

**MINUTES**  
**Bayfield County Planning / Zoning Committee Public Hearing / Meeting**  
**October 19, 2006**  
**Board Room, County Courthouse, Washburn, WI 54891**

1. **CALL TO ORDER OF PUBLIC HEARING:** *By Chairman Beeksma at 1:00 PM.*
2. **ROLL CALL:** *Supervisors Beeksma, Jardine, Maki, Miller, present; Supervisor Rondeau arrived at 1:01 PM.*
3. **AFFIDAVIT OF PUBLICATION:** *Read by ZA Kastrosky.*
4. **REVIEW OF MEETING FORMAT:** *Presented by Chairman Beeksma.*
5. **PUBLIC HEARING:**

**A. CAROL KANGAS, OWNER / RALPH FROSTMAN, AGENT (SOUTH SHORE SAND & GRAVEL) CONDITIONAL USE REQUEST - Mining of Top Soil:** on 10-acre parcel (part of ID# 04-022-2-47-09-01-1-04-000-10000) described as part of the SE ¼ of the NE ¼, Section 1, Township 47 North, Range 9 West, Town of Hughes. Included in this request will be the requirement(s) of the reclamation plan, which will be addressed separately. (Any conditions placed on the reclamation plan shall pertain to the reclamation plan only, and any conditions placed on the non-metallic site shall pertain to the conditional use application.)

*There was no initial testimony, neither the applicant nor the agent attended. Director Kastrosky presented the case as indicated on the conditional use application: topsoil stripping will be on a ten-acre parcel; this is non-metallic mining, just removal of topsoil; the reclamation plan was approved; Town Board approval is on file.*

*Chairman Beeksma questioned information in the packet. Jardine stated he spoke with Mr. Frostman and he stated he would not be present. AZA Casina didn't have anything to add except it was easy access from the Town road, upland, dry and suitable for stripping topsoil.*

**Support / Opposition:**

- *Kastrosky read a file letter from Rick Kelly stating he is opposed to this conditional use request.*
- *No one spoke in support or opposition.*

**B. Joshua & Brenda Rowley** request a conditional use permit to operate a sand & gravel pit on their 28.65-acre parcel (ID# 04-026-2-46-05-21-403-000-1000), described as part of the SW ¼ of the SE ¼, Section 21, Township 46 North, Range 5 West, Town of Kelly, Bayfield County, WI. Included in this request will be the requirement(s) of the reclamation plan, which will be addressed separately. (Any conditions placed on the reclamation plan shall pertain to the reclamation plan only, and any conditions placed on the non-metallic site shall pertain to the conditional use application.) **(Tabled on 9/21/06)**

*Bill Baudhuin, Engineer & Land Surveyor, spoke: He was hired by the Rowleys to prepare a site/reclamation plan. Parcel is 104 acres with elevation of 980.0 above sea level with highest elevation at 1055.0; it is currently in agricultural use (alfalfa/sunflowers). He stated they are proposing a maximum of five acres open at one time. Mr. Baudhuin presented contour maps. Access to the site would be from Maple Ridge Road; sediment pit would be on the north side of the property; proposed use is for sand; remainder would continue to be used for agricultural purposes. He also pointed out the drainage areas, sediment pits, and location of berms, field-spreading as approved by the DNR.*

*Expectation of traffic on Maple Ridge Road is three to four trucks hauling out of the pit. On busy days, they estimate a possibility of ten or more trucks. He stated well logs in the area represent 115' to groundwater near the mine site and intermittent stream is 590' from the mine site which is the closest surface water; to the south there is another which is over 800' from the property; to the northeast there is a pond 1600' away.*

*Baudhuin pointed out roads, the town hall, several farms, some long narrow lots, houses, and an abandoned farmhouse in the vicinity; said proposed hours of operation are Monday through Friday 7:00 AM to 5:00 PM, Saturday 7:00 AM to 12:00 PM, closed on Sundays. Plan was submitted to the USDA, the US Soil Survey data for this site indicates limited use on this site for problems, it is sandy soil.*

Jardine asked a question (inaudible). Travis Tulowitzky answered, 'no, there was no discussion last month, there is Town Board decision of disapproval on file'. LUS Tulowitzky added that there is an explanation for the Town's disapproval but didn't know if the Committee wanted to address it at that point.

Jardine asked another question (inaudible). Baudhuin stated the original application submitted had indicated the restoration / reclamation plan would be to build a subdivision on the property; soils allowed septic systems; zoning allows 5-acre parcels, with plans for eleven or twelve parcels but the Town and neighbors didn't like that proposed subdivision so it will be turned back to agriculture, which means that the sediment pit and pond area would be oversized "as it sits right now". So everything before you is conservative and to be kept agricultural.

LUS Tulowitzky stated that post-mining land use is in the reclamation plan, not in the conditional use and it was approved by Land Conservation. Director Kastrosky asked about the two agenda items and two legal descriptions for the same property and asked if they were proposing the sand pit on the 100-some acres. Answer: proposing it for the whole site.

#### **Speaking in Support:**

- **Brenda Rowley** discussed concerns of neighbors including a survey and traffic / impact to roads; resale of homes / land in the area; sale of homes across from a gravel pit or in close proximity in Highbridge; population and density; inconsistent with land use plan goals; bonding / financial assurance; wind-borne erosion / dust; quality of life in area; scenic beauty; land spreading / DNR reporting.

#### **Speaking in Opposition:**

- **Chris Duke:** lives adjacent to proposed pit; concerned about Town Board presentation which he said was different than what is proposed today. He said the parcel near maple Ridge Road was not proposed for mine use; had concerns about more traffic / dust / safety of children; asked that they follow the Town's recommendation.
- **Richard Mundell:** neighbor to the north, concerned about landspreading and toxins in human waste; wash-outs with heavy rain; believes it will be a larger operation than applicant is planning.
- **John Wheeler,** lives across from sand pit. Concerned about landspreading and health issues to his children with dust and potential asthma, property values; increased traffic; blowing sand. Would not have purchased property if the sand pit was there at the time.
- **Pat Brown:** Not close neighbor; reminded Committee the Town voted against this. Asked question about number of acres could be opened if a certain fee was paid.

(LUS Travis Tulowitzky replied that he was referring to annual permitting and payment is according to the number of acres disturbed; if the Board places a condition that they can only have five acres open at one time, that's all they could have. He believes the request is proposed as five acres at a time for mining and then reclaim it, then they wouldn't have to pay their annual permit if they reclaim the five acres., then reopen another five. If they decided not to mine in a certain year they could pay an 'inactive fee' and can only open five acres if the Board chooses to place that as a condition on the conditional use permit.)

- **Kevin Seefeldt:** lives on Argo Road, opposed based on reduction of property values and the 'spirit of the land use plan'.
- **Jeff McCutchen:** from Maple Ridge Road, said 50 people signed a petition in opposition. Concerns are increased traffic, integrity of roads; already is a problem on the road – believes additional trucks would make it worse; there are fifteen young children within one-half mile. Two goals of Town's land use plan are to protect / preserve natural resources and discourage heavy industry. Asked Committee to respect the Town's decision.
- **James Jones:** Lives 2.5 miles away; would like the Rowley's to demonstrate the benefit to the properties immediately adjacent; said there wouldn't be fifty people opposed if it was beneficial; that dust in food because of a gravel road isn't a factor for him; he made the decision to live there but did not choose to live by a gravel pit. Jones stated he has a permit for blacksmith shop and the first thing he was told was to get input of neighbors; if there was strategic benefit to the Town or County needing sand, he might feel differently but there are other places to buy sand.
- **Autumn Kelly:** ½ mile from site; repeated some opposition as did others (increased traffic / dust).
- **Elizabeth Seefeldt:** Town Clerk / adjacent land owner, said if the Town had approved the request, they would have included some conditions, which are not before the Committee because they did not give approval. She itemized some conditions the applicant proposed as well as and some which the Town noted at their meeting, which, she added, could be provided). Ms. Seefeldt requested those conditions be required if the Committee

grants approval on either of the Rowley applications. She also stated the Town did not have the reclamation plan presented to them, therefore, they could not consider it; the Town Board disapproved essentially due to majority public opposition and asked that the Committee deny on the same grounds.

- **Ken Brown-Hansen:** lives across the road from this proposal; expressed opposition.
- **Eileen McCutchen:** Maple Ridge Road, stated she had a myriad of information to present. Chairman Beeksma questioned if it was new and additional information not yet presented. Ms. McCutchen stated it was and she had information about costs. The Committee questioned the necessity of that in their consideration with Beeksma wondering if it was the Committee's concern how much it costs to gravel the road. McCutchen then stated she had spoken to someone who had a similar situation and presented their costs for road repairs and costs for Roy Anderson Road; she questioned if the applicant could afford such expenses. She presented a DNR email and maps; stated when the applicant came to their home to present his proposal, he told them there would be five to ten trucks per day, "and now we are talking twenty trucks". McCutchen stated in 2005 Rowley promised before the Town that he would not open a sand and gravel pit and added this is a 'trust issue' and part of what is seen in the community opposition is because of this. She is concerned that there is no monitoring body and they just have to trust him but felt that is a problem based upon his history. McCutchen also reported that he does not live there but they do; that Don Dymesich has a pit in the area and there is no need for another; there is no evidence that the applicant has intention to pay for the damage their trucks will cause.

**C. JOSHUA / BRENDA ROWLEY CONDITIONAL USE REQUEST: Sand / Gravel Pit** on 74.91-acre parcel (ID# 04-026-2-46-05-28-1-01-000-1000 & 04-026-2-46-05-28-1-02-000-1000) described as part of the NE ¼ of the NE ¼ and the NW ¼ of the NE ¼, all in Section 28, Township 46 North, Range 5 West, Town of Kelly. Included in this request will be the requirement(s) of the reclamation plan, which will be addressed separately. (Any conditions placed on the reclamation plan shall pertain to the reclamation plan only, and any conditions placed on the non-metallic site shall pertain to the conditional use application.)

\* See comments under Item C below in Business section.

**6. ADJOURNMENT OF PUBLIC HEARING:** Motion by Kenneth Jardine, second by Harold Maki to adjourn at 2:55 PM; motion carried 5 yes / 0 no. Chairman Beeksma called for a break.

**7. CALL TO ORDER OF ZONING COMMITTEE MEETING:** Beeksma stated that in error he failed to allow the rebuttal in the public hearing, therefore would open the public hearing again. Motion by Jardine, second by Brett Rondeau, to call the public hearing back into order (no time indicated); motion carried, 5 yes, 0 no.

#### **Rebuttal:**

- **Agent Bill Baudhuin:** re field spreading, said everything is subject to DNR approval and review, and is part of the reclamation plan; USDA can check the site at any time; the pond will store a ten-year storm event; pond is also subject to DNR review/approval. RE comments of a "larger than proposed operation", they are proposing only five acres at a time. Re fencing: also DNR-approved; DNR wants fencing. RE integrity: Engineering technical analysis of the site is what he provided. He pointed out wind flow, sand / dust direction and opinion that sand leaving the site will be decreased because of the 20' wall. Stated reclamation will be done per five acres in use. Re conditions of the Town: proposal is as discussed today and submitted to the County w/ the exception of the reclamation subdivision plan that was proposed. RE reclamation plan not submitted to the Town, Baudhuin said it is the County that submits to the Town and the applicant was told what was to be submitted to USDA and County, adding "the application was proper in every form". Re estimated truck traffic: it is their best estimate and they have no reason to believe it will be more or less. RE: sewage spreading: the DNR approves land-spreading and agricultural re-use. Re field-spreading on slopes: there could be 2% slopes, they will have 1%, and won't have any 6% slopes spread on.
- **Questions-- Supervisor Maki:** Asked estimate of how many yards would be removed from five acres. Baudhuin estimated 100,000 cubic yards and pointed out map locations; said the mine will start on Maple Ridge Road towards the south; they will reclaim as they go with never more than five acres open. **[Further questions from the Maki not audible]** LUS Tulowitzky said the Rowley pit is about three miles from Mason; the Dymesich sand pit, with one acre open, has a conditional use permit and is approx. six miles away. Travis said he believes there is room for growth at that pit.
- **Applicant Josh Rowley:** Stated Don Dymesich spoke in favor of this request at the Town meeting; one problem with his (Dymesich's) pit is there is rock above one end is not as accessible as his. Travis Tulowitzky

said there are two other conditional-use sand pits in the Town of Kelly (Roffers / Hagstrom) which are next to each other on Deer Creek Rd. and close to the county line within approx. five or six miles.

- **Maki** asked if the need for another pit has been established. **Rowley** said Deer Creek is filled with ash now and he doesn't know the cycle of that pit. **Tulowitzky** said those two pits are not very active (Roffers is five acres / half mined; Hagstrom's is ten, they have been filling it with boiler ash, but it is open/active with a fairly small amount being removed).
- **Maki** questioned the estimated amount of sand to be removed. Applicant answered they don't know of any big upcoming projects, and most will probably be residential use, however he can only make best-estimates regarding future needs. **Maki** asked about traffic/roads. Answer was there is now a substantial amount of traffic from pulp and chip trucks, milk trucks, and others, and it doesn't seem any different that it did last year or the year before. **Maki**: Asked if Town wanted bonding. **Tulowitzky** said the Town had a list of conditions they planned to make, however, they then denied the request; he didn't think bonding was one of them, however it came up in discussion from citizens at the Town meeting.
- **Eileen McCutchen** said Don Dymesich spoke in opposition at the Town level. **Tulowitzky** said he does not remember whether he (Dymesich) spoke in opposition or approval but he knows he spoke to his personal circumstances.

Motion by Jardine at 3:30 PM, seconded by Rondeau, to **adjourn the public hearing**. Motion carried 5 yes / 0 no.

**8. ROLL CALL:** Beeksma, Jardine, Maki, Miller, Rondeau, all present.

**9. MINUTES OF PREVIOUS MEETING(S):** Motion by Rondeau, second by Jardine to approve the September 21, 2006 minutes; carried. 5 yes / 0 no.

**10. BUSINESS:**

**A. CAROL KANGAS, OWNER / RALPH FROSTMAN, AGENT (SOUTH SHORE SAND & GRAVEL) CONDITIONAL USE REQUEST - Operate Mining of Top Soil:** on 10-acre parcel (part of ID# 04-022-2-47-09-01-1-04-000-10000) described as part of the SE ¼ of the NE ¼, Section 1, Township 47 North, Range 9 West, Town of Hughes, Bayfield County, WI. Included in this request will be the requirement(s) of the reclamation plan, which will be addressed separately. (Any conditions placed on the reclamation plan shall pertain to the reclamation plan only, and any conditions placed on the non-metallic site shall pertain to the conditional use application.)

Motion by Jardine, second by Maki, to **approve the conditional use permit**. Discussion: Director Kastrosky reminded the Committee that as a legal requirement the reclamation plan must be addressed separately or with an amended motion. Motion by Jardine, second by Maki, to amend the motion to also **approve the reclamation plan**. Kastrosky asked if any conditions were being placed. Jardine then amended his motion to place **no conditions** on this permit; motion carried; 5 yes, 0 no.

**B. Joshua & Brenda Rowley CONDITIONAL USE REQUEST** to operate a sand/gravel pit on 28.65-acre parcel (ID# 04-026-2-46-05-21-403-000-1000), described as part of the SW ¼ of the SE ¼, Section 21, Township 46 North, Range 5 West, Town of Kelly, Bayfield County, WI. Included in this request will be the requirement(s) of the reclamation plan, which will be addressed separately. (Any conditions placed on the reclamation plan shall pertain to the reclamation plan only, and any conditions placed on the non-metallic site shall pertain to the conditional use application.)

Director Kastrosky read file information of opposition letters (stating names will be attached to the minutes) and noted a petition with 50 signatures; he stated there is Town Board disapproval on file. Kastrosky noted some concerns about the application, not in quality, but that it was noticed under two separate legal descriptions and cautioned the Committee about the scope of the operation (subject 103-acre parcel) consisting of a lot of material, over a long period of time, and suggested possible time-constraints, phases, and potential limits of in-use-acreage.

Jardine made a motion to **table this request and send it back to the Town Board**, seconded by Maki. Discussion followed. Motion carried, 5 yes / 0 no.

**C. JOSHUA / BRENDA ROWLEY CONDITIONAL USE REQUEST: Sand / Gravel Pit** on 74.91-acre parcel (ID# 04-026-2-46-05-28-1-01-000-1000 & 04-026-2-46-05-28-1-02-000-1000) described as part of the NE ¼ of the NE ¼

and the NW ¼ of the NE ¼, all in Section 28, Township 46 North, Range 5 West, Town of Kelly. Included in this request will be the requirement(s) of the reclamation plan, which will be addressed separately. (Any conditions placed on the reclamation plan shall pertain to the reclamation plan only, and any conditions placed on the non-metallic site shall pertain to the conditional use application.)

*\* Director Kastrosky stated “there are two requests and we have put them together” adding that if they are denied and go back to the Town, the applicant has to reapply and resubmit fees. If tabled and dealt with for awhile, there is then no additional cost to the applicant. Kastrosky suggested if they are thinking of this as too large an area at all one time, they could deny the larger parcel, ‘C’ of 74 acres, and table the 28 acres adjacent to the road, sending that back to the Town. Those options might keep the process “a little cleaner and easier for the applicant and for everyone to understand what’s on the table in the request”.*

*In discussion, Travis Tulowitzky reminded the Committee there still will likely only be two supervisors who can vote and discuss the issue because the reasons for abstaining will still be the same. He added another thing struggled with at last Town meeting was in coming up with a list of conditions, so he believes they need some guidance, and perhaps the applicant needs to come up with proposed conditions in writing along with the application.*

*Kastrosky suggested the 28-acre area in Section 21, Agenda Item B, be sent back to the Town Board, table it at this hearing, and if they wish, deny the 74 acres on the back side for future consideration.*

*Motion by Rondeau to **deny the 74-acre parcel, Agenda Item C.** Shawn Miller seconded the motion; carried 5 yes / 0 no.*

### **Agenda Review and Alteration**

#### **D. KUSKUS, LLC (Russell) CONDO PLAT (18 Units w/ storage building and EIA) Tabled on 8/17/06 and 9/21/06.**

*Testimony was presented by Griff Nordling, representative of applicant who said they drafted the condo declaration requested was delivered this morning, and that the declaration plat map is not in final form. Proposal is for an expandable condominium, maximum of 18 units but the Developer would like to show six units initially that can be expanded to 18.*

*Maki questioned the change. Kastrosky explained that the Committee requested the covenant and deed restrictions at the last meeting so Mr. Nordling was contracted to do that. It was suggested “to put all the cards on the table” and if they can’t market 18 units, then it might be best to start with six with the understanding that the entire concept of 18 is requested. He said that way “there would be no surprises it is part of the plan”. Nordling said the declaration is clear, there will be no more than twelve additional units. Kastrosky reminded the Committee the final condo plat, which must be signed, is not here because it is drafted subsequent to the Committee’s approval or amendments. He added this potential change is a good one, with only six now, but all 18 are approved if needed.*

*Maki asked if this request was then noticed improperly. Kastrosky said it doesn’t matter if a lesser amount is built than the approval number. Nordling said only six would be set aside as condominium property at this time and the rest could come along later and the Developer just wants some flexibility with the expandable plat process. Kastrosky said this would be the final meeting if 18 units are approved, and that is what the applicant is asking for, if only six are approved, then he would have to come back. Maki was concerned that an expandable plat is too open-ended. Beeksma stated there was already approval of the 18, that number has been accepted. Kastrosky said he is “not advocating anything, just trying to get everyone up to speed”.*

*After further discussion, Kastrosky gave his opinion that they could build from zero to 18 with no prescribed time frame. Nordling stated that is their request. Kastrosky said this is common for a business. Maki asked about approval of the 18 units in condo then changing back. It was explained that it is up to 18 lots but there will only be six now, a large portion in common area declared as the condo and they could choose to expand, or not choose to expand.*

*Kastrosky discussed the history, ordinance, and legality in the situation and asked if they only build six, “what is the difference” and if whatever land may be left, if less than 18 are built, would go back to the standards of the zoning ordinance, whatever the standard lot size would be. If they are all dedicated to condo units then have to be dedicated as is shown on the map, and if not, then the ordinary zoning requirements apply.*

Maki felt they should approve six or have 18 but they can't have both. Beeksma said the Committee already approved 18 units in the past. Kastroosky discussed the issue and history again and Beeksma asked "why do we care if we approve 18 and they only build six?" Kastroosky stated if you have only have 18 units, that is carved in stone, but if you approve six, that is what is carved in stone and there is some flexibility with the remainder if the six don't sell. He also added this is an option if the citizenry is sensitive about high density in case it doesn't work. Nordling said it is important because if the lots aren't marketable, it can then be transferable at some point. Kastroosky reported this has been done in the past, as with Brickyard Creek.

Jardine then asked Kastroosky for proper wording of the motion. Kastroosky answered that if they chose to approve as requested, it would be eighteen (18) units with the understanding that six units will be in the initial phase, with the option of twelve (12) additional units, comprising a total of eighteen (18).

Motion made by Shawn Miller, seconded by Kenneth Jardine, to **approve eighteen (18) condominium units, six (6) in the first phase, with the option of twelve (12) additional units, comprising a total of 18.**

Further discussion followed. Maki was concerned about taxation issues and the way this request was noticed. **Motion then carried, 4 yes / 1 no (Maki).**

#### **E. ERIK FINSTAD (Iron River) PRELIMINARY PLAT APPROVAL (6 lots):**

Tim Oksiuta from Nelson Surveying said there are a total of ten lots, numbers 7 through 10 created by certified survey process but because of doing more than six lots under five acres they must do it by county plat. There was further discussion regarding the map including roads and the name (Spider Lake Estates). Kastroosky asked Mr. Oksuita if the final plat would be ready by next month's meeting; the answer was no.

Motion by Maki, second by Rondeau, to **approve** the preliminary plat. Carried, 5 yes, 0 no.

#### **F. DISCUSSION / INPUT RE ORDINANCE AMENDMENTS (MUDs) (Tabled 8/17/06)**

Kastroosky asked that this item be tabled until next month as it is not ready. Motion by Rondeau, seconded by Maki, to **table until the next meeting**; carried 5 yes / 0 no.

#### **G. DISCUSSION / POSSIBLE ACTION NR115 RE-WRITE UDATE:**

Kastroosky updated the Committee, reporting a Nov. 1, 2006 meeting for all counties.

#### **H. CITIZENS' CONCERNS / INPUT:**

- Jardine asked about shoreland restoration specialist / Land Conservation Dept. Kastroosky gave an update and concerns that Land Conservation needs to be more organized and have some direction and at this point don't have a director.
- Liz Seefelt, voiced opposition in Items B & C, specifically that Town Chairman Fox did not appear to voice his opinion nor write his personal opinion and if he didn't take the time to do so, then she was curious why the Board considered the information. She then said she was speaking in an 'official capacity' (Town of Kelly Clerk) referencing Town minutes when the decision was made, reflected Mr. Fox's opinion, how motions were and/or died for lack of a second, disapproval, a second vote, so on. Ms. Seefeldt cautioned the Committee of something being said to one person, and information being passed on and putting a lot of weight on that information stressing they needed to consider the Town minutes. It was then noted by Tulowitzky that Fox signed in denial even though he did not vote and he asked the Committee if they are sending it back to the Town, for the Section 21 parcel and if that would be on their Nov. or Dec. meeting, adding he would be willing to attend the meeting to provide guidance. Discussion followed on tabling and bring back in public hearing or as an agenda item. The Committee agreed to bring it as an agenda item. Eileen McCutchen then asked what portion public opinion plays. Director Kastroosky said laws, rules, statutes, run the country, public opinion is an important.

**11. MONTHLY REPORT:** Motion by Jardine, seconded by Rondeau to **approve**; carried, 5 yes / 0 no.

**12. ADJOURNMENT:** Motion by Miller, second by Rondeau to adjourn; carried 5 yes / 0 no (no time recorded).

**Karl L. Kastrosky, Planning / Zoning Director  
Bayfield County Planning / Zoning Dept.**

Prepared by DC/TT/MJ on 11/6/06  
Approved by KLK 11/14/06

*Attachment: List of opposition letters on File for Items B and C  
cc: Administrator; Clerk; Corp.Counsel; DNR; Committee; Supervisors*

*K/ZC/Minutes/2006/Oct*

**Attachment – Item B / C**

The following submitted letters of opposition to above Public Hearing Items

Joe Butler  
Paula Yankee  
Jeff McCutchen  
Conrad / Jean Swanson  
William /Lorri Mattes  
Rick Kelly  
Steven / Donna Cordes  
William Hess  
Henry Baldwin  
Cheryl Olby  
Pat Kinney  
Laura Smith Kinney  
Ronald / Peggy Hellstrom  
Dale / Barbara Moyer  
Robert / Shirley Kurilla  
Mark / Lori Eder  
Robert Beebe

+ Petition