

# PLANNING, RESOURCES AND DEVELOPMENT COMMITTEE PUBLIC HEARING

August 29, 2011  
County Board Room – Administrative Center  
6:00 p.m – 7:32 p.m

**MEMBERS PRESENT:** Donald Meyer, Marilyn Pedretti, Tina Wehrs, Don Bina, Bob Keil, Bev Mach  
**MEMBERS EXCUSED:** Dennis Manthei  
**MEMBERS ABSENT:** None  
**OTHERS PRESENT:** Jeff Bluske, Jonathan Kaatz, Bryan Meyer, Ron Chamberlain, Nathan Sampson (Recorder)

## CALL TO ORDER

The Recessed Meeting and Public Hearing of the Planning, Resources and Development Committee was called to order by Donald Meyer, Chair, at 6:00 p.m. Let the record show that this meeting is called in full compliance with the requirements of the Wisconsin Open Meetings Law.

The procedures for tonight's meeting were explained to those gathered. This meeting is being recorded.

**CONDITIONAL USE PERMIT NO. 840** F. David & Diane Wolf, W2105 County Road B, West Salem, WI 54669. Petitions to expand a non-metallic mining operation to extract sand as borrow material originally approved by the La Crosse County Board of Supervisors on September 22, 2005, to include a new 7.37 acre parcel zoned Exclusive Agriculture District and described as: Part of the Fractional NW-NE, Section 6, T16N, R5W, and part of Government Lot 7, Section 31, T17N, R5W, La Crosse County, Wisconsin described as follows: Commencing at the northeast corner of Section 6, S70°31'13"W 1825.75' to the southwest corner of Conditional Use Permit #693 and the POB, N42°25'31"W 116.89', N65°06'57"W 599.90', N78°19'36"W 305.96' to the west line of said Fractional NW-NE, along said West line N00°32'47"E 190.41' to the northwest corner of said Fractional NW-NE and the southwest corner of Government Lot 7, along the West line of said Government 7 northerly 77.46', N75°57'30"E 240.37', southeasterly 761.37', more or less, to the northwest corner of said Conditional Use Permit #693, south 400.00' to the POB. T/W an expanded haul road. Town of Bangor/Town of Burns.

**Appearing in favor:** F. David Wolf, W2105 County Road B, West Salem, WI 54669. Want to expand more acreage of the already existing sand pit. After sand is extracted will put topsoil back and use it for pasture. Nothing new – road is there, town chairs approved the non-metallic mining permit. We take out about 5,000 yards/year and it's 130,000 yards – we might want to extend it to 2025 or 2030. It said 15 years, but that would only take it up to...if you did 5,000 yards/year; it'd take 20 (plus) years to get out 130,000 yards.

QUESTION Bluske: This is just done in summer months?

ANSWER Wolf: Just in the summer months, yes.

QUESTION Bluske: The life expectancy for the quarry is to 2025?

ANSWER Wolf: Yes.

QUESTION Pedretti: How many truckloads is that per day?

ANSWER Wolf: It varies. Sometimes they haul 4-5 trucks per day at most, then sometimes they won't haul for days or a week, then maybe 5-10 per day. No more traffic now than with the old one.

QUESTION Pedretti: The old one is covered up and reclaimed currently, or you're in the process of reclaiming?

ANSWER Wolf: Some of it's reclaimed, but there's still about 80,000 yards in that pit, but I need to add on because the contractor was worried he'd run out of sand. After I get the sand out I'll put the topsoil back, reseed it and pasture it. Right now if it starts to erode, it just washes.

QUESTION Pedretti: Any estimate on when you'll close the 4.5 acres?

ANSWER Wolf: In 3-5 years.

QUESTION Pedretti: So the new one is looking ahead 3-5 years?

ANSWER Wolf: Right, but they're connected; it's a continuation of the hill to the west.

QUESTION Pedretti: But you won't have both open and running at the same time?

ANSWER Wolf: No.

QUESTION Bina: You're using it for fill sand, not for extracting natural gas like some of the sand mines around the county?

ANSWER Wolf: No, it's fill sand. Concrete people use it for base sand. It has no stone in it, and it packs good. They use it for bedding sand in barns.

QUESTION Bluske: When I took the committee out there it looked like you may have already went into that 7 acre site?

ANSWER Wolf: No. The fill down there was brought in. We'll level that out and seed it – that has nothing to do with that sandpit. Nothing taken out of the new sandpit yet.

QUESTION Bluske: The fill you brought in isn't contaminated, is it?

ANSWER Wolf: No, it came from where they put sand in at the co-op, it's not contaminated at all.

**Appearing in opposition:** Daryl Wermedal, W2255 County Road B, West Salem, WI 54669. Neither for or against. Would just like some questions clarified. If pit size is increased, can it be sold for frac sand mining purposes in the future?

ANSWER Bluske: That's not part of his request now. If we found out he was selling it for a higher commercial use, he'd have to come in and redo his Conditional Use Permit (CUP).

QUESTION Wermedal: But can it be sold?

ANSWER Bluske: He can sell it, but his CUP would terminate and a new company would need to re-apply.

QUESTION Wermedal: Is there a limit to the number of trucks per day?

ANSWER Bluske: If the committee wants to put that in there or staff make a recommendation, yes.

QUESTION Bluske: Have you seen a lot of truck traffic? David said 5-10 average.

ANSWER Wermedal: That's about right. And it's not every day. My question is that if the pit increases, will we have semis, dump trucks slowing down to turn. A couple years ago traffic was re-routed on Buol Road when the bridge was replaced by Schwanns. Then the speed limit on Buol Road was 55. They re-routed and it went to 45. It's stayed that way since. We see a lot of R&L trucks come by. If it stays the same it's no big deal. If it increases, is there any way the traffic can be slowed down from Davis Road to the Hot-Line corner? If they went 45 from Davis to Hot-Line, that's where everybody slows down anyway. We get a lot of jake braking. I wanted to bring those points up.

REMARK Bluske: Last week we talked about these concerns and I passed them on to our Highway Commissioner. He's here this evening, he may want conditions placed on it. He can talk about speed limits and jake braking.

REPLY Wermedal: I did talk with him and he mentioned there's a set way of doing that. I bring it up more as a point of clarification.

No one else appearing in favor or opposition.

REMARK Bluske: We've had comments on this from the Town of Burns. Maybe we could ask if he's talked to the Town of Bangor, we didn't get anything from them.

REMARK Wolf: I went to both meetings, the Town of Burns and Bangor and I have a signed letter from both chairmen. Didn't you get a letter from both?

REPLY Bluske: I got a resolution from the Town of Burns Clerk. You mean in your original packet?

REMARK Wolf: I've got two signed letters from the town chairmen in my packet. You didn't get a copy? I have it if you want it.

REMARK Bluske: I could read that into the record then.

REMARK Wolf: I was there – the chairmen told the clerk to send a letter to you.

QUESTION Bluske: We didn't get it. Tell the committee the action they took. What action did they take?

ANSWER Wolf: They said in addition to the existing sandpit, they had no problem with it. The same rules that go with this one go with the other one. The traffic is the same, it won't increase. Ken Manke and Matt Hoth – they passed it unanimously.

**Correspondence**, Bluske: Resolution 8-23-2011-2 from the Town of Burns (read into the record).

QUESTION Bina: I got a call from Bill Hansen. He was concerned about the dust. Bill isn't in good health. I asked if he sent anything down here and he said "No." He said when the sand is coming through, especially when they hauled sand to the co-op, it was sticking to the side of his house. His house was turning color and he had to scrub it down to get the sand off. He wasn't opposed, just didn't like the blowing sand because of his health problems. Is there something we could do to keep the sand down, especially around the yard?

ANSWER Bluske: If the committee wants, you could require him to wet the road down before they use it.

REMARK Bina: He was really concerned but said he wasn't coming down. He has a heart problem and doesn't want to get too excited. He asked if I'd say something at the meeting. He wasn't opposed to the sand being taken out. He says there's way too much dust, he doesn't even want to be outside.

QUESTION Bluske: Can we turn the aerial photo back on?

QUESTION Pedretti: Is it the trucking he's opposed to?

ANSWER Bina: The trucking that makes the dust. The wind blows and the sand flies.

QUESTION Pedretti: Don't they need to put a tarp on their trucks?

QUESTION Keil: Is it off the box or the road?

ANSWER Bluske: They're not going that fast. It's just a field road. I imagine it's being stirred up by the tires.

REMARK Bina: I don't know what can be done about that.

REPLY Wolf: Most of the time there's only 3-4 trucks going out a day. When the co-op hauled out, they hauled more. I think they watered it down once. That we could do if we hauled out like we did. Otherwise, 1 or 2 trucks a day won't create enough dust.

**Staff Recommendation**, Bluske: Approval, subject to the following ten (10) conditions:

1. Approval is granted for the extraction and sale of fill sand and bedding borrow materials only from this 7.37 acre site including the use of the existing 1.47 acre haul road;
2. A list of all haulers authorized to use this site shall be supplied to the Zoning, Planning & Land Information Department;
3. Hours of operation: 7 am – 6 pm, Monday thru Friday;
4. The owner shall comply with all Non-Metallic Mining regulations for reclamation of site in conjunction with adjacent site;
5. An approved Erosion Control Permit is required;
6. There shall be no tracking on County Road B. If there is any spillage, it shall be cleaned up by the end of each work day;

7. All loads shall be covered before leaving the site;
8. Max of fifteen (15) truck loads per day;
9. No blasting allowed; and
10. This permit is non-transferable

QUESTION Meyer: Can you live with those (conditions)?

ANSWER Wolf: Yes.

**Motion Keil/Wehrs to approve Conditional Use Permit No. 840 with the conditions.**

QUESTION Pedretti: What does it mean "when the mining operations are complete"? What does that mean – does he notify you that the 4.5 acre parcel is complete?

ANSWER Bluske: Part of his agreement under the Non-Metallic Mining Ordinance – back in 2005 this committee approved his non-metallic mining permit – it was #24. He has to reclaim the site, but it's up to him if he wants to leave it open because he pays \$200/acre every year for leaving it un-reclaimed. That's his choice. When he's done with the site he has to totally reclaim it. Our Land Conservation Department holds a bond. They've indicated that bond will be amended to include this new acreage.

Discussion on condition #1 limiting sale to fill and bedding purposes.

QUESTION Meyer: You said 15 trucks?

ANSWER Bluske: Maximum of fifteen (15) trucks/day.

REMARK Meyer: That's far from what he talked about – 4 or 5.

REPLY Bluske: That's not many for a whole day.

**6 Aye, 0 No, 1 Excused – (Manthei). Motion carried.**

**ZONING PETITION NO. 1874** Dan & Jo Baldrige with Cindy Gerke & Associates, 1283 County Road PH, Onalaska, WI 54650; acting on behalf of Green River Capital LLC, Nova Star Mortgage Funding Trust Series 2005-1 and the Bank of New York Mellon, 4708 Mercantile Dr N, Fort Worth, TX 76137. Petitions to rezone 17 acres from the Exclusive Agriculture District to Agriculture District "A" for continued residential use and to accommodate a foreclosure sale at W4217 County Road T on land described as: The North 17 acres of NW-NE of Section 20, T18N, R6W. Town of Farmington.

**Appearing in favor:** Dan Baldrige, 920 Brickl Road, West Salem, WI 54669. Property is zoned Exclusive Agriculture, we're requesting a change to Ag A to sell the property. It's been foreclosed on and in the process of being sold. The acreage is less than the required amount for Exclusive Agriculture, therefore we're asking for it to be rezoned to Ag A so it can be sold.

QUESTION Pedretti: Was this parcel broken off a family farm?

ANSWER Baldrige: It's my understanding, it was part of the original Kastenschmidt, and a daughter owned it. That's why it was allowed. She is the "foreclosee" and once we try to sell it again.....

No one else appearing in favor or opposition.

**Correspondence,** Bluske: Correspondence from the Town of Farmington Plan Commission dated August 21, 2011 (read into the record).

**Staff Recommendation,** Bluske: Approval. Land use will not be changing, but approval will be subject to the recording of deed restrictions stating:

1. There can be no further subdividing of this parcel; and
2. Only one (1) single family residence is allowed.

**Motion Bina/Keil to approve Zoning Petition Nol. 1874 subject to the recording of the recommended deed restrictions.**

**6 Aye, 0 No, 1 Excused – (Manthei). Motion carried.**

**ZONING PETITION NO. 1875** Donald M Molitor, W1663 County Road A, Mindoro, WI 54644. Petitions to rezone from the Exclusive Agriculture District to Agriculture District "A", a 1.5 acre parcel for continued single family residential use at W1663 County Road A on land described as: Lot 1 of Certified Survey Map No. 131 in Volume 7. Town of Farmington.

**Appearing in favor:** Donald Molitor, W1663 County Road A, Mindoro, WI 54644. Bought the house a couple years ago and about a year after that I got a letter saying it was zoned incorrect. I didn't get anywhere with the old owner, so that's why I'm here.

QUESTION Pedretti: The previous owner was the family farm?

ANSWER Molitor: Originally, they had 100 and some acres, but they sold the hunting ground. Where I live and the neighbor to the right, they owned the land together. They sold the hunting land.

QUESTION Pedretti: This is a split of the main farm and it was split further – the hunting portion and this residential?

ANSWER Molitor: Yes.

QUESTION Pedretti: Why go Ag A instead of residential?

ANSWER Molitor: Doesn't matter to me, I can go either way.

No one else appearing in favor or opposition.

**Correspondence**, Bluske: Correspondence from the Farmington Town Planning Commission dated August 22, 2011 stating the petitioner is on the August 29, 2011 Zoning Commission agenda (read into the record).

**Staff Recommendation**, Bluske: Approval, land use does not change.

**Motion Keil/Bina to approve Zoning Petition #1875.**

QUESTION Pedretti: No deed restrictions?

ANSWER Bluske: The Town of Farmington wouldn't allow anything less than two acres, it cannot be split.

QUESTION Pedretti: And why did staff first recommend Residential "A"?

ANSWER Bluske: The parcel isn't large enough to have animals on it. The history is there were three men who went together to buy hunting land. Two built homes, which they can do under Exclusive Ag. They both sold the homes to somebody else. At that point they need to be rezoned.

QUESTION Pedretti: But Ag A is appropriate out there?

ANSWER Bluske: Yes.

**6 Aye, 0 No, 1 Excused – (Manthei). Motion carried.**

**CONDITIONAL USE PERMIT NO. 842** Mark S Russell, 2912 Ice Cap Rd, Sparta, WI 54656; d/b/a Design Concrete. Petitions to store construction equipment and tools in conjunction with a concrete contractor's business on 3.76 acres at W4991 County Road Q, Holmen, WI 54636, on land described as: Lot 2 of Certified Survey Map No. 54 in Volume 14. Town of Farmington.

**Appearing in favor:** Mark Russell, 2912 Ice Cap Rd, Sparta, WI 54656. My intent is to run a part-time concrete business along with my 40 hour/week job as a construction superintendent. I do 7-8 jobs/year proposed on nights and weekends. I included a few photos of the property. I have an existing shed to store light construction equipment, Bobcat, miscellaneous tools. I'll store a skid steer trailer outside and a two ton dump truck.

QUESTION Bina: Will you work out of here or Sparta? You're not moving there –

ANSWER Russell: No, I bought the property from my brother-in-law. I built the shed years back, used it for storing mowers, personal toys.... I do this as a sideline business, more for friends and family. I don't advertise no tax ID number. It's a minimal unobtrusive type, basically storage of construction equipment.

QUESTION Bina: So, your jobs will be over in that area?

ANSWER Russell: I do jobs anywhere from Holmen, Onalaska, La Crosse, West Salem area.

QUESTION Pedretti: You built this a few years ago as a recreational building?

ANSWER Russell: Correct.

QUESTION Pedretti: When you built it, did you think you'd start a business at that point?

ANSWER Russell: I didn't view it as a business. I've been doing concrete side work for a number of years. As times change I've brought equipment to make the job easier. I have no employees and do it on my own, nights and weekends.

QUESTION Pedretti: So, you have this stuff stored in there and you're currently using it.....

ANSWER Russell: I keep my Bobcat there and some power tools, along with 4-wheelers, snowmobile, miscellaneous items.....

QUESTION Pedretti: Do you have a business ID tax number?

ANSWER Russell: No.

QUESTION Pedretti: Farmington will allow a building like this and they don't need any special zoning?

ANSWER Bluske: This was part of the Walter Gilbert farm. Does the brother-in-law live next door?

REPLY Russell: He owns 30 acres. We went through the rezone process last year when I bought that 3.76 acres. Originally, it was built on a touch over 35 acres. We built it with the intent of storing personal property, more so toys and stuff.

QUESTION Pedretti: When was it rezoned?

ANSWER Russell: Last year I believe.

REMARK Bluske: The intent is to remain residential, that's the reason the garage was added.

QUESTION Bluske: Five (5) years from now, new business picks up and you get more employees. Were you looking at sanitation or well?

ANSWER Russell: My intent with that property was someday building a spec house and selling it to support my daughter's college education. I have no intent of starting a construction business. I have a 40 hour/week superintendent position now. I was confused when I received notice from the county that I needed to apply for this Conditional Use Permit to keep a few pieces of construction equipment in there. I'm doing this to comply with the county law.

REMARK Bluske: The reason the letter was written was because the committee was out on tour two (2) months ago and we noticed a semi-trailer and other stuff not associated with residential use and that's all that district allows. You admitted storing contractor equipment there. That's why you're here.

REMARK Russell: We bought the semi-trailer to store some household stuff after we sold our house in West Salem. I didn't know you couldn't have a semi-trailer in La Crosse County. I've removed it from the property to come in compliance. I do store a couple of trailers there; I have an enclosed trailer for some of my recreational use – snowmobiles and 4-wheelers – along with the dump truck that sits there. What probably really set it off was the pop machine sitting on the property, which I use in my other job. I put it on a construction site and sell pop. I was in transition from one job to another and that's why it was sitting there. I put it inside because I haven't taken it to the job yet. That's what brought attention to that there may be a full-fledged business running out of there.

QUESTION Bluske: If you look at his handout, you'll see the semi and another trailer in one of the pictures. When the committee was there last week, there were some racks or forms on the side of the building. What were those?

ANSWER Russell: There's a small utility trailer there. The blue racking I picked up at a sale recently. I plan to put it in the shed to stack three different Bobcat buckets.

REMARK Pedretti: You're wondering why you have to go through all this. Your neighbors have a right to know what's happening. To bring a business in is a whole different thing. When you came in for the rezone a year ago, you'd have had to notify the neighbors of this. That's why we need to do this. If you're running a business, you need to be up front about it. You need to follow the same practices any business does.

REPLY Russell: As far as the property owners, they're family. My father-in-law lives to the left; my brother-in-law owns property to the right. They were well aware....

REMARK Pedretti: Maybe those neighbors, but not the ones across the street, or someone in the neighborhood seeing business trucks – it could generate that. That's why we need to.....

REPLY Russell: Sure. I've done work for the neighbors – the Wortman's down the road – I've done work for him. I talked to Sue King across the street. She's aware of what's going on. I'm at that property maybe once a week for 30 minutes picking up a trailer.

REMARK Pedretti: We're not saying you're a bad neighbor, but that's why we need to do these things, to make sure you're a good neighbor and that your neighbors are aware.

No one else appearing in favor or opposition.

**Correspondence**, Bluske: Correspondence from Town of Farmington Clerk Betty Sacia dated August 15, 2011 (read into the record). No further correspondence.

**Staff Recommendation**, Bluske: Denial, for the following reason: There's no home on the site. Safety is an issue since no one lives on the site. It's adjacent to a residential use. There's no septic or well for employees. He'd need a state approved plan for the commercial use of the building, along with a zoning/occupancy change for changing from a garage to a commercial use if approved.

QUESTION Bina: If we deny this, he can't use the garage at all?

ANSWER Bluske: He could use it for his snowmobiles or trailers.

QUESTION Bina: Bobcats, end loaders?

ANSWER Bluske: No.

QUESTION Wehrs: He could store anything not associated with running a business, right?

ANSWER Bluske: Right.

REMARK Wehrs: People who run a business, with their tax ID number, if we said anybody could run a business out of their garage it provides an unfair advantage to you.

REMARK Bluske: You're right Supervisor Wehrs. In order to create a level playing field, we usually indicate that contractor's equipment isn't hidden. We require that equipment is reported annually to the local assessor's office and people pay their tax based on the work they do. If this were approved, there would have to be conditions.

QUESTION Wehrs: What would Mr. Russell have to do? Would he need a well and septic?

ANSWER Bluske: He would have to introduce a home site to this. The primary use is still residential, not commercial. Right now it's all commercial. That's typically why municipalities don't allow garages to go in first.

QUESTION Mach: He'll also need a tax ID number – what are some other things?

ANSWER Bluske: Because the principal use should be residential, everything should be stored inside if you put conditions on it. There'd have to be hours of operation, no signage, limit the number of employees, businesses might accumulate sand and aggregate outside. When the commercial use takes over as the

primary use rather than the residential, that's when we take a look at it and say "No." But one of our requirements for a change in use from a residential use garage to a commercial use requires a new Zoning/Occupancy Permit; it's being used differently than a garage.

QUESTION Meyer: Would you be willing to do these things?

ANSWER Russell: As far as not recording income and stuff like that, I record all that on my social security number, and have for the past 10-15 years. I'm not trying to skirt around the government by any means. I'm dumbfounded about reporting assets to the assessor. I've never heard of that.

REMARK Bluske: In every municipality, the local assessor is required to send anybody in business, a personal property form, where you're required to report business assets. Then you get a personal property tax bill from the municipality where you live; if this were approved it would come from the Town of Farmington. As of the first of the year, it's the property you own in relation to this business. He's indicated he has a Bobcat, two ton truck and enclosed trailer, Bobcat trailer, miscellaneous power tools that after a few years are depreciated down to nothing. The town's assessor decides if they have any value after they've been depreciated.

QUESTION Bina: If his residence is in Sparta, would his operation be taxed from there?

ANSWER Bluske: It's where the equipment is stored.

QUESTION Bina: And he can't store it here unless something happens?

ANSWER Bluske: Unless this permit is approved.

QUESTION Bina: He sounds like a young aggressive guy and I know our rules are tight, but are we infringing on businesses? If he's got a brother-in-law on each side, and they can hide a lot of things real fast.....

ANSWER Bluske: We don't go around looking for these things. We get up there quite often. It gets back to the level playing field, for anybody in that business. Some may have less overhead than others. Somebody that doesn't pay personal property taxes will underbid somebody all the time.

QUESTION Pedretti: The Town of Farmington approved it based on their long-range plan. How does that work? What was "B" and "C"?

ANSWER Bluske: They didn't send those goals down, and we don't enforce their land use plan. They've been pretty consistent approving what they call local businesses. It's a way of promoting business activity that stays in the town.

QUESTION Meyer: Do you want to under-go any of this?

ANSWER Russell: I have no other choice other than to sell everything I have if I can't store it there.

REMARK Bluske: I have a list of conditions if the committee is struggling with that, if they decide to approve.

QUESTION Pedretti: I don't begrudge anyone starting a business and it sounds like you do a good job. I struggle with this – it's out in the country, there's no residence with it – how it got built this way in the first place without a house. It gets built – it's just for recreation – next thing you know they're running a business out of it. It's a level playing field. If you eventually move there and build your house, run your business from your house, it takes on a different light. It's like a disconnect. What are the possibilities of building a shed in Sparta? In a commercial area where there's truck traffic with a commercial feel instead of an ag area, where you're trying to run a business that doesn't fit there.

ANSWER Russell: I didn't even envision this as a business when I do maybe 8 hours of work a week out of it. Everyone's under the assumption it's a full-blown construction company.

REMARK Pedretti: But who's to say you don't lose your job next week, then you run a full-time business from there. Once we give the Conditional Use Permit there's not much we can do.

REPLY Russell: And I'm willing, if there's gotta be conditions under the approval, minimizing what can and can't be done there – I'm all for that. I have no intent of starting a full-fledged business; the property wouldn't support it for one. I'm in a remote area. Feasibly if you're going to work in Holmen, Onalaska or West Salem, you'll spend more time traversing back and forth. If I went with a full-fledged construction



company I'd be seeking other property – either renting, leasing or purchasing. What I do out of that building now is by far, anything considered a full-fledged business.

QUESTION Bluske: When you moved from West Salem to Sparta, did you say you had that equipment when you lived in West Salem?

ANSWER Russell: Yes, I did.

QUESTION Bluske: And where did you store it then?

ANSWER Russell: At that same location. I can't lie to you. I never thought I was doing anything wrong.

QUESTION Meyer: What would the conditions be, not that you're putting them in the record yet.

ANSWER Bluske: I would have these conditions:

1. Recommend approval for concrete contractor business;
2. Absolutely no outside storage of any kind;
3. No signage;
4. One (1) employee, the owner;
5. No storage of aggregate or sand;
6. All equipment must be reported to the local Assessor annually;
7. This permit is non-transferable; and
8. Income shall be reported through State Income Tax with a tax ID number.

Discussion on hours of operation.

QUESTION Mach: What about the no septic and well? No running water at all?

ANSWER Bluske: If you want to require him to have an outside privy – this happens.

REMARK: He only spends a half hour there coming and going – he won't be there 8 hours. The pop machine – he'll take to a job.

**Motion Wehrs/Bina to approve Conditional Use Permit No. 842 subject to the eight (8) conditions. No hours of operation.**

QUESTION Meyer: You've heard the conditions, are you willing?

ANSWER Russell: The only thing I want to negotiate on is outside storage. I can't store anything outside?

REPLY Wehrs: That's because it is a residential area.

QUESTION Russell: So my enclosed trailer, the trailer I use to haul brush to the dump? So where do you draw the line between personal use and business use?

ANSWER Bluske: We can't, and that's the issue. Normally we'd require a list of all your equipment and that's the only equipment allowed to go with the residential use of the property. If anything changes, where you would add another trailer, or forms, you have to come in and amend the Conditional Use Permit. It's a combined commercial/residential use right now, but you could use the equipment for anything.

QUESTION Wehrs: Do your trailers fit in the shed?

ANSWER Russell: I'll find some alternative; I'll store them at Walter Gilbert's farm – that's where they sit now. If that's where we have to go with this, then yes, those conditions are fine.

QUESTION Meyer: So he can't do anything until he meets that criteria?

ANSWER Bluske: Yes, he has to turn those things into us. Once the County Board approves this, he does not have the Conditional Use Permit until he gets the Zoning/Occupancy Permit change and he provides us with the tax ID number. Then the Conditional Use Permit is complete and enforceable.

REMARK Russell: I'm confused on the tax ID part – my accountant has been doing it this way....

REPLY Bluske: Maybe you have it and just don't know what it's called.

QUESTION Wehrs: Do you separate your receipts and things for your business?

ANSWER Russell: Yes.

REMARK Wehrs: Then you have to have a tax ID number.

REMARK Russell: Because it's an EOB they don't require a tax ID number. I have a professional accountant {inaudible} doing my tax work ever since they've been in existence.

QUESTION Wehrs: Does the assessor need a tax ID number?

ANSWER Bluske: No. The reason we've gotten tight on that is the 5% sales tax and the county's ½% have been decreasing. Even though we're in a recession, either people are out of business or not reporting their income.

**6 Aye, 0 No, 1 Excused – (Manthei). Motion carried.**

**ZONING PETITION NO. 1876** John Hulberg, N5557 County Road M, West Salem, WI 54669. Petitions to rezone from the Exclusive Agriculture District to Agriculture District "A", a 14.59 acre parcel in order to split the farm house and outbuildings from the productive farmland at N5557 County Road M on land described as: Part of the NE-NE Section 29, and part of the W½-NW Section 28, T17N, R6W described as follows: Commencing at the W¼ corner of said Section 28, along west line of said SW-NW N00°32'25"W 544.64', N89°37'35"E 222.82' to the POB, N57°40'53"E 340.88', N44°18'53"E 199.44', N24°14'06"E 135.21', N03°36'32"E 294.50', N47°04'53"W 40.21', N67°23'36"W 90.33', N86°23'45"W 37.26', N54°57'25"W 411.69', N12°39'54"W 50.30', N01°48'54"W 125.34', N46°03'45"W 271.73', N89°40'45"W 138.14', N40°33'31"W 179.14', N27°24'31"W 143.10', N33°04'54"W 94.29', N51°59'26"W 32.65', S58°48'27"E 645.38', S43°38'17"E 684.81', S70°45'21"E 190.66' to the north line of Lot 1 of Certified Survey Map No. 109 in Volume 6, along westerly prolongation of the north line said Lot 1, N87°36'56"W 22', more or less, to the centerline of Larson Coulee Creek, southeasterly along said centerline 812', more or less, to the west right-of-way line of County Road M, along said west right-of-way line S00°44'26"E 246.20', more or less, to a 1.25 inch iron pipe, N80°49'59"W 162.16', S09°10'01"W 87.36', S89°37'35"W 889.91' to the POB. Town of Hamilton.

**Appearing in favor:** John Hulberg, N5557 County Road M, West Salem, WI 54669. I was approached by a neighbor about some crop land he presently rents from me, about purchasing that. The area you see there, where the corner is (refers to screen) is cornfield. That's the way it will stay. This is all cornfield and that's what he'll purchase. This long finger is a DNR easement. It's a Class 1 trout stream. The only thing you can do with that is pay taxes on it, and the neighbor didn't want that. A question was raised on how many buildings I have. I've gotten rid of some of them. (Refers to map) That one is not there anymore, and I'm trying to get rid of a couple of the older wooden buildings around there. Eventually, I'll have the barn, a shed, garage and one other smaller pole shed for a few cattle.

QUESTION Pedretti: There's just one house?

ANSWER Hulberg: Just one house, and a lot of older outbuildings. The last one was built in 1991 and that's one I plan on keeping. The shed on the overhead here is gone (refers to screen). There's a couple old wooden tobacco sheds I'll tear down. I've torn down another building and sold a grain bin. None of my daughters are interested in my farm so I'm paring it back.

QUESTION Pedretti: So the other four properties with the Hulberg name will be what you're selling?

ANSWER Hulberg: Yes.

QUESTION Bina: This was an operating farm for years. Just because the lot gets smaller, does he have to tear those buildings down?

ANSWER Bluske: We've had that conversation with Mr. Hulberg already. Our ordinance states you can't create a parcel that's non-compliant. We have certain acreage requirements for the number of buildings. John will be required to apply for a variance if the rezone goes through. He'll have to indicate to the Board of Adjustment which buildings he plan to keep. We add the square footage and look at the chart. He'd be allowed 5,000 sq. ft. If his buildings he keeps add up to more than 5,000 sq. ft., he'd have to apply for the variance to keep those as well. That makes him compliant if anything happens to them. If the wind takes one down, if there's fire, he could rebuild it. If the Board of Adjustment fails to grant him a variance that means his zoning is non-compliant and he'd have to keep 35 acres with that parcel. Some of the land he's looking to sell, he wouldn't be able to sell. The intent is to keep the farm intact. When you have a lot

of buildings, you have to address the issue. It comes with the territory. We asked Mr. Hulberg about his long term plans. Will he rent them out for Ag use – he has four silos.

REMARK Bina: Someone may want to use them. Somebody might use the sheds for machinery.

**Appearing in support:** Richard Schomburg, W3679 County Road C, West Salem, WI 54669, Chairman, Town of Hamilton. The Board with the Planning commission approved John's project, depending on the amount of buildings he needs to take down.

No one else appearing in support or opposition.

**Correspondence,** Bluske: Nothing from the town, but we've heard it officially.

**Staff Recommendation,** Bluske: Approval subject to receiving a variance to retain the previously constructed detached buildings; or by removing a sufficient number of previously constructed detached buildings to meet the total area (square footage of remaining buildings) requirements of Zoning Code Section 17.12(b).

**Motion Keil/Wehrs to approve.**

QUESTION Pedretti: How does that work? What if the variance is denied?

ANSWER Bluske: Then he has to take out buildings to get under 5,000 sq. ft. If he wants to keep more than 5,000 sq. ft. because they're good buildings, he'd have to keep 35 acres, that's his other option.

QUESTION Pedretti: He'd have to get the variance before he could sell off the parcels for the farm?

ANSWER Bluske: Yes.

QUESTION Pedretti: Is there a sale pending?

ANSWER Hulberg: Yes there is. We have three people interested.

QUESTION Pedretti: How long does the variance process take?

ANSWER Sampson: The deadline was last Friday.

QUESTION Pedretti: But he could have it done within the next 30-45 days?

ANSWER Sampson: Yes.

**6 Aye, 0 No, 1 Excused – (Manthei). Motion carried.**

**SPECIAL EXCEPTION PERMIT NO. 2011-07** River Architects Inc, 740 7<sup>th</sup> St N, La Crosse, WI 54601; acting on behalf of JF Brennan Company Inc, 820 Bainbridge St, La Crosse, WI 54603. Petitions to perform excavation, filling, grading and rip rap work in connection with the construction of an office building and storm water control on land zoned Industrial District. The project lies entirely within the Shoreland District of the Black River at 816 Bainbridge St, La Crosse, WI 54603, on approximately 1.2 acres described as follows: Part of Government Lot 6 of Section 30, T16N, R7W, Commencing at the northeast corner of said Section 30, S62°16'27"W 3557.80' to the POB, S00°36'40"E 275.81' to "Point A", N83°44'42"W 174.43' to the east right-of-way line of Bainbridge St, along said right-of-way line N06°15'27"E 324.04', N88°57'43"E 164.76', S00°00'33"E 68.24' to the south line of the JF Brennan parcel, along said south line S89°52'36"W 29.61' to the POB. Also including all that land between the east line of this parcel and the water's edge and north of a line which bears N45°E from said "Point A". Town of Campbell.

**Appearing in favor:** Mike Swinghamer of River Architects, 740 7<sup>th</sup> St N, La Crosse, WI 54601. Hired by J.F. Brennan Co. to design a new office building, hope to start construction in the spring. We've went through adjustments for setbacks, we're here to seek permission to fill. Property to the south (refers to screen) and the property line to the north is about the same elevation. We're proposing to fill so it's level. We'd like to add rip rap at the water's edge, to clean that up. We've hired Paragon and Associates to do the civil engineering drawings, that was part of our submittal. I'm here to answer anybody's questions.

QUESTION Bina: The elevation of the surrounding area is high enough that if there's a flood, it won't affect...you'll have the fill higher than the flood...

ANSWER Swinghamer: That's correct. The fill helps, brings it out of...there's a certain area on the site that's under the floodplain – this would bring it above.

QUESTION Pedretti: If you're filling this in, will it flood anyone else? You're saying it will be level, not higher than the other properties?

ANSWER Swinghamer: I don't know if it has ever flooded, it's a fairly high parcel already. We're adding a few feet of fill to level it out for construction.

QUESTION Pedretti: You're not building a big hill...

ANSWER Swinghamer: No we're not. There's a property across the street with a lot of fill. This is literally leveling the playing field so the parking lot to the north and the south property line will blend into that – the site will be relatively flat.

QUESTION Pedretti: Is there still a building?

ANSWER Swinghamer: There's an existing building that will be vacated and torn down. Our new building will go in here (refers to screen). We'll have parking to the north and south. Their existing office is here. It's a concrete block building and there are trailers behind that building that the offices work out of. Those will be removed from the site. There's a need for this building and it should be a nice addition for the area.

QUESTION Bluske: If you look at the shoreline, there's a lot of trees and brush. Tell us what will happen on that slope and if you plan to re-vegetate?

ANSWER Swinghamer: We've met with Carrie Olson from the DNR. There's details in the drawings on how that rip rap will be handled, down to the toe of the water and up slightly, then it will be re-vegetated with shoreline restoration material. There's scrub trees and brush – it'll be cleaned up and nicely done. The office building proposed is an extremely nice building.

QUESTION Bluske: It doesn't show a dock, but on your plans it shows a dock. Will there be excursions from there? Are you planning a dock?

ANSWER Swinghamer: No. The harbor here (refers to screen) is a working harbor. There has been talk of a small dock – but no – Ken Peterson can answer that.

**Appearing to speak in favor:** Kenneth L Peterson, 2511 13<sup>th</sup> PI S, La Crosse, WI 54601. The dock in the drawing is a dock along the rip rap put there by C.M. Robers. That dock will disappear when we do the rip rap. That dock will be gone.

QUESTION Bluske: From beginning to end, how long do you think it will take for the final stone to be laid, the re-vegetation and erosion control all done?

ANSWER Swinghamer: We've talked about potentially doing some of the fill this year, it might wait until spring. As soon as we can get in next spring, we plan to get the building done as soon as we can.

QUESTION Bluske: If we put an expiration date of October 1<sup>st</sup> of next year...

QUESTION Swinghamer: For the fill permit?

REPLY Bluske: Yes.

ANSWER Swinghamer: Yes, it will be done by then.

QUESTION Bluske: The occupant in the old office building will go to the new one on Bainbridge that this committee approved 3-4 months ago?

ANSWER Swinghamer: Yes.

QUESTION Bluske: Then you'll tear the other one down?

ANSWER Swinghamer: Yes. There's a concrete block building that will remain but the trailers will be removed.

No one else appearing to speak in favor or opposition.

**Correspondence**, Bluske: Correspondence dated August 26, 2011 from Michael Wenholz, WI DNR (read into the record).

QUESTION Pedretti: Why did he write the letter if he had no comment?

ANSWER Sampson: We are required by statute any time there is a special exception or variance in the Shoreland District to notify the appropriate DNR staff.

QUESTION Pedretti: It sounds like Carrie Olson is the appropriate staff?

ANSWER Sampson: She is no longer. After the DNR reorganization, all variance and special exception notices go to 3 Water Management Specialists statewide who receive every notice.

QUESTION Pedretti: So you send it to Carrie first and she sent it on to Mike?

ANSWER Sampson: We sent it to Mike in Eau Claire.

QUESTION Pedretti: So we have nothing from Carrie at this point?

ANSWER Bluske: No, but it sounds like she's on it. With the reorganization, wasn't the governor going to make them a self-sufficient office or something like that?

QUESTION Pedretti: But it still requires DNR approval? I'm uncomfortable approving something without the DNR saying "You have our blessing."

ANSWER Sampson: It doesn't require their approval; it requires that we notify them.

QUESTION Pedretti: What if the DNR says "This is the worst spot for this" – not in this case, but what if they say that and we've already approved it?

ANSWER Sampson: What they submit is completely advisory. They are like any other aggrieved party where they can appeal any decision made by the County or the Board of Adjustment.

QUESTION Pedretti: But we normally get something from the DNR saying this is what we would require?

ANSWER Sampson: He made comments on the Board of Adjustment matter relating to a reduced setback to the ordinary high-water-mark (OHWM). He weighed in on that. They requested conditions such as rain gardens designed by a landscape architect, stormwater management...

REPLY Swinghamer: ...the shoreline had to be designed – the rip rap had to go in a certain way. There's a bunch of conditions.

REMARK Sampson: ...mitigation plans – things like that where Mr. Wenholz had weighed in before. I think he was reiterating that he weighed in on the appeal.

**Staff Recommendation**, Bluske: Approval subject to the following eight (8) conditions:

1. This permit is granted subject to the applicant receiving an approved Erosion Control Plan and if required, a post-construction storm water management plan from the La Crosse County Department of Land Conservation;
2. The applicant shall contact the Wisconsin Department of Natural Resources to obtain property excavation, filling, grading and rip rap permits prior to starting work. Copies of these permits are required for this special exception permit file;
3. Filling and grading is approved pursuant to the site plan prepared for J.F. Brennan Co. dated August 4, 2011 and prepared by Paragon Associates;
4. Site preparation includes a first floor elevation of 648.5-ft (1929 adj.) for a proposed 2-story commercial office building;
5. Site preparation also includes the demolition of an existing 2-story office building;
6. Trees and shrubs that are removed within the 35-ft shoreland buffer area as measured from the ordinary high-water-mark of the Black River shall be replaced pursuant to a re-vegetation plan approved by this department;
7. This permit is also subject to any conditions placed on it by the Town of Campbell; and
8. This permit expires October 1, 2012.

**Motion Wehrs/Bina to approve Special Exception Permit No. 2011-07 with eight (8) conditions.**

QUESTION Pedretti: October 1, 2012 – that’s for them to have the vegetation in place, everything done with the rip rap?

ANSWER Bluske: Yes. Everything has to be stabilized by that point.

QUESTION Pedretti: And you can live with October 1?

ANSWER Swinghamer: Not construction of the building. If we’re just doing the site...

REMARK Bluske: It’s just the site. We’re not looking for final grade for the parking lots, curb and gutter – anything like that. It’s stabilizing the site until you’re done.

QUESTION Pedretti: Town of Campbell, you haven’t heard from them?

ANSWER Bluske: They don’t have an administrator – have you guys attended a Town Board Meeting?

REPLY Swinghamer: Yes, we have. They approved it.

QUESTION Wehrs: One condition included removing the old office building – does that include taking those two trailers? Isn’t it to the north where they have office space now?

ANSWER Peterson: Where you’re talking about is north of the cars. That building (refers to map) is our main office building. That’s a double wide and quad wide office trailer. They will disappear. The main office building will stay.

QUESTION Wehrs: Did you have that as a condition?

ANSWER Bluske: That is not included on our site.

QUESTION Wehrs: So you were talking about that building (refers to the map).

ANSWER Bluske: Yes.

**6 Aye, 0 No, 1 Excused – (Manthei). Motion carried.**

**Motion Keil/Pedretti to adjourn at 7:32 PM.**

**6 Aye, 0 No, 1 Excused – (Manthei). Motion carried.**

Hearing adjourned at 7:32 p.m.

*Approved 10/3/11.*

*Nathan Sampson, Recorder.*