, March 4, 2009

**Present:** Paul Barkla, Don Rohl, Joe Fetzer and Eric Sanden

Others: Andy Pichotta, Brad Roy and Shari Hartung

Absent: Jeff Holst

Chairperson Barkla called the Pierce County Land Management Committee meeting to order at 7:00 pm in the Pierce County Board Room, Ellsworth, Wisconsin.

Next meeting dates: March 18<sup>th</sup>, April 1<sup>st</sup> & 15<sup>th</sup>, all in 2009.

Approve Minutes: **Rohl moved to approve the February 4, 2009, LMC minutes/Fetzer seconds. All in favor. Passed.**

**Motion by Sanden to change the order of the agenda, after the first public hearing, then hear agenda items #3 & #4, as they relate to the same issue. Then hear the second public hearing for Monarch Paving Co, as the 4<sup>th</sup> agenda item with the 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> agenda items remaining the same/Rohl seconds. All in favor. Passed.**

**Public hearing to consider a request for a conditional use permit to expand/intensify “Vino in the Valley,” a Farm and Home Based Business, by Larry Brenner, owner on property located in the SW ¼ of the NE ¼ of Section 33, T26N, R16W, Town of El Paso, Pierce County, WI.**

**Chairperson Barkla invited Larry Brenner forward:** Mr. Brenner explained he is asking for the same amount of days that he asked for last time, that being 83. This will cover the May through October and the Christmas season. Mr. Brenner stated there were two incidents that resulted in complaints last summer and neither was related to Vino. The first was his nephew and friends camping, playing loud music and shooting off Roman candles. He called Brian Fitch and Jenny Brantley right away to let them know what happened. The second was his fall party, Oktoberfest with some campers getting out of hand and lighting off Roman candles again. Chairperson Barkla asked Mr. Brenner how many days were rained out last year. Mr. Brenner stated two. Sanden asked if the Pierce County Sheriffs Department had come out to Vino in the Valley in the last year. Mr. Brenner stated that after one of the LMC meetings he followed his neighbors on his way home and two days later officers showed up at Vino with a warning ticket for following too close. Barry Hager called him one night when there was a comedian at Vino. Fetzer asked how Mr. Brenner came up with 83 days and in October and December if they are only serving chili and pizza. Mr. Brenner stated starting in May for Mother’s Day and continuing through October and utilizing the Christmas weekends. Yes, for December it would be chili and pizza. But for October, they won’t be shutting the water off until the end of October so they would like to utilize the kitchen and pavilion. **Staff Report – Andy Pichotta:** This request is to expand/intensify a business endeavor which hosts events where food, beverage and other services are provided. A farmer’s market and gift shop is also located on the property and operates under a separate Conditional Use Permit. The original request was granted approval on March 21, 2007 and later modified the hours of operation on September 5, 2007 to better accommodate the fall and winter “events”. In 2008 the LMC allowed for an expansion/intensification with increased seating, increased days of operation, modified hours of operation, and the use of an audio enhancement system. The original days of operation were limited to 45 days per year. Last year the applicant requested to expand to 83 days; the LMC granted an expansion to 60 days of operation. The applicant is again requesting the days of operation be expanded to 83. The farmer’s market and gift shop are permitted for 83 days of operation per year. On August 20, 2008 the LMC clarified some of the conditions of this permit. It was determined that “lights out” means that all commercial activity must cease not that the actual lights have to be turned off. It was also determined that incidental use of the pavilion is allowed and is not considered an “event” and count as a day of operation, and that incidental camping is allowed on the property as long as it is not conducted in a commercial manner. Condition #11 states that the applicant shall not exceed 60 days of operation per year. The applicant is

not requesting to change the hours of operation, only the number of days. The existing conditions are listed in the staff report. The applicant appeared before the Town of El Paso on January 12, 2009. The Town indicated that they no longer believe it to be necessary to make a recommendation on this operation. Staff verbally confirmed this position on February 5, 2009. The Town previously heard the request for 83 days of operation on January 30, 2008; at that time the Town was in favor of increasing the days of operation to 75 per year (up from the 45 days of operation in 2007). The current conditional use permit is set to expire on March 5, 2009. An approval of this request would essentially terminate the existing permit. Therefore, if approval is granted for the increase, the motion would need to address all appropriate conditions. Previously this permit has been valid for one year with a status report at six months. The rationale for this shorter-than-typical renewal schedule was because this operation was the first of its kind which resulted in a lot of unknowns. If the LMC is comfortable with the operation it may choose to modify condition #7 to the more common practice of having the permit valid for multiple years. Removal of the requirement that a 6 month status report be provided might also be considered. If this request is denied or deferred, the renewal of the existing permit will be addressed as a separate Discuss/Take Action agenda item. **Staff Recommendation:** Staff recommends the Land Management Committee consider this request and its impact on the public interest, health and safety or character of the area.

If the LMC determines that it is appropriate to allow additional days of operation, only condition #11 needs to be modified, modification to the time frame for renewal of the permit would require a change to #7. All conditions should be included in any motion.

1. The applicant shall comply with the restriction for a farm and home based business.
2. Any proposed advertising signs or new construction shall receive all necessary permits.
3. Access shall comply with § 240-57.
4. All lighting shall comply with departmental policy.
5. All traffic shall be directed to use Hwy 10 to 400<sup>th</sup> St to 450<sup>th</sup> Ave or Hwy 72 to Cty Rd CC to 450<sup>th</sup> Ave.
6. Applicant shall receive all necessary permits from other state and local agencies (ie restaurant and liquor licenses).
7. This conditional use permit shall be reviewed for renewal in 1 year or if compliance issues arise. Applicant shall provide a "status report" to the LMC in 6 months. Issues raised by neighbors and concerned others will also be heard.
8. Applicant understands that intensification or expansion or use will require the issuance of a new conditional use permit.
9. 40 parking spaces shall be designated for this use and there shall be no on street parking.
10. Seating capacity shall not exceed 120 people.
11. Applicant shall not exceed 60 days of operation per year.
12. Hours of operation from April through September shall be Thursdays 4pm to 10pm with lights out at 11pm; Saturdays 4pm to 10pm for the public with lights out at 11pm and allow for any charity or special private event from 12pm to 4pm; Sundays 12pm to 8pm. From October through December the hours shall be Saturday and Sunday 12pm to 6pm.
13. Amplified sound shall not exceed 80 decibels at any location. All sound outputs, except monitor speakers, shall be located in the service pavilion.

Pichotta stated he had received a couple of letters to read into the public comment portion of the meeting. **Chairperson Barkla opened the public hearing.** Ron Kannel, El Paso Town Chairperson, stated that Mr. Brenner came to the Town meeting and stated he wasn't asking for anymore than last year. The Town granted the 75 days last year and doesn't want to go beyond that. As far as complaints, Mr. Kannel indicated that he hasn't heard any. Pichotta read an e-mail from Dr. Brian Fitch and Dr. Jennifer Brantley stating they are not in favor of the expansion. They feel the increased traffic and noise problem is a negative impact on public health, air quality and road safety. Pichotta also read a letter from Dan Fischer who serves on the El Paso Planning Commission and Town Board,

commenting as a citizen who feels the business is operated in a professional and responsible manor. He stated there were a couple incidences with fireworks and loud music and that Larry should police his Oktoberfest party. Tony Huppert, Town of Gilman, stated that with the recession, people are asking for jobs and Larry is providing jobs, tax dollars and tourism in Pierce County. Don Nellesen, Town of Gilman, stated that they are working to get the Lt. Governor or the Governor to do a video in Pierce County coinciding with Farm Technology Days. We need to promote tourism in this county. Bill Schramm, Town of Trimbelle, stated that he lives in Trimbelle but owns property near Vino in the Valley and he feels that it gives Pierce County exposure and noted that a lot of the vehicles at Vino have MN plates. Barry Hager stated that he has tried to be a good neighbor but the event with the comedian was really loud so he complained to Larry. There have been a couple other incidences that he wanted to complain but didn't. Initially when Larry came to the neighbors, he explained it would be one night a week. He is OK with the 60 days and the Christmas season but not in favor of expansion. Chris Chard is the neighbor to the north and stated the noise is a problem. He has called Pierce County Sheriff's Dept twice. Mr. Brenner stated he takes his four-wheeler to his property lines every night to listen. He is planting additional trees to abate the noise problem. Ron Hendershot stated he has lived in the valley for 39 years and it has definitely changed their quality of life and he agrees with Brian Fitch. **Public hearing closed.** Chairperson Barkla asked Mr. Kannel if Larry was present at the Township meeting, January 12, 2009. Mr. Kannel stated Larry was there and said he wasn't going to be changing anything. Mr. Kannel stated that the County is going to override the Towns decision anyway so why put time into it. After their Town meeting, Mr. Kannel found out Larry was requesting 83 days so he came tonight to let the committee know the Town's position - which is the 75 days that they approved - not 83 days. Sanden stated the last time Larry was before the committee he was asking for 83 days and the Town had approved 75 but the residents were clearly divided so the committee voted for 60 days. Sanden asked if the County has received any complaints. Pichotta noted that on August 20<sup>th</sup> the LMC met and discussed some of the issues of which there had been complaints. We haven't received any formal complaints since August. Chairperson Barkla asked if the speed limit signs had been put up. Fetzer stated they are posted, one for 35mph and one for 45mph. Sanden asked if the non-restaurant days are part of the 83 days. Mr. Brenner stated with the 83 days; that allows for the October and December dates to have the restaurant open. **Fetzer asked to recuse himself from voting due to possible conflict of interest. Sanden moved to approve the conditional use permit to expand/intensify "Vino in the Valley," a farm and home based business for Larry Brenner due to the fact this request is not contrary to public interest nor detrimental or injurious to public health, public safety or the character of the surrounding area, with conditions #1 - #13 amending #11 to read "Applicant shall not exceed 75 days" and amend #7 to eliminate the 6 month status report/Rohl seconds. All in favor. Passed with Fetzer not voting.**

**Discuss take action on a request for renewal of a conditional use permit, if necessary, for "Vino in the Valley," a Farm & Home Based Business, by Larry Brenner, owner on property located in the SW ¼ of the NE ¼ of Section 33, T26N, R16W, Town of El Paso, Pierce County, WI.** Andy Pichotta stated that no action was necessary for this item because a conditional use permit for expansion/intensification had been granted, eliminating the need for renewal.

**Discuss take action on a request for renewal of a conditional use permit for a Farmers Market and Gift Shop, a Farm & Home Based Business, by Larry Brenner, owner on property located in the SW ¼ of the NE ¼ of Section 33, T26N, R16W, Town of El Paso, Pierce County, WI.** This request is to renew the CUP for a farmer's market and gift shop which operates in conjunction with the "events" business on the property. This operation sells souvenirs, produce, and crafts from neighbor producers and artisans. The LMC granted approval for the original request on March 21, 2007 and later modified the hours of operation on September 5, 2007 to better accommodate the fall and winter "events". On March 5, 2008 the LMC approved an expansion to 83 days of operation per year and modified hours. The property is zoned General Rural. Two structures have been constructed for this

operation a 12'x 24' gift shop and a 10'x 40' pavilion for the farmers market. The existing conditions are:

1. The applicant shall comply with the restrictions for a farm and home based business.
2. Any proposed advertising signs or new construction shall receive all necessary permits.
3. All traffic shall be directed to use Hwy 10 to 400<sup>th</sup> St to 450<sup>th</sup> Ave or Hwy 72 to Cty Rd CC to 450<sup>th</sup> Ave.
4. Three parking spaces shall be designated in addition to those required for the events portion of the business and there shall be no on-street parking.
5. This conditional use permit shall be reviewed for renewal in 1 year or if compliance issues arise. Applicant shall provide a "status report" to the LMC in 6 months. Issues raised by neighbors and concerned others will also be heard.
6. Applicant understands that intensification or expansion of use will require the issuance of a new conditional use permit.
7. Applicant shall not exceed 83 days of operation per year.
8. Hours of operation from April through September shall be Thursdays 4pm to 10pm with lights out by 11pm; Saturdays 4pm to 10pm for the public with lights out by 11pm and allow for any charity or special private event from 12pm to 4pm; Sundays 12pm to 8pm. From October through December the hours shall be Saturday and Sunday 12pm to 6pm.

In the past this permit has been valid for one year with a status report at six months. The reason for this schedule was because this operation was the first of its kind resulting in a lot of unknowns. If the LMC is comfortable with the operation it may choose to modify condition #5 to the more common practice of having the permit valid for multiple years. **Staff Recommendation:** Staff recommends the LMC consider this request and its impact on the public interest, health and safety or character of the area; and determine if any modifications or additional conditions are needed. Any motion should contain all applicable conditions and not be limited to modifications and additions. If it is determined that no modifications or additional conditions are required, staff recommends the LMC renew this permit with conditions #1-8 as listed above. Mr. Brenner stated he is trying to create a market for his wines. **Rohl moved to approve the renewal of the conditional use permit for a Farmers Market and Gift Shop, a Farm & Home Based Business for Larry Brenner with conditions #1 – 8 amending #5 to eliminate the 6 month status report/Sanden seconds. All in favor. Passed with Fetzer not voting.**

**8:05pm, Chairperson Barkla called for a five minute recess.**

**8:11pm, Chairperson Barkla resumed meeting.**

**Public hearing to consider a request for a conditional use permit for a Temporary Asphalt Plant in the Primary Agriculture District by Monarch Paving Co, agent for Kraemer Company, owner on property located in the SE ¼ of the SE ¼ of Section 17, T26N, R18W, Town of Trimbelle, Pierce County, WI. Chairperson Barkla invited Brent Schulze forward:** Mr. Schulze, Project Manager, stated Monarch is going to be reconstructing Hwy 65 from Ellsworth to River Falls. The duration will be approximately 4 – 6 weeks. They will be producing hot mix. This project will take place some time between May and September. Haul routes will be Cty Rd O, south to Hwy 10 and Hwy 10, north to Hwy 65. **Staff Report – Brad Roy:** Monarch Paving is requesting to place a Temporary Hot Mix Plant in the Kraemer Company's Svec Quarry. The plant will be used primarily for the State Highway 65 project for Ellsworth to River Falls but may also supply hot mix asphalt to other government agencies and private customers. The Svec Quarry is a preexisting nonconforming (grandfathered) mining operation in the Town of Trimbelle which is approximately 20 acres in size and internally drained. Erosion for the stockpiled plant material will be contained within the quarry. The plant will be almost completely screened from County Road O by existing vegetation and the

quarry walls. The proposed plant will be onsite for approximately 4 – 6 weeks between the period of May and September 2009. The proposed hours of operation are 5:30am to 9pm Monday through Saturday. Equipment maintenance may require extended hours. *It should be noted that because of the preexisting nonconforming status of the Svec Quarry the hours of the mining operation in the quarry are unregulated.* Haul traffic will exit the quarry to County Road O and travel north to STH 65 or south to USH 10. The plant will typically have 3 employees along with 1 laboratory technician. At times of maintenance the number may be greater. Portable toilets will be placed onsite. The plant will have a Spill Prevention Plan and has been tested for air emissions and certified by the WDNR for operation in Wisconsin. The plant will be required to follow environmental and safety requirements by OSHA and the DNR. A water truck will be onsite to mitigate dust. PCC §240-42 F(2) states: Conditional Use Permits granted for temporary concrete or asphalt batch plants shall be only for the period of the actual project work. PCC §240-42 F(3) states: Temporary concrete or asphalt batch plants shall be removed from the premises within 60 days of the completion of the project. The Town of Trimble recommended approval of this request on February 9, 2009 with the rationale that the plant will be located on a CTH at a location that is already a commercial quarry. The Town requested that the following condition be established: Haul trucks not use 560<sup>th</sup> Ave or 570<sup>th</sup> Ave as haul roads.

**Staff Recommendation:** Staff recommends the Land Management Committee approve this conditional use permit for a Temporary Asphalt Plant with the following conditions:

1. Plant use shall cease upon completion of the Hwy 65 project.
2. The plant shall be removed from the premises no later than 60 days after the Hwy 65 project is complete.
3. Hours of operation shall be 5:30am to 9pm Monday through Saturday with extended hours for maintenance.
4. Haul trucks shall not use 560<sup>th</sup> Ave or 570<sup>th</sup> Ave.
5. Any unforeseen erosion issue shall be addressed to the satisfaction of the County.
6. Applicant shall receive all other necessary permits and approvals.

Sanden asked if this is a nonconforming use with no limit on hours of operation, would this be considered an expansion of the use or would this be categorized as an accessory use? Roy stated that it would not be considered an expansion, noting that staff looked into the issue. **Chairperson Barkla opened the public hearing.** Les Kuhn stated that he owns the property south of the plant and came to get assurance of air quality because of renters on his property. Mr. Schulze stated they are certified by DNR. They have to comply with emissions testing and meet certain guidelines with the DNR to be a certified asphalt plant. They have received the Environmental Leadership Award from the DNR for exceeding those requirements. Chairperson Barkla asked how often they are monitored. Mr. Schulze stated it depends on your levels and what type of plant; every two years. They are far enough below to be monitored every four years for a stack test and their Environmental Leadership Award is monitored every three years. Mr. Kuhn asked if the testing was at this site. Mr. Schulze stated it is plant specific. The same equipment will come with that plant. Bill Schramm, Town of Trimble, stated that he lives across the road from the quarry and is in favor of getting Hwy 65 repaired. **Public hearing closed.** **Rohl moved to approve the conditional use permit for a Temporary Asphalt Plant for Monarch Paving Co, agent for Kraemer Company, with conditions #1 – 6/Sanden seconds. All in favor. Motion passed.**

**Discuss take action on a request for renewal of a conditional use permit for an Asphalt Plant in the Industrial District for Monarch Paving Co, owner on property located in the NW ¼ of the SE ¼ of Section 34, T25N, R18W, Town of Trenton, Pierce County, WI. Staff Report – Brad Roy:** This operation was originally permitted in 2001 for nonmetallic mining and the asphalt plant. At the renewal in 2005 it was established that the mining portion of the permit had expired and this site was only permitted for the hot mix asphalt plant. In 2008 the Zoning Office inspected the site and determined that the portion used for mining had been reclaimed in accordance with the approved reclamation plan. If Monarch proposes to mine this site in the future a new Conditional Use Permit

must be obtained. The asphalt plant at this location has been established as a “permanent” use versus a “temporary” use. This facility is close to a high concentration of residential properties, increasing the potential for negative off-site impacts. The original permit conditions included the establishment of a vegetative berm. The berm has been established around the facility and is being maintained, but will require more time to become completely effective. At a previous renewal a transportation route was designated for Minnesota projects. It was stipulated that trucks traveling to Red Wing shall be routed from 830<sup>th</sup> Avenue to Hwy 35 to Hwy 63. This route limits the impacts on town roads. The county has received no complaints about this operation since the last renewal. A Stormwater Pollution Prevention Plan is on file in the Zoning Office for this site. Final reclamation within the approved plan designates the site as a permanent asphalt plant. The mining operation on this site was regulated by PCC Chapter 241, Nonmetallic Mining Reclamation and NR 135, Nonmetallic Mining Reclamation. Once mining ceased and reclamation was completed, staff certified that reclamation was completed according to approved plans. This process involves releasing all surety bonds; therefore the bond associated with reclamation was released. § 240-37 B regulates Asphalt plants and accessory uses to nonmetallic mining. § 240-37 B(3) states: Reclamation of sites and bonds required. The LMC should consider whether a bond or other surety for this operation is necessary, taking into consideration the fact that this is an industrial use within an Industrial district and that use of the site is consistent with the approved reclamation plan. If it is determined that a bond or other surety is necessary, the LMC should also determine an amount or a method to determine the appropriate amount of the bond. Currently there is no standard to calculate an appropriate bond amount for this type of operation. The Town of Trenton stated that they have no concerns regarding the renewal of this permit. On March 16, 2005 the conditional use permit was renewed with the conditions listed in the staff report.

**Staff Recommendation:** Staff recommends the Land Management Committee renew this conditional use permit with the following conditions:

1. Applicant shall comply with DNR NR 135 Annual Reclamation Permits. (Strike)
2. Reclamation shall be according to submitted plans.
3. The hours of operation are from 6am to 8 pm Monday through Saturday.
4. The haul route for trucks traveling to Minnesota projects via Red Wing shall be routed from 830<sup>th</sup> Ave to Hwy 35 to Hwy 63.
5. Applicant agrees that any unforeseen erosion issues shall be addressed to the satisfaction of the county.
6. Height of stockpiles shall be limited to 35 feet.
7. This CUP shall be reviewed for renewal in two years.  
- and if determined to be appropriate/necessary -
8. A performance bond shall be provided.

Sanden asked about a surety bond being required. In 2005, the first condition was that a performance bond shall be maintained. Pichotta stated there was an active reclamation plan and the bond was associated with the reclamation of the site. The bond was to ensure that if they didn't reclaim the site we had the financial ability to address it. The bond was associated with NR 135 or our Chapter 241 requirements. That was actually separate from this use. The code calls for a bond for this type of use but there is no reclamation necessary. We're not certain there is a need for one and don't know what the amount of the bond would be because it's not clear what the bond would be for. Roy stated the mine is done and the reclamation plan showed an asphalt plant when they were done. Pichotta noted that this is essentially an industrial use in an industrial district. **Sanden moved to approve the renewal of the conditional use permit for a Hot Mix Asphalt Plant for Monarch Paving Co with conditions #2 – 7, striking conditions #1 & #8. and amending #7 to include “unless compliance issues arise.”/Rohl seconds.** Mike Byrnes, Monarch Paving, asked to extend the renewal period with the Town's approval. Pichotta stated that it is a different Town. **Chairperson Barkla recused himself from voting because he was absent during the discussion. All in favor. Passed with Chairperson Barkla not voting.**

**Discuss take action on a request for renewal of a conditional use permit for Nonmetallic Mining in the Industrial District for Monarch Paving Co, owner on property located in the NE ¼ of the SW ¼ of Section 28, T25N, R18W, Town of Trenton, Pierce County, WI. Staff Report – Brad Roy:**

The mining operation was originally permitted in 2001. This is the fourth renewal for this site. It is approximately 1.5 miles from the site of the asphalt plant. The sand and gravel extraction operations commencing in 2001 were expected to provide materials for the asphalt plant for 5 to 8 years.

Applicant may wish to provide future plans for the site. Permitted hours of operation are 6:00 am to 6:00 pm Monday through Friday and 8:00 am to 6:00 pm on Saturday during the construction season.

The haul route for commercial trucks is from the pit entrance on County Road K to Hwy 35 towards the asphalt plant. No traffic is recommended along county road K. The haul road was paved to reduce and address airborne dust concerns. DNR Bureau of Air Management regulates crushing and screening operations for ambient air quality. The county has received no complaints about this operation. The conditions #1 - #9 of renewal in 2007 are listed in the staff report. **Staff Recommendation:** Staff recommends the Land Management Committee renew this conditional use permit for a nonmetallic mining operation with the following conditions:

1. Applicant shall follow all recommendations and receive all necessary permits from other agencies.
2. Hours of operation are from 6:00am to 6:00pm Monday through Friday and 8:00am to 6:00pm on Saturday during the construction season.
3. The haul route for commercial trucks is from the pit entrance on County Road K to Hwy 35.
4. Blasting shall be conducted by a state licensed blaster.
5. Reclamation financial assurance information shall be reviewed and approved by Corporation Counsel and kept current.
6. A 100-ft setback shall be maintained from all property lines for all mining activities.
7. The applicant shall notify the Zoning Office if groundwater is encountered.
8. Applicant shall comply with PCC Chapter 241 Nonmetallic Mining Reclamation.
9. Reclamation shall be according to submitted plans.
10. Applicant agrees that any unforeseen erosion issues shall be addressed to the satisfaction of the county.
11. This CUP shall expire in two years.

It has come to our attention this afternoon that the Corp of Engineers is looking to offload 225,000 yards of dredged material off Corps Island, a temporary placement site in Pool 3 of the Mississippi River, to this pit. Due to this new information we are recommending the addition of condition #12.

12. Prior to placement of dredge materials on this site, a plan that describes activities and safeguards shall be presented for approval to the Land Management Committee.

Mike Byrnes, Monarch Paving, stated we know about as much as you – the Corps have indicated that they are interested. We made them aware any permitting would have to start with the Township. Our reclamation plan would have to be revised. The last condition is fine. The other thing we noticed is that the reclamation approved by the County was 50 ft setbacks and the conditions state 100 ft setback. We have already been mining with the 50 ft setback. The 100 ft setback contradicts what was already set by the County. Roy stated the reclamation plan would have been approved back in 2001. The 100 ft setback is a new policy, not sure when that was originally adopted. The condition was added to keep the mine consistent with others. I'm not aware if the reclamation plan was approved by the committee. I know that with the Schoeder Quarry, there was the agreement to reduce setbacks from the 100 ft. Pichotta noted that in 2007 when this site was renewed there were no setbacks in the conditions. This is a special case in that it is located in an Industrial District. So given the existing set of conditions and the fact they have already been mining that close, perhaps it would be appropriate to specify 50 ft in this case. Sanden suggested that in a way they are "grandfathered" in. Chairperson Barkla asked where this late information came in from. Roy stated Dan Bauman from the DNR sent an e-mail this afternoon regarding the dredge material. Mike Byrnes stated the reclamation plan that was filed with the County on April 4, 2003 - the Corps of Engineers was, at that time, already looking for a place to

put the dredge material and that is part of our reclamation plan. Pichotta noted that Monarch apparently is referencing a different reclamation plan than the one on record – the one in our files is dated January 25, 2001. Pichotta stated that the 2003 plan would be reviewed for compliance. **Sanden moved to approve the renewal of the conditional use permit for nonmetallic mining for Monarch Paving Co with conditions #1 – 12 amending #6 to read “50 ft setback”/Fetzer seconds. All in favor. Passed.**

**Chairperson Barkla stated he thought there was an understanding about receiving information late. In fairness to the committee members, they should have an opportunity to look information over.**

**Discuss take action on a request for renewal of a conditional use permit for Nonmetallic Mining in the Industrial, General Rural and Exclusive Agriculture Districts for Wieser Concrete, owner on property located in Sections 4, 9 and 10, T25N, R16W, all in the Town of Salem, Pierce County, WI. Staff Report – Brad Roy:** This request is for four nonmetallic mines on the Wieser property. The mining product is used for the production of concrete products. Pierce County issued the original CUP in 1992. Reclamation plans and fees are submitted to Pierce County for pits 1 and 2. Pits 3 and 4 have been issued DNR Chapter 30 permits which covers reclamation. The property is zoned Industrial, General Rural, and Exclusive Agriculture. Mining operations are located primarily in Exclusive Agriculture zones. There are no major changes planned for the mining operation. Mining has continued on a very limited basis. Acreage has remained similar since the previous renewal. The Quarry (#1) on the hilltop is located in Sections 9 & 10 and is the limestone source. Blasting operations are from 8:00 A.M. to 5:00 P.M. several days per year. After blasting, the limestone is crushed and transported to the bottom quarry via conveyor for washing and stockpiling. The mine behind the pre-cast plant (#2) is located in the valley and is mined for sand and gravel. Review fee calculation is \$200 plus \$20/acre, which totals  $\$200 + (\$20/\text{ac} \times 40.3\text{-ac}) = \$1,006$ . Staff has not received any complaints about the mining operations. The existing conditions are listed in the staff report. **Staff Recommendations:** Staff recommends the Land Management Committee consider renewal of this conditional use permit with the following conditions (Recommended conditions have been modified to comply with current policies and standard language):

1. Renewal fee in the amount of \$1,006 shall be submitted to the Land Management Department.
2. All required permits shall be kept current with the DNR.
3. Applicant shall follow all recommendations and receive all necessary permits from all relevant departments and agencies.
4. A 100-ft setback shall be maintained from all property lines for all mining activities.
5. The applicant shall notify the Zoning Office if groundwater is encountered.
6. Blasting shall be conducted by a state licensed blaster.
7. Blasting shall take place between the hours of 8am and 5pm.
8. Reclamation shall be completed consistent with the submitted plans.
9. Well tests for nitrates, suspended solids and dissolved solids shall be conducted annually for all wells within 1000 feet of any mine where blasting takes place. All results shall be provided to the Zoning Office.
10. Any unforeseen erosion issues shall be addressed to the satisfaction of the County.
11. Applicant shall comply with PCC Chapter 241 Nonmetallic Mining Reclamation.
12. Reclamation financial assurance information shall be reviewed and approved by Corporation Counsel and kept current.
13. The conditional use permit shall expire in 2 years.

**Fetzer moved to approve the renewal of the conditional use permit for four mines for Wieser Concrete Products Inc with conditions #1 – 13/Rohl seconds. All in favor. Passed.**

**Discuss draft Pierce County Comprehensive Plan.** Pichotta suggested scheduling special meetings to review the draft plan when everyone is fresh instead of at the end of these meetings, meetings could

either be in the afternoon or evening. LMC directed Pichotta to schedule a special meeting for Mar. 12, 2009 at 2:30pm and also March 26, 2009 at 5:00pm. Pichotta stated he will check with Corporation Counsel to see if a quorum is necessary since this is a discuss item with no action to be taken.

**Departmental Update and Future Agenda Items**

Bob Lannan who has been with the County since 2001, will be retiring May 1<sup>st</sup>, our plan is to have someone in his place two weeks before he retires to acclimate the person.

Renewal of a conditional use permit for a Wind Tower for Willard Traynor.

Rule Exception to minimum lot size in the Town of Trimbelle.

Proposed revisions to Chapter 240 relating to alternative energy source permitting.

**Motion to adjourn at 9:05pm by Rohl/Sanden seconds. All in favor. Motion carried.** Respectfully submitted by S. Hartung

## **MINUTES - Pierce County Land Management Committee Meeting, March 12, 2009**

**Present:** Paul Barkla, Don Rohl, Joe Fetzer and Eric Sanden

Others: Andy Pichotta and Brad Roy

Absent: Jeff Holst

Chairperson Barkla called the Pierce County Land Management Committee meeting to order at 2:30 pm in the Pierce County Emergency Operations Center, Ellsworth, Wisconsin.

**Discussion of the Pierce County Comprehensive Plan.** Andy Pichotta opened the discussion of the Comprehensive Plan by explaining the context through which the plan should be viewed. Discussion regarding relationship with towns in and out of County Zoning and with or without a comprehensive plan. Pichotta noted that the County will provide incentives/disincentives for specific actions to encourage the desired outcome. The discussion of the Plan began with the Agriculture, Natural and Cultural Resources element. The Committee discussed changes within the element.

Mr. Barkla excused himself at 3:45.

**Motion to adjourn at 4:16pm by Sanden/Rohl seconds. All in favor. Motion carried.** Respectfully submitted by B. Roy

## **MINUTES - Pierce County Land Management Committee Meeting, March 18, 2009**

**Present:** Paul Barkla, Jeff Holst, Don Rohl, Joe Fetzer and Eric Sanden

Others: Andy Pichotta, Brad Roy and Shari Hartung

Chairperson Barkla called the Pierce County Land Management Committee meeting to order at 7:00 pm in the Pierce County Board Room, Ellsworth, Wisconsin.

Next meeting dates: April 1<sup>st</sup> & 15<sup>th</sup>, all in 2009. Set next meeting dates of May 6<sup>th</sup> and 20<sup>th</sup>, 2009.

Approve Minutes: **Rohl moved to approve the March 4, 2009, LMC minutes/Fetzer seconds. All in favor. Passed with Holst not voting because he was absent from the last meeting.**

**Chairperson Barkla stated County Board Member, Bill Gilles died Tuesday evening at United Hospital in St. Paul, visitation will be on Sunday, 3:00pm – 8:00pm at O’Connell Funeral Home in Baldwin and the funeral will be at St. John’s Catholic Church in Plum City at 1:00pm on Monday, visitation before the funeral between 11:00am and 1:00pm.**

**Discuss take action on a request for renewal of a conditional use permit for a wind electrical generation tower by Willard & Doris Traynor, owners on property located in the NE ¼ of the SE ¼ of Section 36, T27N, R16W, Town of Gilman, Pierce County, WI. Brad Roy reported:** The Traynor’s received a CUP for a wind tower one year ago and are working with Xcel Energy to get the inter-tie agreement worked out. Xcel has had some concerns with the brand of the system; that being Jacobs. They have apparently had some issues in the past. Our code states you have to establish a conditionally permitted use within one year or the permit expires. They need a renewal to get the use established. There were six conditions originally. We’re looking to renew it with five because they already obtained the land use permit. The other issue with that is that the land use permit is about to expire. So the committee could decide to ask for a \$50.00 renewal fee or waive the fee. **Holst moved to approve the renewal of the conditional use permit for a wind electrical generation tower for Willard & Doris Traynor with conditions #1 – 6 including a condition requiring that a \$50.00 land use permit renewal fee be paid/Rohl seconds. All in favor. Passed.**

**Discuss take action on a request for a rule exception to 237-26(A), minimum lot size, for a proposed land division by Kenneth & Joyce Schingledecker, owners on property located in the NE ¼ of the SE ¼ of Section 10, T26N, R18W, Town of Trimble, Pierce County, WI.**

**Chairperson Barkla invited Mr. Schingledecker forward:** Mr. Schingledecker explained they want to separate their property. They bought the property in 1968 and thought they had a full acre. When they bought the property on the other side of the road in 1974 they had it surveyed and it became all one parcel. They would like to create two lots **Staff Report – Andy Pichotta:** Mr. & Mrs.

Schingledecker bought their property with approximately 1 acre of land (0.8 acres excluding road right-of-way), as well as an approximate 2.8 acre parcel located south of 570<sup>th</sup>, in the late 1960’s with separate deeds. In 1974, they completed a map of survey and had a warranty deed created that combined both parcels. Mr. Schingledecker would now like to retire and sell his business (Melstrom’s Towing). They are proposing to split the land into two separate parcels so he can sell the business without selling his home. Splitting the property would require the creation of a 2-Lot CSM. Because the parcel that the house is located on falls below the minimum lot size requirement (1 acre excluding right-of-way and he has .8 acres), a rule exception to the 1 acre minimum lot size requirement would be necessary for approval to be granted. This is just a minor CSM so approval would not come before this committee should you decide to grant this, it would be done administratively in our office. The property is zoned Agriculture Residential and Commercial, surrounding zones are Agriculture Residential and Primary Agriculture. Pierce County Code 237-26(A) states “Area and dimensions of lots shall conform to the requirements of the Pierce County Zoning Ordinance, where applicable. For areas where zoning is not applicable, minimum lot size shall be one acre, exclusive of land in any

right-of-way or easements.” Rule exceptions per Pierce County Subdivision Code 237-30 states:

A. Where the Land Management Committee finds that undue difficulties will result from strict compliance with the regulations of this chapter or better design will result, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such rule exception will not have the effect of nullifying the intent and purpose of this chapter.

B. A majority vote of the entire membership of the Land Management Committee shall be required to grant any rule exception to these regulations and any rule exception thus granted shall be entered into the minutes of the Committee setting forth the reasons which, in the judgment of the Committee, justified the rule exception.

**Staff Recommendation:** Staff recommends the Land Management Committee consider whether or not this situation warrants a rule exception. **Rohl moved to approve the rule exception to the one acre minimum lot size for Kenneth & Joyce Schingledecker due to the fact that it does not nullify the intent and purpose of the code/Fetzer seconds. All in favor. Passed.**

**Discuss proposed revisions to Chapter § 240 relating to alternative energy source permitting.**

**Brad Roy reports:** The current zoning ordinance requires all wind electrical generation towers receive a Conditional Use Permit and prohibits them in the residential districts. Solar energy systems are unregulated up to 1000 square feet at which point a Conditional Use Permit is required. The State of Wisconsin has passed §66.0401 which states:

No county... may place any restriction, either directly or in effect, on the installation or use of a solar energy system or a wind energy system... unless the restriction satisfies one of the following conditions:

- (a) Serves to preserve or protect the public health or safety.
- (b) Does not significantly increase the cost of the system or significantly decrease its efficiency.
- (c) Allows for an alternative system of comparable cost and efficiency.

Due to the county’s limited ability to deny such requests, staff believes that a modification to the Zoning ordinance may be appropriate. The proposed changes will provide a simplified process for the systems where the applicant is looking to supplement the energy uses onsite. Small systems or “personal” systems will become permitted uses in all districts, except the Shoreland-Wetland district, and only require a Land Use Permit. Requests for Large or “commercial” systems, ones that are to generate energy for offsite consumption, will require a Conditional Use Permit. The standards and application requirements are intended to ensure public health and safety. Discussing the cost of the Land Use Permits for the Small systems is something that needs to be addressed before a public hearing. There isn’t anything in our fee schedule now. The fee schedule does have an “other” category for which the fee is \$100. The committee may wish to modify this. In developing the draft we sent this out to people in the area that are informed on this; Craig Tarr, Energy Concepts, Michael Michaud, Matrix Energy Solutions and Scott Freier, Freier Heating and Electric. They provided comments on the draft ordinance as it is now. One issue noted by all three was the footing and foundation removal requirement for wind energy systems. The ordinance states that once the system is decommissioned or discontinued, every thing has to be removed off site within 90 days including the footings and foundations. All three felt this was excessive for the small systems. They felt everything could be removed except the footings or that the footings could be removed to a depth of six feet and then covered up. Roy noted that while looking at the proposed language there are a few questions that need to be addressed to move forward:

- Is the approach of being permissible for Small systems appropriate for the county?
- Are the standards and application requirements enough to ensure public health and safety?

- Are any of the standards and application requirements unreasonable or unnecessary?
- Should the residential districts have more limitations?
- Are there any other changes that you feel are appropriate?
- Should the fee schedule be amended now or does the LMC prefer the use of the “Other” fee until the Comprehensive Plan is complete.

Roy discussed the difference between small and large type Wind Energy Systems and stated with the wind systems it would be good to differentiate between small and large systems. Chairperson Barkla asked how much energy does a typical home use. Roy stated a little over 900 kilowatts per month. Sanden asked if the 120 ft tower with the 20 kilowatts would be considered a small system. Roy noted that everything the committee has approved in the past would fall under the small systems. 100 kilowatts as a small system is the top end of all ordinances like this. 100 kilowatts would be enough energy for any household and probably for a small businesses. **Chairperson Barkla left the meeting at 7:30pm.** Roy reviewed Access, Engineering Certification, Utility Notification, Building Mounted WES Structural Integrity, Code Compliance, Signage, Lighting, Compliance with FAA Regulations, Installer. Discussion. Pichotta discussed the potential for multiple systems on a single site and potential for disruption to neighborhoods. In theory, if you had a ten acre piece you could put up several systems. We have talked about establishing a maximum number of kilowatts able to be generated, maximum number of structures you’re able to put up. What we came up with is where there is multiple structures and small wind proposed on a single site or if it’s multiple roof mounted systems in a dense neighborhood, where there is something unique about it, to have language in the code for staff to refer it to the Land Management Committee to review consistent with Chapter 240-76, consistent with the conditional use permit section. The Solar Energy Systems (SES) was reviewed with discussion following. The small system is for people trying to keep it on site and offset their energy use. The large is for a utility company putting one in. The explanation of the two types is very similar to the wind systems. The setbacks state any portion of the SES shall not encroach within 10 feet of any property line. Sanden asked about putting in the same caveat as discussed for wind towers also for solar panels to deal with extraordinary circumstances. Sanden asked about the situation where the neighbors are restricted from obstructing the system with fences, fast growing trees, etc. Roy stated the State of Wisconsin addressed that issue with 66.04.01 and also 66.04.03. There is a Sunlight and Air access permit. If asked would have to issue those. We have just been silent on the issue. If an applicant asked for that permit, it would include going to the surrounding land owners and having them state they didn’t plan to construct anything or plant a rapid growing tree. The county is handcuffed by the state and if asked we have to issue these. Discussion. Pichotta stated that staff will make the discussed changes and we will have Corp Counsel review the language and then bring it back to the committee for review.

### **Departmental Update and Future Agenda Items**

Conditional use permit for a farm & home based business in the Town of Martell

Discuss draft Comprehensive Plan. Pichotta reminded the LMC that there is a meeting Comp Plan meeting on March 26<sup>th</sup> at 5 p.m. in the County Board Room.

**Motion to adjourn at 8:26pm by Holst/Rohl seconds. All in favor. Motion carried.** Respectfully submitted by S. Hartung

## **MINUTES - Pierce County Land Management Committee Meeting, March 26, 2009**

**Present:** Jeff Holst, Joe Fetzer, and Eric Sanden

Others: Andy Pichotta and Brad Roy

Absent: Paul Barkla, Don Rohl

Acting Chair Fetzer called the Land Management Committee meeting to order at 5:08 pm in the Pierce County Emergency Operations Center, Ellsworth, Wisconsin.

### **Discussion of the Pierce County Comprehensive Plan. – Economic Development/Land Use/Housing/Transportation Elements.**

Andy Pichotta lead the LMC through a discussion of the goals, objectives, and strategies of the economic development, land use, housing, and transportation elements of the draft comprehensive plan. The Committee discussed changes within those elements. No formal action was taken.

**Motion to adjourn at 6:55 pm by Holst/Sanden seconds. All in favor. Motion carried.**

Respectfully submitted by A. Pichotta

## MINUTES - Pierce County Land Management Committee Meeting, April 1, 2009

**Present:** Jeff Holst, Don Rohl, Joe Fetzer and Eric Sanden

**Others:** Andy Pichotta, Jim Kleinhans, Brad Roy and Shari Hartung

**Absent:** Paul Barkla

Acting Chairperson Fetzer called the Pierce County Land Management Committee meeting to order at 7:00 pm in the Pierce County Board Room, Ellsworth, Wisconsin.

Next meeting dates: April 15<sup>th</sup>, May 6<sup>th</sup> & 20<sup>th</sup>, all in 2009.

Set next meeting dates of June 3<sup>rd</sup> & 17<sup>th</sup>, July 1<sup>st</sup> & 15<sup>th</sup>, all in 2009.

Approve Minutes: **Rohl moved to approve the March 18, 2009, LMC minutes/Sanden seconds. All in favor. Passed.**

**Public hearing to consider a request for a conditional use permit for a Farm and Home Based Business for a cabinet shop in the Primary Agriculture District by Alan & Sandra Oscarson, owners on property located in the NE ¼ of the NE ¼ of Section 33, T27N, R17W, Town of Martell, Pierce County, WI. Acting Chairperson Fetzer invited Mr. Oscarson forward:** Mr.

Oscarson explained he has a cabinet shop on his property as a hobby and would like to expand the business. Sanden asked if all the activity takes place inside the building and if there are truck deliveries. Mr. Oscarson stated everything is inside the building and he usually goes to Menards to pick up his wood supplies. UPS does deliver and he will be having a wood delivery on Friday. **Staff Report – Jim Kleinhans:** Mr. Oscarson approached staff about a Farm & Home Based Business to get his cabinet shop permitted. He operates his business out of a pole shed that was permitted in 2002. The pole shed is 54 ft x 88 ft which complies with the 5,000 sq ft limit for a Farm & Home Based Business. He doesn't have any other employees. There is adequate parking around the building. The narrative states it really isn't a public business. He takes orders and delivers them. Hours of operation are 7:30am to 4:00pm. He did not have any advertising signs on site. The shop is equipped with a variety of wood working tools and power equipment. There is a spray booth in the north end of the building that has been reviewed by John Stoffel from the Dept of Natural Resources. The booth is filtered and vented through the east wall. Adjacent residences are over a 1,000 ft from the shop. There are quite a few trees around the building. He has put in evergreens and hardwoods. The shop floor is finished concrete. Waste wood is burned in their residential fireplace and trash is handled curbside and through recycling. In the spray area, paints, thinners and coating products are stored on shelves. Greg Engeset, who does fire inspections, was contacted about the products and he stated as long as there is less than 25 gallons, you do not need any type of containment. The Town of Martell recommended approval without additional comments. One observation in the building was a sink, refrigerator and a drain leaving the building which is not connected to the sanitary system. Staff recommended getting a plumber involved to make it code compliant. **Staff Recommendation:** Staff recommends the Land Management Committee grant this conditional use permit if the use is not found to be contrary to the public interest or detrimental to the public health, safety or character of the surrounding area with the following conditions:

1. Farm and Home Business shall be conducted consistent with 240-36 (E) of the Pierce County Code.
2. A separate land use permit shall be required for any business advertising signs.
3. A licensed plumber will need to obtain a sanitary permit to complete sanitary sewer modifications for service to interior fixtures.
4. This permit may be renewed administratively in two years if no compliance issues exist.

**Public hearing opened.** Crystal Nelson, a neighbor stated all her questions had been answered. **Public hearing closed.** Holst moved to approve the conditional use permit for a Farm & Home Based Business for Alan & Sandra Oscarson with conditions #1 – 4 due to the fact it is not found to be

**contrary to public interest nor detrimental to the public health, safety or character of the surrounding area/Rohl seconds. All in favor. Passed.**

**Discuss draft Pierce County Comprehensive Plan. Pichotta reports:** Copies of changes that were made at the last meeting were handed out. Pichotta indicated that he had been directed to come up with a policy regarding entrepreneurial activities that are site specific and could include limited lodging. Pichotta presented the draft policy intended to address this issue. Discussion. Consensus regarding proposed language. Pichotta presented draft language under Utilities and Community Facilities, starting on page 27, Vision, Goals, Objectives and Policies were presented. Discussion. Pichotta presented Goals, Objectives, and Policies under Intergovernmental Cooperation. Discussion.

LMC set another meeting date to review the Comp Plan for Wednesday, April 8<sup>th</sup> at 5:30pm in the County Board Room.

### **Departmental Update and Future Agenda Items**

Conditional use permit renewal for County Materials in the Town of Spring Lake

Town of River Falls ordinance amendment on identifying alternate sites on class 1, 2 & 3.

Bob Lannan is retiring May 1, 2009 there were 27 applicants which have been reviewed and narrowed down to 5 with 1 alternate. Interviews will be on Monday, April 6<sup>th</sup>, so as to get it on the agenda for Finance & Personnel, to establish compensation, that night. We would like some overlap for Bob to work with the new person.

**Motion to adjourn at 8:12pm by Sanden/Rohl seconds. All in favor. Motion carried.** Respectfully submitted by S. Hartung

## MINUTES - Pierce County Land Management Committee Meeting, April 15, 2009

**Present:** Paul Barkla, Jeff Holst, Don Rohl and Eric Sanden

Others: Andy Pichotta, Brad Roy and Shari Hartung

Absent: Joe Fetzer

Chairperson Barkla called the Pierce County Land Management Committee meeting to order at 7:00 pm in the Pierce County Board Room, Ellsworth, Wisconsin.

Next meeting dates: May 6<sup>th</sup> & 20<sup>th</sup> June 3<sup>rd</sup> & 17<sup>th</sup>, July 1<sup>st</sup> & 15<sup>th</sup>, all in 2009.

Approve Minutes: **Rohl moved to approve the March 12, 2009 Comp Plan minutes, March 26, 2009 Comp Plan minutes and April 1, 2009 LMC minutes/Sanden seconds. All in favor. Passed.**

**Discuss take action on a request for renewal of a conditional use permit for nonmetallic mining in the General Rural District by County Materials Corp, owner of a parcel of land located in the SE ¼ of the SE ¼ of Section 9 and the NE ¼ and the NW ¼ of the SE ¼ of Section 16, all in T27N, R15W, Town of Spring Lake, Pierce County, WI. Staff Report – Brad Roy:** County Materials received a conditional use permit for nonmetallic mining in April 2007. The conditional use permit covers approximately 200 acres; County Materials intends to mine approximately 130 of those acres. They have cleared approximately 10 acres of wooded land, excavated the plant site, constructed the wash plant and ag-lime plant, installed an overhead power line and water well, conducted nine blasts and operated the wash plant for approximately six months. Staff has received complaints from surrounding landowners and Town officials. In September, 2008 a status report was presented to the LMC to allow County Materials to discuss the complaints that have been received as well as other concerns raised by the Town and public for the LMC to determine if additional conditions were necessary to address concerns. The LMC determined that no modifications were necessary at that time. County Materials has purchased an adjoining 3 acre parcel, and will be requesting a conditional use permit for expansion onto this parcel in the near future. When crushing equipment is placed onsite it is located within the quarry, below grade. The wash plant and other operational structures are located above the quarry. This makes the operation more noticeable visually and audibly. The intentions are to place the structures within the quarry as space allows, limiting the impacts to the surrounding areas. The quarry is approximately 350' x 250' and 25' deep. The average floor elevation is 1100'. Expansion of the quarry will be to the south and west within the stripped area and to lower the floor to 1075'. No operational changes are planned. Seismographs have been set up for each blast; all results have been within state standards. Well tests have been conducted on six neighboring properties, prior to mining and since the mining operation commenced. Five of the six tests showed no significant difference since the mining started. An agreement was reached with the owner of the other well and County Materials. County Materials has complied with noise monitoring conditions; results are included in the staff report. They have also raised the berm on the east of the property by six feet and will be planting pine seedlings this spring to help mitigate the noise. Staff conducted an on-site visit to monitor sound (when the rock crusher was operating) in August 2008, results were:

From the top of the berm between operation and STH 128 – 55 decibels

At the front door of the nearest residence – 47 decibels

At the end of the nearest driveway – 48 decibels

At the end of the County Materials driveway – 52 decibels

Standing along STH 128 when a semi drove past – 87 decibels

Staff had not received any complaints since the status report. Prior to that staff had received complaints regarding the operation; complaints include:

1. Noise from the operation

2. Visual impacts from STH 128
3. Dust
4. The presence of sand in some of the nearby wells.

County Materials is anticipating reduced evening hours of operation based on the demand for product. However, they are requesting that the condition regarding hours of operation remain the same if the demand were to rise. The Town of Spring Lake was contacted for comments or concerns regarding the renewal of this conditional use permit. We will let them address the issues. The existing conditions are listed in the staff report #1 – 24. Chairperson Barkla stated the committee would hear the public comments regarding these issues at this time. Evelyn Jensen, one of the closest neighbors to the quarry, stated her complaints are the hours of operation and the constant noise. Greg Wells, lives north of the quarry, stated he had several concerns; the speed of the trucks on STH 128 when buses are on the road, hours of operation in the summer and loads not always being covered. Faye Jones, lives south of the quarry, stated her complaint is the hours of operation and would like no operation on Sat. She acknowledged that CMC has been communicative and responsive. Bill Klanderman, east of the quarry, stated promises were made two years ago that need to be fulfilled yet. He heard that three wells within a mile of the quarry have gone out. He doesn't feel this is coincidence. Since blasting in the summer, he has put a sand filter on his well because there has been an increase in sand. He stated semi-trailers were used last fall to haul out of the quarry. Brad noted staff did receive e-mails from Eric Hatling and Joan Tyvoll and they will be a part of the record. Mike Jacobson, Spring Lake Supervisor, stated CMC needs to do what they originally laid out. He stated the number one complaint is hours of operation and whether weekends are necessary. He stated the first he heard of the wells was last night. The Town will be watching that. Joe Bacon, lives over two miles from the quarry, asked if CMC could transplant some trees with reasonable size, not seedlings. His main complaint is the noise. He suggested running more trucks in a shorter period to limit the hours of operation. Jim Small, CMC, addressed the concerns and stated the quarry isn't what he envisioned two years ago. Part of the reason is where the driveway had to be located because of the DOT for sight distance. As they have been stripping, they have raised the berm but the north side is difficult due to the hill. Last fall after they were done, he seeded the berm. If it doesn't take, he will reseed. They purchased 8 ft – 10 ft trees for the front north side by the driveway. He has ordered 4,000 Red and White Pine; 3 year old trees and will be planting them in a month. They have a fleet of trucks and some are semis. Some of those semis are other customers hauling ag lime. As far as the wells, we worked with the nearest neighbor as soon as they notified them. It was during blasting. We are 100 ft above the groundwater. They pulled the well and they split the cost of that well. He doesn't feel the blasting is the cause of the two other well problems. They're old wells, not cased and going through the Jordan Sandstone. After the meeting in the fall, we did reduce our hours of operation due to demand. They won't be working overtime. They would like to have some Saturday hours because farmers are buying ag lime. They will be pushing as much rock through in as little time as possible. He will be reminding the drivers to slow down and to tarp all loads. Sanden stated the mine is currently at 25 ft depth and asked if the plan is to eventually go deeper and have everything down in the quarry. Jim Small stated the plan is to take it down another 25 ft to get to the 1100 ft elevation and get the crusher down in the quarry. So it is not in danger of getting shot when blasting. Sanden asked how many years it might take. Jim Small said he was estimating two years but it's all based on the demand. Things have slowed down. They will blast in two weeks. Then the primary crushing will be down in the hole. Jim Small stated they have shortened the hours. Holst stated he understands everyone's frustrations. He doesn't feel CMC has achieved being a good neighbor yet and applauds the people willing to come forward with their concerns.

**Staff Recommendation:** Staff recommends the Land Management Committee renew this conditional use permit for nonmetallic mining with the following conditions:

1. Applicant shall follow all recommendations and receive all necessary permits from all relevant departments and agencies.

2. Hours of operation shall be 6am to 9pm Monday through Friday, 8am to 5pm on Saturday. Operation shall be closed on Sundays and holidays.
3. Blasting shall be completed by a State licensed blaster. Blasting shall take place no more than 4 times per week and blasting times shall be between 11am and 2pm.
4. Storm water pond design shall be completed by a State certified engineer. The pond design shall be reviewed and approved by the Pierce County Land Conservation Department.
5. Erosion control shall be installed prior to any mining. All erosion control measures shall be submitted to the Zoning Office for review and approval prior to any mining.
6. Road access shall be permitted by WI DOT and a Uniform Address Number shall be obtained from the Zoning Office.
7. Reclamation shall be completed consistent with submitted plans.
8. Mine operation and design shall be consistent with the approved plans. Zoning Office shall be notified of any deviation from the plans.
9. Zoning Office shall be notified if ground water is encountered.
10. All structures and signage shall be permitted by the Zoning Office.
11. An elevation benchmark shall be established.
12. The reclamation financial assurance information shall be reviewed and approved by Corporation Counsel before mining commences.
13. Applicant shall comply with NR 135 Annual Reclamation Permits.
14. Property owners located within 1000 feet shall be given reasonable notice of all planned blasting. This request shall be waived for landowners who request not to be given notice.
15. Well tests for nitrates, suspended solids, and dissolved solids shall be conducted for all existing wells within 1000 feet of the proposed mining operation to establish a baseline, and for all other properties as agreed upon by County Materials (Jones, etc.). This shall be completed prior to blasting. Wells shall be tested annually thereafter. All results shall be provided to the Zoning Office.
16. A copy of the Storm Water Pollution Prevention Plan and Spill Prevention Control and Countermeasures shall be submitted to the Zoning Office.
17. The recycling of concrete products shall be allowed.
18. This CUP shall be reviewed for renewal every two years.
19. County Materials Corporation shall conduct operations on the site consistent with the standards specified in the letter from CMC to Pierce County dated 3/13/07.
20. All loaded trucks shall be covered (tarpred) prior to leaving the site.
21. The quarry shall have no more than 30 unreclaimed acres at any given time. The storm water pond and processing area are to be included in the unreclaimed acres.
22. Applicant shall conduct decibel readings during mining operations at; the property line, 1320 ft from the property line, and at 1½ miles from property boundary, and shall submit results to the Land Management Department. Such readings shall be taken three times annually, and at locations agreeable to Land Management Department staff and County Materials. An initial reading shall be made prior to operations to establish a baseline.
23. A four-strand barb-wire fence shall be placed around the active mining operation along with appropriate signage.
24. A lockbox with access key shall be made accessible to emergency personnel.
25. *Any other conditions that the Committee determines to be appropriate.*

Roy stated condition #25 was added in case anything needs to be added. On condition #2, the hours of operation were based on CMC being down within the quarry, modification may be appropriate until they get the operation down in the quarry. Jim Small brought up a situation that has occurred in the past about hours for blasting, condition #3, occasionally there was a loader that they couldn't get started near the face. If on a rare occasion when we can't get a blast off, if a thunderstorm rolls in, they can't leave a loaded shot unguarded. Roy stated with another mine, they have a condition that if they can't get the blast off in the time frame, they have to give notice to a Town Official before blasting. Gary Peterson, Chairperson, Town of Spring Lake, thanked the committee for allowing the neighbors to speak. **Sanden moved to approve the renewal of the conditional use permit for nonmetallic mining for CMC with conditions #1 - #24, amending condition #2 to hours of operation from 6am – 6pm, Monday through Friday, no weekends, condition #3 add unless extenuating**

circumstances occur at which time a Town Official shall be notified prior to blasting, condition #18 renewal in one year/Rohl seconds. Holst asked to discuss limited hours on Saturday for farmers to get ag lime. Rohl agreed. Chairperson Barkla suggested a status report in 6 months to hear about the issues discussed tonight. Sanden moved to amend the motion for condition #2 to 6am – 6pm Monday through Friday and 8am – noon on Saturday and add condition #25 applicant shall provide a status report to the LMC in 6 months All in favor. Passed.

8:02pm meeting to recess for 5 minutes.

8:08pm resume meeting.

**Discuss take action on review and approval of proposed amendment to Section 17.065 (3)(b) of the Code of General Ordinances of the Town of River Falls; Building Restrictions on Soils Classified as Prime Farmland or Important Farmland (Ord. 2009-01). Pichotta reported:** The Town of River Falls has been authorized by the County Board to exercise zoning authority within its borders. Any amendment to the Town’s Zoning Ordinance requires approval by the County Board of Supervisors to be valid. The Town previously adopted language that prohibits the erection of nonfarm buildings on class 1, 2 or 3 soils, as identified by the NRCS, in the Agricultural Residential District. This proposed amendment allows for non farm structures on class 3 soils in cases where an alternate site would result in less disturbance than that of a compliant site. The proposed amendment also formalizes a town policy allowing a structure to “touch” class 4 and be compliant with town code. Staff was involved in the development of portions of the proposed language and is comfortable with the concept and proposed language. It should be noted that an appeal regarding a determination as to the acceptability of proposed alternate building site would be directed to the Board of Appeals, consistent with 17.09 of the Town Code. The proposed ordinance is attached to the staff report. As you may recall, on July 18, 2007 the LMC discussed a proposed Ordinance (2007-02) that would have created a process through which an individual could, recognizing that the NRCS soil survey maps are not an exact representation of actual soils, identify Class 4 soils through use of a Soil Scientist and seek approval of a building site. The committee, noting that the mere presence of Class 4 soils when depicted on NRCS Soil Maps would qualify a parcel as a building site, questioned the rationale that 2 acres be required to establish a compliant site, and referred the issue back to the Town for further review. This ordinance has not been brought back before the LMC. Diana Smith stated that the proposal was from 2007; and the town has opted to do nothing with that proposal. The current proposal is how the Town Board feels this should be handled. Jerome Rodewald stated the committee has worked on this for some time and has struggled and consulted with Andy and Dr. Sanden on language. What we have is the best efforts in a readable and understandable matter. Having the public hearings at the Township level; we feel we have satisfied the people that were concerned about it. Rohl asked for an explanation of the proposed amendment. Pichotta stated that their current ordinance states that any residential structure has to be built on or touch Class 4 Soils. Basically what the proposed amendment does is allow an alternate site for building. If a site has Class 3 soils present in an area that would trigger 50% reduction in driveway length or create less disturbance to trees or eliminate the crossing of a stream, they would allow an alternate site. Alternate sites must met certain criteria – basically creating the potential for different building sites on a given property versus the one that was allowable due to the presence of Class 4. Jerome Rodewald, what we have seen happen in the past is we’ve used more land for a driveway to get to the approved site than if we would allow the site closer to the Town road. The concept was good but the devil is in the details. We’ve also added some rules on decks and garages. **Holst moved to forward a recommendation to the Pierce County Board of Supervisors that the Town of River Falls Zoning Ordinance No. 2009-01 be approved as written/Rohl seconds. All in favor. Passed.**

**Discuss proposed revisions to chapter § 240 relating to alternative energy source permitting.** Roy stated that staff took the direction received at the prior discussion and revised the ordinance. There are still several questions that need to be answered. If the committee determines this is ready for a public hearing we should address the fee tonight so staff has direction on whether we need to adopt a resolution or if we will use the “other” fee of \$100.00. Roy highlighted the changes made: under Wind Energy Systems, Discontinuation and Decommissioning 11(a)(1) footings and foundations, Permits (c)(1)(b) adverse impacts on surrounding properties or if public health and safety concerns are present, shall be referred to the LMC for review and approval, under Solar Energy Systems, Standards (b)(2) Height Restrictions, this was taken out of the height restrictions for other structures in section 240. Permits (c)(1)(b) adverse impacts on surrounding properties or if public health and safety concerns are present or if a height exemption is requested, shall be referred to the LMC for review and approval. Those are the changes made since the last meeting, if there are additional concerns or questions, we can go through those now. Pichotta asked what Roy’s recommendation on fees is. Roy stated to use the “other” fee which is \$100.00 for now. It is a significant decrease compared to the fee associated with a conditional use permit. But once the Comprehensive Plan is complete the fee schedule will be addressed. Mike Michaud, Maiden Rock, commented on (5) Building Mounted WES Structural Integrity, he stated that he is not sure how anyone would go about making that determination. The concern is that if all you are putting up is a small tower, which isn’t real cost efficient, would you have to hire a structural engineer or how would one comply with that. Pichotta stated our intent is to get people to think about structural integrity and not mount something on an old rickety barn – it is not to require that someone go out and hire a structural engineer. The applicant will be asked to certify that it is structurally stable, theoretically relieving us of any liability. Mike Michaud commented on meteorological towers, some may want to have them as large as 250 ft tall. Roy stated they could still have them but they would have to apply under the conditional use permit for a large tower. Mike Michaud, is there some threshold for the Zoning Administrator as far as adverse affects or is it wide open. Pichotta stated no, if the Zoning Administrator thinks there is a potential for an issue we’re relying on that individuals judgment. If the committee feels that he is referring to them situations that he shouldn’t be - I believe they will let him know. Pichotta stated that staff needs direction regarding whether a public hearing should be scheduled. Committee directed staff to schedule a public hearing.

### **Departmental Update and Future Agenda Items**

Conditional use permit for an accessory residence in the Town of El Paso

Conditional use permit for a retreat center in the Town of Martell

Pichotta noted that Louie Filkins has been hired as the new county surveyor and will start Monday, Apr. 27, 2009. We will be having a retirement party for Bob Lannan on Apr. 29, 2009, from 1:00pm – 3:00pm in the EOC room.

**Motion to adjourn at 8:30pm by Holst/Rohl seconds. All in favor. Motion carried.** Respectfully submitted by S. Hartung

## **MINUTES - Pierce County Land Management Committee Meeting, May 6, 2009**

**Present:** Paul Barkla, Jeff Holst, Don Rohl, Eric Sanden and Joe Fetzer

**Others:** Andy Pichotta, Jim Kleinhans and Emily Lund

Chairperson Barkla called the Pierce County Land Management Committee meeting to order at 7:00 pm in the Pierce County Board Room, Ellsworth, Wisconsin.

Next meeting dates: May 20<sup>th</sup>, June 3<sup>rd</sup> & 17<sup>th</sup>, July 1<sup>st</sup> & 15<sup>th</sup>, all in 2009.

Approve Minutes: **Sanden moved to approve the April 15, 2009 LMC minutes/Rohl seconds. All in favor. Passed with Fetzer not voting because of his absence from the last meeting.**

### **Public hearing to consider a request for a conditional use permit for an accessory residence in the Primary Agriculture District on property owned by Paul & Judith Nielsen, located on lot 2 in the SW ¼ of the SE ¼ of Section 17, T26N, R16W, Town of El Paso, Pierce County, WI.**

**Chairperson Barkla invited Mr. Nielsen forward:** Mr. Nielsen explained he purchased the property in 2006 with an older home on it. They burned the house down and built the Amish shop. They sold their house on 210<sup>th</sup> St and converted the pole building to a house. In 2007, they applied for a conditional use permit for the Amish Furniture Store. His daughter got divorced and with the economy being so bad, had to sell her home. He converted the Amish shop into a residence for her. She moved into the home in December. He received a letter from the county and applied for the conditional use permit for an accessory residence. **Staff Report – Jim Kleinhans:** Mr. Nielsen covered the background on the property. The property is zoned Primary Agriculture. The Wisconsin Dept of Transportation Access Coordinator approved a shared residential driveway access to Hwy 72 on March 5, 2009. Jim read a letter from the DOT Access Coordinator discussing removal of a secondary access to the property. Accessory residences are permitted by conditional use permit in the Primary Agriculture district in accordance with the County Zoning Code. The stated purpose of the Zoning Code is “to promote and protect public health, safety, aesthetics and other aspects of the general welfare.” The purpose statement notes that the Code is intended to; implement land management plans, encourage planned and orderly land use development, protect property values and the tax base, permit planning and efficient maintenance of highway systems, encourage uses of land in accordance with their character and adaptability and provide healthy surroundings. Accessory residences are defined as a dwelling unit in an accessory building located on a residential parcel. Jim discussed the Town Building Inspector’s recent report on the UDC status of the accessory structure. Accessory residences are to be subordinate to and customarily incidental to a principal use and thus typically required to be smaller in size than the structure housing the principal use. The building under consideration was originally permitted as an accessory building. The applicant has indicated that he intends to live on his property and rent out the accessory residence under consideration to his daughter. The following options were discussed with Mr. Nielsen to resolve this matter:

1. Obtain a conditional use permit to allow an accessory residence on his parcel.
2. Apply for a rezone to a General Rural Flexible District to allow a land division. *The Town of El Paso does not have General Rural Flexible as an option on their zoning map and is not currently interested in adding this district.*
3. Not use this building as a residence.

Kleinhans noted that a Town Recommendation is not an appealable decision. Decisions of the Land Management Committee are appealable to Circuit Court per Section 240-76(K). The LMC decision to approve or deny must be based upon facts specific to the case. Although the Town’s Comprehensive Plan has not yet been formally adopted, it does provide insight into, as well as credence to, their determination that the proposed use at the proposed location is not consistent with the public interest and character of the Town of El Paso. Department staff has not had the opportunity to review the Town’s Comprehensive Plan.

**Staff Recommendation:** Staff recommends the Land Management Committee consider the Town of El Paso's recommendation when determining whether the proposed use at the proposed location would be contrary to the public interest, would be detrimental or injurious to public health, public safety or character of the surrounding area. If the LMC determines that the proposed use in the proposed location is appropriate, staff recommends the following conditions be considered:

1. The landowner must continue to occupy the principal residence located on this property.
2. An after-the-fact land use permit shall be obtained to change the use of the accessory building to a residence.
3. The accessory residence shall comply with the requirements of the Uniform Dwelling Code (UDC) and a building permit from the Town of El Paso shall be obtained.
4. Any deviation from the approved conditions will render this CUP null and void.
5. This CUP shall be subject to renewal every 2 years. Renewal may be completed administratively if no compliance issues exist.
6. If a party other than a family member wishes to reside in the accessory residence, a management plan must be approved by the Land Management Committee with input from the Town of El Paso Board of Supervisors.
7. A separate uniform address number shall be obtained for the accessory residence.

Jim stated he would suggest adding another condition #8. Applicant shall comply with DOT dwelling access permits recently requested on Highway 72.

**Public hearing opened.** Dan Fisher, Town of El Paso Planning Commission, stated that Paul tried to split the 8.8 acres with a rezone to General Rural Flexible but the rezone fell through. He then received an Amish Furniture permit. Fisher suggested that this was a back door approach to achieving higher residential density. Ron Kannel, El Paso Chairperson, stated that the Town is opposed due to incompatibility with agricultural use and indicated that the Town would support this type of request only when done in an agricultural setting for farm help. Victoria Hines, Ellsworth, asked where do you draw the line? She noted that she was aware of a 4 acre parcel being developed for residential use. Scott Schoepp, adjoining neighbor, suggested adding a condition stating that if the property is sold, the conditional use permit null and void and suggested limiting the duration of the permit to 2 or 3 years. Melissa Ryden, Paul's daughter, stated she is trying to get back on her feet. She needs to be in this residence at least 1 – 2 years. **Public hearing closed.** Fetzer stated that he can see both sides of the issue but is concerned that others would do the same thing and not seek required permits. Sanden stated that he is concerned that this is merely a way to seek higher density and indicated that the Town position is supported by their draft comprehensive plan and that he is inclined to place weight on their recommendation. Jeff Holst stated that he understands the positions of both the applicant and the Town and noted that he finds the town's rationale for denial to be the most persuasive. **Holst moved to deny this request for a conditional use permit for an accessory residence, finding that the proposed use at the proposed location is inconsistent with the public interest and character of the area, due to the fact that the use is inconsistent with the publicly supported outcomes of the Town of El Paso comprehensive planning process and that increasing the residential density on a non agricultural parcel in an agricultural district is inconsistent with the agricultural character of the Town of El Paso/Sanden seconded.**

**All in favor. Passed.**

**7:39pm meeting to recess for 5 minutes.**

**7:45pm resume meeting.**

**Public hearing to consider a request for a conditional use permit for a retreat in the Primary Agriculture District on property owned by Lorilee Anderson, located on lots 1 & 2, CSM V4, P35 in the NW ¼ of the NE ¼ of Section 2, T27N, R17W, Town of Martell, Pierce County, WI.**

**Chairperson Barkla invited Ms Anderson forward:** Arby Linder stated that Ms Anderson and her husband previously received a conditional use permit for a plant farm. Her husband passed away so the business was dissolved. The portable greenhouses were removed. Ms Anderson would like to have a therapeutic retreat center. **Staff Report – Emily Lund:** The Martell Town Board recommended approval of this request on 3-10-2009. Pierce County Zoning Code § 240-88 defines retreat center as, “A facility or facilities used for professional, educational, organizational or religious meetings, conferences or seminars and which may provide meals, housing and recreation for participants.” Section 240-36(N) allows retreat centers subject to seven items listed in the staff report. Lot 2, containing the existing 80 ft by 90 ft steel building, will be utilized for retreat and gathering activities (e.g. weddings, receptions, conferences, class reunions, business meetings, anniversary parties, community fundraisers, community classes, etc.). A nearby 100 ft by 35 ft structure will contain a library, 2 bathrooms with showers, a large bride’s dressing room and a kitchen equipped only with a refrigerator, microwave and coffee maker. The existing kitchen area can not be utilized for the cooking of meals for or by participants, as it does not comply with state standards for commercial kitchens. Food and beverages will be catered into the event by those who rent the building. Future plans are to build a chapel and 8 cabins for over night retreat guests. Available amenities will include bikes, fishing poles, snowshoes, opportunities for hands-on gardening, reflection, harvesting seasonal flowers, herbal gardening education and horticulture therapy. Proposed retail activities include sales of beverages (including tea and coffee), snacks, books and gifts from the library. Vendors at a retreat function may sell goods to participants. No alcoholic beverages will be sold on site. The existing 3,000 gallon holding tank limits maximum capacity to 296 people at one time. **Staff Recommendation:** Staff recommends that the Land Management Committee determine whether or not approval of this request is contrary to public interest and whether it would be detrimental or injurious to public health, public safety or the character of the surrounding area. If found not to be contrary to the above, staff recommends the Land Management Committee approve this conditional use permit for a retreat center with the following conditions:

1. Applicant understands that expansion or intensification of this use will require issuance of a new conditional use permit. If applicant has questions as to what constitutes expansion or intensification, Land Management staff should be contacted.
2. A universal address number (UAN) and sign shall be obtained for Lot 2 in case any emergencies take place at the retreat center buildings.
3. A land use permit shall be obtained for all future structures prior to construction. Applicant shall also comply with all relevant local and state ordinances and regulations and secure all necessary permits and licenses (e.g. Department of Commerce, Department of Health & Family Services, etc.).
4. Guest cabins shall be rented only to retreat participants/groups.
5. Retail sales shall be limited to items specified in the application (listed above) and items associated with retreat activities or subject matter.
6. Maximum occupancy shall be limited to 296 people (maximum capacity of holding tank) or 3 times the amount of available parking spaces, whichever is less. The maximum capacity of 296 persons would require 99 available parking spaces ( $296/3=98.6$ ).
7. The kitchen area shall not be utilized for cooking of meals for or by guests.
8. Any advertising signs shall comply with the zoning code standards and any necessary permits shall be secured prior to sign installation on property.
9. This conditional use permit shall be renewed every 2 years. Permit may be renewed administratively if no compliance issues arise.

**Public hearing opened. No public input. Public hearing closed.** Sanden asked about sales of plants and materials. Pichotta referred to condition #5. **Holst moved to approve the conditional use permit for a retreat with conditions #1 – 9 due to the fact it was not found to be contrary to public interest nor detrimental or injurious to public health, public safety or the character of the surrounding area/Fetzer seconded. All in favor. Passed.**

**Departmental Update and Future Agenda Items**

Barkla questioned Pichotta as to when Trimble Acres Park would be dedicated. Pichotta stated that he anticipated a dedication sometime this summer and noted that the picnic table would be placed on site soon.

Conditional use permit for a dog kennel in the Town of Gilman

Public hearing for amendments to Chapter 240-41D Zoning relating to wind & solar energy permitting procedures

Discuss Comprehensive Plan

**Motion to adjourn at 8:14pm by Holst/Sanden seconds. All in favor. Motion carried.** Respectfully submitted by E. Lund

## MINUTES - Pierce County Land Management Committee Meeting, May 20, 2009

**Present:** Paul Barkla, Jeff Holst, Don Rohl and Eric Sanden

Others: Andy Pichotta, Brad Roy and Shari Hartung

Absent: Joe Fetzer

Chairperson Barkla called the Pierce County Land Management Committee meeting to order at 7:00 pm in the Pierce County Board Room, Ellsworth, Wisconsin.

Next meeting dates: June 3<sup>rd</sup> & 17<sup>th</sup>, July 1<sup>st</sup> & 15<sup>th</sup>, all in 2009.

Approve Minutes: **Rohl moved to approve the May 6, 2009 LMC minutes/Sanden seconds. All in favor. Passed.**

**Public hearing to consider a request for a conditional use permit to operate a dog kennel in the General Rural District by Hilary Boyer, agent for Kevin and Valerie Anderson, owners on property located in the NW ¼ of the SW ¼ of Section 1, T27N, R16W, Town of Gilman, Pierce County, WI. Chairperson Barkla invited Ms Anderson forward:** Ms Anderson explained they have been running a dog training facility since May of 2006. The permit was renewed in 2008. They would like to teach agility, manners, obedience and put up a 60' by 80' building for dog boarding, cat and small animal boarding, daycare and sales of dog equipment, toys and pet products. They will be open for boarding animals 365 days a year. Dogs would be kept inside from 9:00pm to 6:00am unless they were on a leash being walked. They will have dog suites for those that don't go outside. They will abide by all the rules in the kennel ordinance. They have approval from all the neighboring land owners and haven't had any complaints. A septic system will be installed for the bathroom and they plan on up to eight employees eventually. It will just be her daughter and herself to start out. Holst asked if this is an expansion of hours from the previous conditions. Ms Anderson stated no. Sanden asked how many dogs at one time. Ms Anderson stated there will be 19 regular kennels and 8 suites so there could be a maximum of 54 dogs. Then there will be a cat area and her daughter is a reptile specialist. Sanden asked how the waste will be taken care of. Ms Anderson stated Jim Kleinhans gave her two options and they are leaning toward a holding tank for the septic system and any scooped waste would go in a dumpster. **Staff Report – Brad Roy:** Ms Anderson did a very good job of explaining the request. Presently they are using 2,688 square feet of an existing building; there is a 5,000 square foot limitation for Farm and Home Based Business. Construction of a 60' x 80' steel building for boarding, grooming, daycare and sales show floor is proposed. The area used for grooming and sales must be less than 2312 square feet to comply with the Farm and Home Based Business requirements. The boarding facility is proposed to be located 295 feet from CTH B. This is the closest point to any property line. Our ordinance states it must be 200 ft from property lines and the center line of public roads. So they comply with that as well. There will be a bathroom available to customers. Driveway access is off of county road B. Pierce County Code § 240-54 does not address parking requirements for this type of operation. Parking was addressed on the 2006 conditional use permit. Staff isn't recommending anything different from that. The Town of Gilman approved a footage variance and recommended approval of this conditional use permit on April 22, 2009. No specific conditions were recommended. **Staff Recommendation:** Staff recommends the Land Management Committee grant this conditional use permit if the use is found to be not contrary to the public interest, nor detrimental or injurious to the public health, safety or character of the surrounding area with the following conditions: Conditions #1 - #5 are the same as the existing conditional use permit.

1. Any buildings or advertising signs shall comply with the zoning code standards and obtain any necessary permits.
2. One off street parking space shall be provided per dog that is being trained each session.

3. This conditional use permit shall be renewed again in 2 years. Permit may be renewed administratively if no compliance issues exist.
4. Applicant understands that expansion or intensification of this use will require modification to this conditional use permit.
5. Classes shall be conducted during the hours of 5pm to 9pm Monday through Friday, 8am to 9pm Saturdays, noon to 9pm Sundays. Boarding, grooming, daycare and sales shall be open to customers from 6am to 9pm, seven days a week.
6. There shall be no more than 8 employees who do not reside onsite.
7. There shall be no more than 2 dogs per enclosure unit.
8. All dogs shall be housed indoors during the hours from 9pm to 6am.

**Public hearing opened. No public comment. Public hearing closed.** Sanden asked about the old condition #3 stating it could be done administratively if no complaints are received and the new condition #3 states if no compliance issues exist. Pichotta stated that was intentional so that if there is a frivolous complaint, we don't have to bring it back in front of the committee. If it's a valid complaint it would be a compliance issue. **Holst moved to approve the conditional use permit for Kevin and Valerie Anderson for a dog kennel with conditions #1 – 8 due to the fact it was not found to be contrary to public interest nor detrimental or injurious to public health, public safety or the character of the surrounding area/Rohl seconded. All in favor. Passed.**

**Public hearing to consider proposed amendments to Chapter 240-41D of Pierce County Code; Zoning; relating to wind and solar energy permitting procedures. Brad Roy reports:** This is the same ordinance that has been brought before the committee twice previously. There have been no changes. One thing to note is that the committee determined that, rather than amend the fee schedule to include a new fee, the "other" category in the existing fee schedule (\$100 permit fee) will be utilized until such time as a complete review of the fee schedule is completed. Corporation Counsel has reviewed the draft ordinance and has seen no issues with it. For the ordinance; we would be removing all of 240-41D as it stands now. We would be creating 240-41D as "Energy Systems" which would include both wind and solar. We're able to add to this if anything comes up in the future. Sanden suggests on page 2 the equation on (b) Standards 1.b. after diameter multiplied by 1.5 should have a colon or a dash before the bracket. You could read it mathematically, that 1.5 is times the [(HH + RD) x 1.5]. **Staff Recommendation:** Staff recommends the Land Management Committee review the requested revisions, and if appropriate, approve the ordinance with the requested revisions and send the approved version to the Finance and Personnel Committee for review. **Public hearing opened.** James Burt, has a wind generator west of town now, wondering if any height requirements were changing. It had to be so many feet above the blades to the lot lines. Roy stated the old ordinance stated it had to be 50 ft from the total height, now it has changed to 110% of the total height. **Public hearing closed. Holst moved to approve the proposed amendments to Chapter 240-41D of the Pierce County Code; Zoning; relating to wind and solar energy permitting procedures and forward to the Finance and Personnel Committee/Rohl seconds. All in favor. Passed.**

**Discuss draft Pierce County Comprehensive Plan. Pichotta reported:** Pichotta stated that we have been slowly and steadily working through the draft goals, objectives and policies. We have made it through those and the last piece left to discuss is the action plan for the next five years. Basically who takes action identified as well as when the action will be completed. Action steps relating to Agricultural, Natural and Cultural Resources, Economic Development, Land Use, Housing, Transportation, Community Facilities, Planning Regulatory Techniques, Finance and Budgeting, Intergovernmental Relations, Public/Private and Information were discussed and finalized. Pichotta indicated that a complete draft document will be distributed prior to the next meeting and then if approved, a public hearing will be scheduled. Chairman Barkla commented that he thought the magnitude of actions steps and associated timeframes may be difficult to achieve given existing staff

levels and duties. He suggested that the LMC should be ready to support the department should assistance be needed or timeframes modified.

**Departmental Update and Future Agenda Items**

Conditional use permit for expansion of a nonconforming structure

Rule exception to erosion control plan

Approval of a 3-Lot Major CSM

Discuss take action to classify an unclassified use (Shaving Mill)

Pichotta indicated that the Department has an issue that will be on the upcoming F & P agenda relating to overages in personnel costs. Each year staff is given an option to cash out a portion of their paid time off. This is not budgeted for and because our budgets are so tight – this results in an overage. The cumulative overage amount is around \$5400.

Motion to adjourn at 7:51pm by Holst/Rohl seconds. All in favor. Motion carried. Respectfully submitted by S. Hartung

## MINUTES - Pierce County Land Management Committee Meeting, June 3, 2009

**Present:** Paul Barkla, Joe Fetzer, Jeff Holst, Don Rohl and Eric Sanden

Others: Andy Pichotta, Jim Kleinhans and Shari Hartung

Chairperson Barkla called the Pierce County Land Management Committee meeting to order at 7:00 pm in the Pierce County Board Room, Ellsworth, Wisconsin.

Next meeting dates: June 17<sup>th</sup>, July 1<sup>st</sup> & 15<sup>th</sup>, all in 2009.

Set next meeting dates: Staying with the 1<sup>st</sup> & 3<sup>rd</sup> Wed of each month; the dates would be Aug. 5<sup>th</sup> & 19<sup>th</sup>, Sept. 2<sup>nd</sup> & 16<sup>th</sup>, Oct. 7<sup>th</sup> & 21<sup>st</sup>, Nov. 4<sup>th</sup> & 18<sup>th</sup>, Dec. 2<sup>nd</sup> and if needed the 16<sup>th</sup>.

Approve Minutes: **Rohl moved to approve the May 20, 2009 LMC minutes/Holst seconds. All in favor. Passed with Fetzer not voting because of absence at the last meeting.**

**Public hearing to consider a request for a conditional use permit to expand a nonconforming structure in the Agriculture Residential District for Richard W. Johnson, owner on property located in the NE ¼ of the NW ¼ of Section 34, T25N, R15W, Town of Union, Pierce County, WI. Chairperson Barkla invited Mr. Johnson forward:** Mr. Johnson explained he has an existing garage and that he would like to add onto it on the north side away from the road. The addition would be 24 ft x 32 ft deep and would be used for storing collector cars. **Staff Report – Jim Kleinhans:** Mr. Johnson contacted our office several years ago about an addition. Staff went out and tried setback averaging using his residence since there is no building on the other side, but the result was a few feet short of providing relief. So that's why he is here. Mr. Johnson's parcel is based upon a metes and bounds description. Kleinhans read the property description. If you look at what Rand has delineated on the map, the lot lines are clear but there is some discrepancy about the property lines. After talking with the County Surveyor, there is some more research that could be done on where the road was located at the time the description was created. Kleinhans stated that he had received a call from one of the adjacent neighbors with concerns about where the actual property line is. The proposed use of the expanded structure would be to allow for additional storage. The Town of Union supervisors recommended approval of this request. The County Surveyor hasn't cleaned up the lot lines for Union Township yet. **Staff Recommendation:** Staff recommends the Land Management Committee approve this conditional use permit for the building expansion provided the committee does not find this proposal contrary to the public interest, nor detrimental or injurious to the public health, safety or character of the surrounding area with the following conditions:

1. The applicant shall obtain a land use permit for the proposed building expansion.
2. The building shall not be permitted until the western property boundary is confirmed to be accurate and meets the 10 foot sideyard setback or sufficient land is obtained from an adjoining land owner to meet the setback requirement.
3. The garage addition is constructed within 12 months of committee approval.

Fetzer asked how long the garage has been there. Mr. Johnson stated that Dan Lowman had built the garage. Then Mr. Johnson's father-in-law bought it from Al Binkowski. Ray Auth was the one that did all the measuring. Fetzer asked how it works if someone has maintained a property for a long period of time. Pichotta stated that there is the potential for an adverse possession claim if you have maintained/used property for 20+ years. Kleinhans stated he had a call from a neighbor that was concerned about the lot line. The neighbor isn't sure where the lot line is. It needs to be measured from the road. So we are requesting more information to demonstrate that it meets the proper setbacks. Holst stated it may be beneficial to Mr. Johnson to have a survey done. Mr. Johnson stated he could show Kleinhans where the pipes are. Kleinhans stated he could meet him out there and they could measure and make sure the irons are accurate. **Public hearing opened. No public comment. Public hearing closed.** Sanden suggested that if the lot lines change significantly Mr. Johnson could pursue the adverse possession route. Kleinhans stated that would be one way or arrange with the adjoining

property owner to purchase a tenth of an acre to meet the setbacks. Or he could appeal the administrative decision. Pichotta noted that the reason for amending the second condition is so that he wouldn't have to come back before this committee if it were necessary to acquire additional property. **Sanden moved to approve the conditional use permit for expansion of a nonconforming structure for Richard W. Johnson with conditions #1 – 3, with amended condition #2, due to the fact it was not found to be contrary to public interest nor detrimental or injurious to public health, public safety or the character of the surrounding area/Fetzer seconded. All in favor. Passed.**

**Discuss take action to Classify an Unclassified Use (Shaving Mill) per 240-21(B). Pichotta**

**reports:** Mr. Schilling handed out a letter that sums up his request. He talked with Andy regarding a classification for the type of business he wants to operate. Andy did mention something about a sawmill but he doesn't plan to run a saw mill. There isn't a sawmill that has a shaving machine in the area. He spoke with Paul Dietmann, in Madison, and he also thought it would be an ag related business. Holst asked if the shavings would be wet or dry. Mr. Schilling stated they would be wet and he would have to dry them. Holst asked if he will have to build a kiln then. Mr. Schilling stated he wasn't sure how he would dry them. There is a rotary dryer that tumbles them but it's a substantial investment. **Pichotta reported:** Staff was recently contacted by Mr. Schilling who is interested in acquiring and operating a Jackson Wood Shaving Mill. The applicant is of the position that the use should be classified "agricultural", which would make the use a permitted use in any agricultural district. The applicant has provided a letter (attached to staff report) from Paul Dietmann, Director, Bureau of Farm and Rural Services-Wisconsin Farm Center, that states "A business that processes wood into shavings to be used for livestock bedding would be considered an agricultural-related business." Non structural agricultural uses are allowed without issuance of a Land Use Permit in any agricultural district. The establishment of an agricultural use involving a "structure" would require that an over-the-counter Land Use Permit be issued. The Zoning Code regulates sawmills (code provision shown below) but, according to the applicant, this use is not similar enough to warrant a like classification. Regulating this use consistent with rules for sawmills and planing mills would require the issuance of a conditional use permit prior to the establishment of the use. Staff, after consultation with the LMC Chair, determined that the classification of this proposed use would be referred to the LMC pursuant to Section 240-21(B)(3). Section 240-21 Uses not listed describes the process. Section 240-37(D) Sawmills and planing mills, this describes the regulations.

1. Such uses shall be located a minimum distance of 500 feet from any dwelling unit other than that of the owner or operator of the establishment.
2. No sawmill or planing mill shall produce a sound level at its property boundary that exceeds 55 decibels.
3. Areas used for stockpiling and maneuvering shall be a minimum distance of 200 feet from any dwelling unit other than that of the owner or operator of the establishment.

**Section 240-88 Definitions**

**AGRICULTURE, GENERAL** Any agricultural use, except those listed for intensive agriculture, including apiculture; animal husbandry; dairying; floriculture; forage crop production; forest crop production; grain production; grazing; horticulture; orchards; specialty crop production, such as maple syrup, mint and willow; viticulture; and truck farming.

**Staff Recommendation:** Staff recommends the Land Management Committee consider whether a "shaving mill" can appropriately be considered an "agricultural use" or whether it should be regulated consistent with regulations for "sawmills and planing mills". The LMC should also determine whether a change to the zoning code to reflect their determination is necessary. Also attached for your information is the Jackson Lumber Company information from Mondovi. Sanden asked if this is noise intensive. Pichotta stated there are videos available and it is difficult to tell how noisy it is. There is machinery running. Holst asked if it is like a big planer. Mr. Schilling stated yes, big rollers and teeth that the log gets shimmed across and it gets shaved. When he showed this to the Village of Spring Valley, they watched the video and noted that employees didn't have ear protection but he felt it was

loud enough to warrant ear protection. Sanden stated he is trying to think about this from a definition standpoint. It sounds like a large planer after Mr. Schilling has described the operation. The sawmill does have a 55 decibel limit on it because noise is a factor. Pichotta stated his initial reaction was to regulate it with sawmills and planing mills. A few years ago we issued a conditional use permit to a gentleman who was making mulch with a large grinder in a gravel pit in Clifton. We regulated under those provisions. It seems to me that an agriculture use would be permissible without a permit if it wasn't a permanent situation in any kind of an agricultural setting. It appears to have the potential to have off-site impacts if it is located in a bad spot. That lead me to believe it would be akin to a sawmill or planing mill. Mr. Schilling stated in that situation if that guy looked at all this stuff without you guys knowing it and went out to his gravel pit and did his mulch, how does that work? Even if I did my shaving mill and two months later, someone called you and said this guy is running this out here. Pichotta stated we would try to get you into compliance and if you weren't willing to come into compliance we would seek enforcement action which could include an injunction order to make you stop. Mr. Schilling stated there isn't a classification for this. I just want to make sure what I'm doing is classified for what I'm doing and not falling under anyone else's classification. Kleinhans asked if he could meet the setbacks under the sawmill and planing mill provisions in the area he wants to do this. Mr. Schilling stated yes. He asked how the decibel readings worked. Pichotta stated we have a decibel meter. Mr. Schilling stated he wouldn't want to buy all the equipment and then find out he has to put up a barrier. Pichotta suggested Mr. Schilling should find someone that has the equipment and get a reading from there. Pichotta noted that even if this is a conditional use permit it isn't that many hoops to jump through. Holst stated his concern is that this is a site specific use and wouldn't want to see it go anywhere. We're running into areas where agriculture doesn't mix with surrounding land use, be it residential or industrial. Mr. Schilling asked what the hours of operation on a sawmill are. Pichotta stated that it would be site specific. **Sanden moved to regulate Shaving Mills in the same manner as sawmills and planing mills/Rohl seconds.** Pichotta asked if we need to amend our code to reflect this. Holst stated that after the Shaving Mill gets running lets see if it's similar to a sawmill or planing mill.. **Sanden amended his motion to include "and to not amend the zoning code to reflect this determination at this time/Rohl seconds. All in favor. Passed.** Pichotta informed Mr. Schilling that he would have to garner a Town recommendation, fill out an application, we would schedule a public hearing and we would hold a public hearing and he would know the evening of the public hearing whether he would receive a conditional use permit and what the conditions were associated with it. A conditional use permit can be denied only if there are public health and safety, character, or public interest concerns.

**Discuss draft Pierce County Comprehensive Plan. Pichotta reported:** This document is a compilation of everything that we have talked about. I went through it again today to make sure all the changes were accurately made. A couple changes on the cover will reflect the current Board members at the time it's adopted, it will be noted that Joe Fetzer is Vice-Chair and under Land Management the County Surveyor will be changed to Louie Filkins. Holst stated Bob Lannan should get some recognition. Pichotta, would you like to see Bob's name with an asterisk and dates of tenure? Holst stated yes. Pichotta is asking for direction from the committee as to whether he should schedule a public hearing to consider its adoption. He noted the the public hearing notice will be a little different; it's a Class I publication with one publishing 30 days before the meeting. The committee directed staff to go forward with scheduling the public hearing.

### **Departmental Update and Future Agenda Items**

Public hearing for an accessory residence in the Town of Maiden Rock  
Public hearing for expansion for County Materials (3 acres) in Town of Spring Lake  
Request for a rule exception to an erosion control plan for George Jacques  
Discuss take action for approval of a 3-Lot CSM for George Jacques  
Discuss take action on site plan review for Nestle Purina

Four farmland preservation agreements: Rohl, Traynor, McCormack and Dettling

Pichotta stated we are looking at scheduling a dedication for the Trimble Park on June 25, 2009.

Pichotta also asked for direction on the publishing of agendas. The Pierce County Herald has begun charging us for publishing the agendas again. I believe its been between \$18.00 and \$20.00 per time. It's not required to be published. Should we just request posting? Holst stated the amount of feedback we've gotten on agendas from the public, about not being posted or published, it would be money well spent. Sanden stated he agrees and assumes we are publishing them on the website also. Pichotta stated that the Department will continue to have them published.

Motion to adjourn at 7:55pm by Rohl/Fetzer seconds. All in favor. Motion carried. Respectfully submitted by S. Hartung



**parcel (former Sperstad property) located in the NE ¼ of the NE ¼, Section 16, T27N, R15W, Town of Spring Lake, Pierce County, WI. Chairperson Barkla invited Jim Small forward:** Mr. Small explained when they received the original conditional use permit they did not own the 3 acre parcel. They would like the same conditions as the surrounding property. Mr. Small stated the crusher is in the pit. They have only done one blast and will be doing another in three weeks. **Staff Report – Brad Roy:** County Materials has purchased a 3-acre parcel, the Sperstad property which adjoins their existing facility in the Town of Spring Lake. A vacant house was located on the subject property when it was purchased by County Materials. The structure has been removed from the property and an abandoned well has been capped. The property remains wooded except for a berm which extends through the property. The immediate plan for the property is to remove the vegetation from inside the bermed area and to utilize the area for stockpiling. Mining will eventually take place on the property. Mining is proposed to progress consistent with the original plans but not in the near future. The reclamation plan has been updated to show the changes to this property. Slopes will be reclaimed to 3:1. The Town of Spring Lake recommended approval of this request on April 14, 2009. The Town recommendation included a statement that the town would prefer the hours of operation be reduced and that Saturday operations be eliminated. (At permit renewal on April 15, 2009, the conditions were modified relating to hours of operation and Saturday operation.) The conditions of the renewed permit are listed #1 - #25, in the staff report. **Staff Recommendation:** Staff recommends the Land Management Committee consider the above and if determined to be not contrary to the public interest, health, safety or character of the area, grant this conditional use permit with the following condition:

1. All mining activities on this parcel shall be conducted consistent with the conditional use permit issued for the adjacent parcels, as amended on April 15, 2009, including renewal and reporting dates.

**Public hearing opened. No public comment. Public hearing closed.** Sanden asked about the Town of Spring Lake preferred hours of operation. Roy stated that at the renewal in April the committee reduced the hours in response to Town concerns. **Holst moved to approve the conditional use permit for expansion of a nonmetallic mining quarry operation for CMC-Spring Valley due to the fact it is not found to be contrary to the public interest, health, safety or character of the area, with condition #1 All mining activities on this parcel shall be conducted consistent with the conditional use permit issued for the adjacent parcels, as amended on April 15, 2009, including renewal and reporting dates/Fetzer seconds. All in favor. Passed.**

**Discuss take action on a request for a rule exception to the requirement that an erosion control plan be completed for a 3-Lot major CSM for George Jacques, owner of property located in the SE ¼ of the SE ¼, Section 35 and part of the SW ¼ of the SW ¼, Section 36, T27N, R20W, all in the Town of Clifton, Pierce County, WI. Chairperson Barkla invited Brad Bohlen forward:** Mr. Bohlen, Bohlen Land Surveying, stated Land Management staff has visited the site and he believes they haven't found any erosion problems. **Staff Report – Emily Lund:** George Jacques is in the process of creating 4 lots on his property. The lot number will begin at '2' as there are two 'Lot 1' parcels nearby. Lot 2 is a pending Minor CSM approval that requires DOT approval of a quit claim deed, which will deed future right-of-way to DOT. Then staff will approve the CSM and it will be recorded. This was anticipated to be completed prior to the committee meeting. The Major CSM is proposed to create his 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> parcels within a five-year period. Pierce County Code (PCC) requires erosion control plans for the creation of Major CSM sites per PCC § 237-11 and per § 237-17A(3)(a) states that accompanying information shall include erosion control plans:

Rule exceptions per PCC Subdivision of Land § 237-30 states:

- A. Where the Land Management Committee finds that undue difficulties will result from strict compliance with the regulations of this chapter or better design will result, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such rule exception will not have the effect of nullifying the intent and purpose of this chapter.

- B. A majority vote of the entire membership of the Land Management Committee shall be required to grant any rule exception to these regulations and any rule exception thus granted shall be entered into the minutes of the Committee setting forth the reasons which, in the judgment of the Committee, justified the rule exception.

The property is located in Section 35 and 36, in the Town of Clifton. Surrounding land use is mostly agricultural and some residential. The zoning district on the property is light industrial. Staff visited the site on 6/11/09 and noticed the site is stable and there were three cover crops. WisDOT is requiring that a turn lane be constructed off of State Hwy 29 to serve future uses and has stipulated that the land owner upgrade the road to Town Road standards when the uses that the driveway serves generate in excess of 100 vehicle trips per day. Rather than completing future traffic studies on the driveway, the owner is opting to construct a road meeting town road standards prior to site development. WisDOT has reviewed and conditionally approved all plans. An update, DOT just approved the plans on the 16<sup>th</sup>. WisDot access approval, which is required for CSM approval, has been contingent upon their review and approval of engineered plans for future turn lanes, access road construction and stormwater plans. The actual construction of the road intended to serve the proposed lots is not necessary for CSM approval, as the road frontage requirement is met with frontage on Highway 29. Future development activity on any of the proposed lots will trigger the need for site plan review by the LMC. Potential stormwater and erosion issues generated by the development of the proposed lots would be addressed at that time. The following conditions must be present for a proposed land division to qualify for this type of rule exception (LMC policy):

1. No roads are being constructed as part of the land division.
2. No erosion problems are present on the property.
3. There are no problems with stormwater or surface water flow on the subject property or that originate on the subject property.

**Staff Recommendation:** Staff recommends the Land Management Committee consider whether or not this situation warrants a rule exception.

Rohl asked if as development occurs will there be a need for an erosion control plan. Sanden stated it would be with site plan review. Sanden questioned the access and utility easement, is that the requirement of the DOT? On the survey map there is the dogleg, that's not the same as the turn lane? Bohlen stated the turn lane is on Hwy 29, the cul de sac is a private road and part of the certified survey map, not part of the DOT approval. Sanden asked if the private road is already constructed. Holst stated it is proposed to be put in place and that's why no roads are being built at this time. **Holst moved to grant the rule exception to the requirement that an erosion control plan be completed for a 3-Lot Major CSM for George Jacques due to the fact it meets conditions #1 - #3 of the LMC policy/Rohl seconds. All in favor. Passed.**

**Discuss take action on a request for approval of a 3-Lot major CSM for George Jacques, owner of property located in the SE ¼ of the SE ¼, Section 35 and part of the SW ¼ of the SW ¼, Section 36, T27N, R20W, all in the Town of Clifton, Pierce County, WI. Chairperson Barkla invited Brad Bohlen forward:** Mr. Bohlen explained it is basically the same as for the rule exception. There are three lots and an outlot that is the private roadway for future construction. **Staff Report – Emily Lund:** The property is in Section 35 and 36, in the Town of Clifton. Surrounding land use is mostly agricultural and residential. The zoning district is light industrial. The Town of Clifton minimum lot size (3 acres excluding right-of-way) has been met. Slope information has been submitted and complies with Zoning Code requirements. The WisDOT conditionally approved access for these 3 lots on June 16, 2009 with 9 conditions. The driveway permit will be issued probably tomorrow (according to Tammy at the DOT). Complete soil tests were evaluated by Mark Iverson and conventional septic systems were recommended. Property is not in the Farmland Preservation Program. Pierce County Surveyor, Bob Lannan, reviewed and approved the CSM. Survey review fees were paid. Lots 3 & 4 are proposed for seasonal boat storage and Lot 5 is proposed for a landscaper for equipment and product storage. Site plan review per Pierce County Zoning Code Ch. 240-75(E) will be

addressed for these uses in the Industrial Zoning District. The proposed road shall have a street named in accordance with the county's uniform numbering system and the north/south of outlet 1 shall be numbered 1250<sup>th</sup> St and the east/west of outlet 1 shall be numbered 655<sup>th</sup> Avenue.

**Staff Recommendation:** If a rule exception has been granted to the erosion control plan requirement, staff recommends the Land Management Committee approve this Major CSM with the following conditions:

1. All required WI DNR and WisDOT permits shall be secured and any conditions addressed prior to any construction.
2. Future road shall be named in accordance with the county's uniform numbering system and north/south of outlet 1 shall be numbered 1250<sup>th</sup> St and the east/west of outlet 1 shall be numbered 655<sup>th</sup> Avenue.
3. Applicant shall obtain all necessary sign permits.

**Sanden moved to approve the 3-Lot Major CSM for George Jacques with conditions #1 – 3/Fetzer seconds. All in favor. Passed.**

**Discuss take action on a request for site plan review for Nestle Purina, owner on property located in the SW ¼ of the SW ¼, Section 35, T25N, R18W, Town of Trenton, Pierce County, WI. Chairperson Barkla invited Gary Miller forward:** Mr. Miller, Principal Civil Engineer for the Corporate Offices in St. Louis, MO, stated with him tonight is Bob Hamilton, Project Manager, Jon Kelly, Engineering Manager in Hager City, Gary Waltz, also in Hager City, Rich Sharp, Civil Consultant for the Stormwater activities on the site development on the property. We are doing a capacity expansion and adding a building to double the size of our freezer where we process frozen meat and an additive for pet food. We're putting on a receiving dock and then another room to let it temper to take it directly to process. We're also adding a warehouse to provide for additional ingredient storage and a proposed tower that will house a spray dryer (filter mat dryer). We had a variance meeting for the setback along County Rd VV and exceeding the height requirement. **Staff Report – Jim Kleinhans:** They have provided a great deal of information. Nestle Purina obtained two variances from the Board of Adjustment for some relief on our setbacks. The property is zoned Industrial which provides for great deals of traffic, the need for rail access and the presence of noise and other factors which could pose a nuisance in other districts. We have a residential area in Hager City just across the railroad tracks. The intensity and use of the land is intended to facilitate the total range of industrial uses generated by heavy industrial uses. Looking at aerial photos the landscape buffers are pretty well established, put in by Ralston Purina in 1970. Under Section 240-75 Site plan review. Just about everything listed in the zoning code has been detailed in the maps provided such as parking areas, landscaping, neighboring uses, loading and unloading areas, traffic generation circulation, sewer systems, drainage, lighting, signage. Access road is 805<sup>th</sup> St off of Hwy 35. This road is pretty much maintained by Nestle Purina. Everything is pretty much paved in the facility with the exception of the fire lane that runs on the back side of the property along the railroad tracks. There are some changes being made along that road where the gas vaporizer and gas meter are going to be relocated near the facility entrance and the gas main that serves this facility runs directly from Lakes Gas on the other side of the railroad tracks. The domestic wastewater disposal system was installed in 1972 along 850<sup>th</sup> St. There is an existing entrance sign on 805<sup>th</sup> St and Hwy 35 that they are proposing to make more noticeable. Jon Kelly provided a map that showed the existing location and a proposed change where they would illuminate the sign. One of the issues of the current location is the sign is located in the highway right-of-way. Section 240-63B(1) addresses nonconforming signs stating nonconforming signs in the public right-of-way shall be removed or brought into compliance. Kleinhans indicated that he checked with the Department of Commerce on this issue and that if any change occurs it has to meet right-of-way setbacks. To meet setbacks the sign has to be 120 ft from the centerline which would be back in the trees. One of the issues brought up during the Board of Adjustment meeting was the trucks traveling in the evening miss the entrance and have to turn around. This is a 45 acre site that has a great deal of impervious surface based on roads, buildings, parking

areas. Typical soils are coarse textured and sandy so it has good drainage. The facility does receive a lot of surface water from the railroad tracks in Hager City. They have proposed a plan to handle the surface runoff water from the buildings and site. (See map C4-2). They also have a series of storm drains developed on the facility that takes water from some of the truck docks and some of the buildings. They are engineering the site to deal more with surface water. Plans are approved and submitted for your review. One area that I would like to address is any of the grading be seeded and mulched by Sept. 15 2009 to establish a good seeding rate over the winter. The proposed processing building will be 163 ft by 166 ft with a maximum height of 85 ft. The proposed freezer, tempering and receiving building addition will be 51.5 ft by 124 ft. The facility currently employs about 50 people working 3 shifts. The site plan defines 31 parking spaces including 7 truck docks for loading and unloading of product and raw materials. The zoning code calls for so many parking places for warehouse space, manufacturing, and for employees. The code recommends 66 spaces. We should come back to this at the end of the report to determine what is adequate. The exterior lighting plan shows location of lamps along the new access road. Those lamps have directional illumination pointing down with on/off switches at the base because this area is subject to intense insect hatches because of proximity to the river, to try to reduce interference of high infestations of insects during the summer. The site is completely enclosed with a chain link fence for security. The architectural plans show that building will be made with reinforced concrete panels to match the existing structures. The Dept of Commerce will have to approve the commercial building plans prior to a land use permit being issued by the County. **Staff Recommendation:** Staff recommends the Land Management Committee consider the information provided in this report for the proposed Nestle Purina Petcare facility expansion and suggest modifications where deemed appropriate. I believe that the site plan review was made fairly easy by the detail that was provided by this company but two things that need to be discussed further are the signage and the parking. Fetzer asked if the proposed parking is for 31 spaces. Mr. Miller stated we're showing striped 31 spaces but the site has open parking. We created a drawing and we showed another area that would provide 46 spaces if you would like them striped. We prefer to have open parking. First shift has 35 people, second shift has 8 and last shift has 7 people. We stripe next to the office for visitors. Holst stated he is relatively familiar with the site and stated there is a lot of space there and feels its better not to have stripes. Fetzer asked if the parking area has to be striped to comply with the code. Kleinhans stated no, just make the employees aware of the open parking area. I ran numbers on the zoning code and came up with 66 parking spaces because of the square footage. The warehouse space is what brought the numbers up. Rohl asked if the number of employees would increase with the expansion. Mr. Kelly stated initially no, once the equipment is in place there is the possibility of additional employment. Fetzer asked for a rough guess on the number. Mr. Kelly stated it's a small operation so maybe a 10% increase. Fetzer asked about the sign. Mr. Miller stated the issue with the truck traffic is on Hwy 63, once they complete the turn, get in their lane and speed up, they are past the plant and have to turn around. If there was a sign 500 ft from the stop light stating that the Purina entrance is within 1500 ft on the left; a DOT sign so they can slow down. Kleinhans stated it has to be off the right-of-way and we can't permit three signs per facility. We could have one at the office and one at Hwy 35 at the entrance and then we could permit one down the road a ways. Holst asked if there have been complaints from the neighbors about trucks turning around. Mr. Miller stated at the Town meeting Mike Miller stated a trucker got stuck. The wheel did damage to the culvert and had to be pulled out causing \$1200.00 damage. Mr. Kelly stated if you go in front of our facility there are black marks where the truckers are trying to get stopped. We saw this as a safety issue. We would like to get more signage and be more visible. The street sign off 805<sup>th</sup> St runs parallel to Hwy 35. It should be at a 90 degree angle. Holst asked if that is a Town or Private Road. Mr. Kelly stated it's a Town Road. Holst asked if they maintain the road. Mr. Miller stated we do. Mr. Waltz stated they do some plowing. Chairperson Barkla stated Mr. Pichotta and he were talking about the neighbors having concerns about the smell. Mr. Miller stated this came up at the variance meeting and they weren't aware of any odor complaints. He stated that a large piece of equipment will be replacing one that is over 30 years old; new technology, better scrubbing action, more particular collection, replacing four

stacks with one large stack. We're modeling that so the concentration at the property lines is low. Mr. Hamilton stated if there are any complaints people need to let the local plant know. We don't want to be an inconvenience to anyone and Cheryl Kuhn would be the person to contact. Sanden asked if there is an increase in the net impervious surfaces. Mr. Miller stated yes. Sanden asked if the infiltration basins are adequate for the increase. Kleinhans stated their engineering facility out of St. Louis designed this to accommodate surface water off site. Mr. Miller stated the infiltration basins are for the waste treatment. We're handling the stormwater off the impervious surfaces for the State of Wisconsin requirements. Anything associated with industrial activities is captured and goes through our waste treatment. Anything taken off the blacktop with oils and grease drippings off the trucks, working with the state, we need to collect that in what is called a fore bay area, a hole in the ground with wood chips or whatever, then leave that. We have a peculiar site, nothing leaves our site at the surface. Everything drains to our property and causes some issues. Sanden is the trench system covered by the Dept of Commerce? Mr. Miller stated yes, the trench is for the railroads culvert. **Holst moved to approve the site plan review for proposed processing and product delivery building expansion for Nestle Purina with the following conditions:**

- 1. Signs shall be brought into compliance.**
- 2. Parking shall be as presented with 46 spaces.**
- 3. Seeding and mulching shall take place prior to September 15, 2009.**

**Fetzer seconds. All in favor. Passed.**

**Discuss take action on a request for a farmland preservation agreement for Donald L. Rohl, owner on property located in the S ½ of the NW ¼ of Section 26; and the S ½ of the NE ¼, SE ¼ of the NW ¼, N ½ and the SE ¼ of the SE ¼ of Section 27, T26N, R17W, all in the Town of Ellsworth; AND the S ½ of the SE ¼ and the N ½ of the SW ¼ of Section 2; and the N ½ of the NE ¼ of Section 10, T25N, R17W, all in the Town of Hartland, Pierce County, WI. Staff Report – Emily Lund:** This request is for a 15 year Farmland Preservation Agreement including 388.048 acres. The property has been in the Farmland Preservation Program under agreement number 6235-2 and 6173-1. The property is located in Sections 26 & 27 of Ellsworth and Sections 2 & 10 of Hartland. The major farm activity is dairying and the second major farm activity is livestock and grain production. This application states 323.348 acres are used for cropland, 7 acres used for woodland, 39.8 acres used for pasture and 17.9 acres for other uses. The Land Conservation Committee "certified that the applicant's farm operation is conducted in compliance with soil and water conservation requirements adopted by the County Land Conservation Committee" on 5-28-2009. The Land Conservation Dept stated the applicants have the required Nutrient Management Plan on file in their office. The majority of soils on the property are considered prime, with the remainder being of statewide importance and prime if drained. **Staff Recommendation:** Staff recommends the Land Management Committee approve this farmland preservation agreement and forward a recommendation to the Pierce County Board of Supervisors. **Don Rohl recused himself from discussion and voting. Holst moved to approve the farmland preservation agreement for Donald L. Rohl/Sanden seconds. All in favor. Passed.**

**Discuss take action on a request for a farmland preservation agreement for Richard & Darlene Traynor, owners on property located in the NW ¼ and the E ½ of the SW ¼, Section 4, T26N, R16W, Town of El Paso, Pierce County, WI. Holst moved to approve the farmland preservation agreement for Richard & Darlene Traynor/Rohl seconds. All in favor. Passed.**

**Discuss take action on a request for a farmland preservation agreement for Lawrence & Sharon McCormack, owners on property located in the NE ¼ of Section 22 and the W ½ of the NW ¼, Section 23, T25N, R18W, Town of Trenton, Pierce County, WI. Holst moved to approve the farmland preservation agreement for Lawrence & Sharon McCormack/Rolh seconds. All in favor. Passed.**

**Discuss take action on a request for a farmland preservation agreement for Raymond & Luella Dettling Trust, owners on property located in the SE ¼ and the W ½ of NE ¼ and the E ½ of the NW ¼, Section 9 and the E ½ of the NW ¼ and the N ½ of the SW ¼ of Section 17, T24N, R15W, all in the Town of Maiden Rock, Pierce County, WI. Holst moved to approve the farmland preservation agreement for Raymond & Luella Dettling Trust/Rohl seconds. All in favor. Passed.**

**Departmental Update and Future Agenda Items**

There will not be a meeting on July 1, 2009.

Opening of the Trimbelle Recreation Area will be on June 25, 2009.

At the July 15, 2009 meeting we will have a public hearing for the considered adoption of the Comprehensive Plan

Public hearing for an accessory residence in the Town of Salem

Motion to adjourn at 8:00pm by Holst/Rohl seconds. All in favor. Motion carried. Respectfully submitted by S. Hartung