MINUTES OF THE SPRINGDALE PLAN COMMISSION MEETING, June 1, 2015

IN ATTENDANCE: Ellen Bunn, Mike Fagan, Jim Hanson, John Rosenbaum, Jeff Smith, and Denise Sullivan. (A quorum is present.) Clerk Vicki Anderson as the recording secretary.

CALL TO ORDER: by Rosenbaum at 7:05 p.m.

NOTICE OF THE MEETING: pursuant to Wisconsin Open Meeting Law was confirmed. The final agenda was posted on 5/28/15 in the three customary locations in the Town of Springdale as required by law, and as a courtesy to the citizens, published in the *Mt. Horeb Mail* on 5/28/15*.*

MINUTES: MOTION by Fagan/Sullivan to approve the minutes of 4/27/15 as distributed. MOTION carried 5-0.

J. NICHOLSON/A-1 WITH CUP #2312 FOR LIMITED FAMILY BUSINESS TO BRING EXISTING LANDSCAPE BUSINESS IN ACCESSORY BUILDING INTO COMPLIANCE WITH DANE COUNTY ZONING/SEC. 34/DAVIS ST.:

MOTION by Sullivan/Bunn to approve the CUP #2312 for limited family business for landscaping, lawn care and snow removal with the conditions as discussed:

Conditions:

1. The limited family business shall be limited to landscaping, lawn care and snow plowing business.

2. The business shall be conducted within the existing 2400 square foot accessory building. The building shall not be expanded; and no improvements of plumbing and office space shall be added.

3. The hours of operation shall be Monday through Friday, from 7:30 a.m. to 4 p.m.

4. Outside loudspeakers are prohibited.

5. Outside signs are prohibited.

6. All employees except one or one full-time equivalent, shall be a member of the family residing on the property.

7. The conditional use permit shall become null and void upon sale of the property to an unrelated third party.

8. No customers shall conduct business at the site. No retail sales shall be conducted on the property.

9. Up to three trucks and three trailers, not to exceed 16’ in length, shall be parked on the property.

10. No open burning of material brought in from job sites shall be permitted.

11. Outdoor lighting, except for required security lighting, shall be operational only during hours of operation. All lighting shall be shielded to prevent glare into the night sky or direct-beam illumination of neighboring residences. All new lighting fixtures shall use full cut-off fixtures which prevent all upward transmission of light.

Note: On 6/1/2015, the calculation of the number of employees is based on information reported by J. Nicholson: J. Nicholson lives on the site and is co-owner. His brother lives off-site and is co-owner. His brother comes to the site approximately 3 hrs./week. One non-family member lives off-site and comes to the site approximately 2 hrs./week. The total number of hours per week worked by employees who do not reside on the premises is: 5 hours/week. Motion carried 6-0.

Standard considerations for all CUP applications: The Plan Commission after consideration of the conditional use permit made the following findings of fact. Dane County Code of Ordinances 10.255(2)(b):

1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare; Aye 6-0.

2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use. Aye 6-0.

3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. Aye 6-0.

4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made; Aye 6-0.

5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and Aye 6-0.

6. That the conditional use shall conform to all applicable regulations of the district in which it is located. Aye 6-0.

R. AND S. NEERLAND/REZONING A-1 WITH CUP #2310 TO BRING EXISTING BUSINESS IN ACCESSORY BUILDING INTO COMPLIANCE WITH DANE COUNTY ZONING CTH G/SEC. 25:

MOTION by Rosenbaum/Fagan to table CUP #2310 until 6/22/15, the next PC meeting. Motion to table carried 6-0.

Discussion: 1. Meeting date: The next PC meeting will be 6/22/15 or 6/29/15 depending upon the availability of Building Inspector Tracy Johnson. PC member Jeff Smith wishes to discuss various types of accessory buildings and the required building codes and standards and other questions with Johnson.

2. Comments from attendees and PC members include but may not be limited to the following: \*At the DC Zoning, Land and Resources public hearing on 5/26/15 it was pointed out that the application for a limited family business requires only a CUP, a rezoning out of A-1 zoning is not required. There was concern when a rezoning out of A-1 zoning was proposed since a rezoning stays with the property while a CUP expires with a change in ownership of the property. \*The accessory building in which the business is operated is not an agricultural building since no agricultural activities occur in it. It is described as a residential accessory building but its size and amenities within the building: hoist, finished walls, two offices, sink, etc., may make it attractive to a business bigger than a limited family business in the future. Sometimes, this is described as possible back-door zoning by which the building permit for the accessory building does not require a change of zoning but the eventual use of an accessory building with commercial-like amenities could require a rezoning. Sometimes, the building is in existence, in use, before the zoning catches up with the use. The Town Building Inspector inspected the building in late April, 2015, and determined that it did not require commercial building code. \*Since the Neerlands have been required to bring their existing business use into compliance with the Dane County Code of Ordinances by applying for and obtaining a CUP from Dane County and the Town, it places the Town PC and TB at a disadvantage. If the Neerlands had applied for the CUP prior to housing their business in the new accessory building, rather than after the fact, would the Town have found it to be consistent with the Plan? Now, the Town is placed in the position of evaluating whether conditions on the existing business can make it conform to the goals and objectives of the Plan. \*It was generally agreed that the accessory building and the premises are quiet, neat, tidy and well-maintained. \*A far as the pest control business within the building, one PC member felt it did not negatively impact the neighborhood nor the Town, as long as it falls within the number of employees for a limited family business. \*It was stated that the scale of this business pushes the boundaries of the CUP for a limited family business. Since this application is at the boundaries, it clearly cannot be allowed to grow at this site. The PC should craft conditions to keep it within the boundaries of a limited family business. \* Even though pest control business is not specifically listed as a business supported in the Plan it is a service- based business with some similarity to a landscape business with customers off site. \*One of the key components of the CUP for limited family business is the provision re: the number of employees. The Dane County Code of Ordinances, DCCO, 10.192(3) states: “All employees, except one or one full-time equivalent, shall be a member of the family residing on the premises.” With a landscaping business CUP in Springdale in 2010, Dane County Zoning Administrator Roger Lane stated that he took into consideration the number of employees that stay on the property to work versus employees who pick up equipment/vehicles and drive to work sites. This approach was the basis for calculating one full-time equivalent in the Neerland’s pest control business since the employees drive to work sites except for when they pick up equipment/vehicles and complete job paperwork at the accessory building here. It was questioned whether this is a proper interpretation. A very quiet professional office in a residential accessory building with only two non-family employees who do not reside on the premises but work forty hours a week each, would NOT be eligible for a limited family business. It was suggested that the two employees would have fewer vehicular trips in and out of the residential accessory building and there would be much less storage of equipment, etc. than in a landscape or pest control business. In any event, using the Dane County Zoning interpretation of the DCCO and the Neerlands description of hours worked on site by workers not residing at the home, the total is 48 hours. The number of hours on site would have to decrease to comply with the standards for a limited family business.

3. Possible Conditions: The PC generated possible conditions and individually, will review these before the next PC meeting.

1. The limited family business shall be limited to the pest control business.

2. The business operation shall be restricted to this accessory building. Additions to the existing building and/or construction of another building for business purposes shall not be permitted. The Town shall be notified of any additional building of residential accessory building(s) for residential purposes, not business purposes.

3. The hours of operation shall be Monday through Friday, from 7 a.m. to 6 p.m.

4. All employees except one or one full-time equivalent, shall be a member of the family residing on the property. The number of hours for family members not residing on the property and for non-family members to work on site shall be limited to 40 hours/week.

5. The vehicles uses in the business shall be limited to seven vehicles and the number of trips in and out of the CTH G site is limited to twenty trips/day.

6. No customers shall conduct business at the site. No retail sales shall be conducted on the property.

7. No business activities shall be conducted outside of the accessory building.

8. Outside loudspeakers are prohibited.

9. Outside signs are prohibited.

10. Outdoor lighting, except for required security lighting - one 100 watt light is positioned over the back door with a deflector directing the light downward - shall be operational only during hours of operation. All lighting shall be shielded to prevent glare into the night sky or direct-beam illumination of neighboring residences. All new lighting fixtures shall use full cut-off fixtures which prevent all upward transmission of light.

11. All chemicals for the pest control business shall be properly disposed of off-site and in accordance with all pertinent county, state, federal, industrial regulations.

12. Servicing of personal and business vehicles shall be permitted on site with the proper disposal of vehicle fluids in accordance with all pertinent county, state, federal regulations. The servicing of vehicles other than personal vehicles and the seven business vehicles on site shall be prohibited.

13. The conditional use permit shall become null and void upon sale of the property to an unrelated third party.

Note: On 6/1/2015, the calculation of the number of employees is based on information reported by the Neerlands:

Briana – in office 2-3 times a week x 1 hr. a visit = 3 hrs.

Ryan – in office on Mondays for approximately 3 hours/week = 3

Office person – in office on average 17 hrs./week= 17

Nick up to 1.25 hours a day x 5 days = 6.25 hrs. = 25 for four workers

Chris up to 1.25 hours a day x 5 days = 6.25 hrs

Jake up to 1.25 hours a day x 5 days = 6.25 hrs

Bruce up to 1.25 hours a day x 5 days = 6.25 hrs Total 48 hours

DANA BOWAR/TODD RINGGENBERG/RENEW EXISTING CUP #2311/QUARRY/SEC. 23/RINGGENBERG DRIVE:

MOTION to approve the renewal of the CUP for the quarry operation with the same conditions as previous CUP and subject to obtaining the answer to #25 – “Letter of agreement between the Town of Springdale and Wingra Stone Co. agreeing to conditions on the Ringgenberg quarry.” Discussion: Todd Ringgenberg was in attendance and explained that the quarry was leased to Wingra Stone for 15 years, thus the letter of agreement between the operator and the Town back then. The lease with Wingra Stone has expired. Now, Yahara will work infrequently in the quarry. Does the Town require a letter of agreement between that operator or is the holder of the CUP, Bowar and Ringgenberg, responsible for the conduct of Yahara while subcontracting work out of the quarry? The Clerk will research the answer prior to the TB meeting on 6/15/15.

DANE COUNTY CONDITIONAL USE PERMIT #1542 CONDITIONS FOR CUP #2311 (Ringgenberg and Bowar)

1. The applicant shall submit an erosion control plan covering the entire CUP area for the duration of operations, and receive approval of an erosion control permit prior to commencing further extraction operations.

2. There shall be an additional element of this particular erosion control plan to be called a “dewatering plan” that will outline how water will be: stored and treated on-site (e.g. via an on-site catchment basin that would filter out large particulate matter from the water prior to pumping it off-site); removed from the site; and drained into and across the Ringgenberg field to the south. The applicant will need to demonstrate how any water to be pumped or otherwise removed from the site will be of a quality that meets with the Dane County Land Conservation Department’s approval.

3. On the site plan (dated 12/14/98), there is a discharge pipe indicated in the south of the site that directs water, via a culvert under the lateral road running between Erb Road and Ringgenberg Drive, into Ringgenberg’s field to the south. The prevailing surface water drainage course directs this water flow toward an intermittent stream course further to the south. This water discharge location shall be the only location from which water will be pumped or otherwise removed from the site.

4. The applicant shall apply for and receive all other required local, state and federal permits. In particular, the applicant shall contact Tom Harpt of the Wisconsin Department of Natural Resources (DNR) South-Central Region Office in Fitchburg at (608) 275-3285 and acquire the appropriate permit to discharge water from a non-metallic mining operation under the Wisconsin Pollutant Discharge Elimination System (WPDES).

5. The operator shall develop and operate the site according to the submitted site/operations plan, dated 12/14/98.

6. Operators shall cease no later than 15 years from the date of CUP approval, with a site inspection by Dane County Zoning in 7.5 years.

7. Reclamation shall be completed within one year after operations have ceased, and shall follow the operator’s submitted reclamation plan. As each phase is completed, the restoration of that phase must be completed as much as possible before extracting in the next phase. Final reclamation of the 5.4 acre CUP area must be up to NR 135 standards; NR 135 is currently pending approval at the state level. A copy of the required reclamation plan shall be filed with both the Town of Springdale and Dane County Zoning.

8. State approval of NR 135 is anticipated in fall of 1999. Following state approval, counties will be required to update their ordinances accordingly. The applicant (Ringgenberg and Bowar) has indicated in their Application for Conditional Use Permit statement that all reclamation will be in accordance with NR-135.

9. To ensure compliance with the reclamation plan, the operator shall post and maintain a bond or irrevocable letter of credit in favor of Dane County in the amount of $8,100 ($1,500 per acre of subject site) until reclamation is satisfactorily completed.

10. The driveway accessing the subject site shall be paved. The operator shall maintain the driveway in a dust free manner in accordance with local, state and federal regulations, and shall clean any dust or mud tracked onto public roads.

11. The operator and all haulers shall access the CUP site only through the existing access point onto the nameless road south of the site running perpendicularly between Erb Road and Ringgenberg Drive.

12. The access to the driveway shall have gates securely locked when the extraction site is not in operation. The site shall be signed “no trespassing.”

13. Hours of operation shall be from 6 a.m. to 6 p.m., Monday through Friday. Saturday and Sunday operations are prohibited except for general maintenance and occasional trucking of material out of the quarry on Saturdays only. No operations of any kind shall take place on Sundays or legal holidays.

14. The operator shall comply with Subchapter VII – Blasting Resultants of the State of Wisconsin Department of Commerce Administrative Code (attached).

15. In particular, blasting levels shall be kept below 0.5 inch/second peak particle velocity at frequencies below 40 Hz., as per the State of Wisconsin Department of Commerce Administrative Code, s. 7.64, Table 7.74-2.

16. The operator shall keep on file a seismographic record for every blast: This record shall be provided upon request (this is already the operator’s practice).

17. There shall be a safety fence around the entire extraction area at all times. The safety fence shall be a minimum of 5 feet in height with a single strand of barbed wire on the top.

18. The operator shall use spray bars (water) in the crushing process to reduce dust. Use of spray bars is not required when the temperature is below freezing. The operator shall spray the site with water if and when needed to control dust.

19. There shall be no bulk fuel stored on site. (In cases where the operator wishes to have bulk fuel stored on site, the operator should indicate why and provide a plan for spill containment that meets state regulations.)

20. All excavation equipment, plants and vehicles shall be fueled, stored, serviced and repaired on lands three (3) feet above highest water table elevation to prevent against groundwater contamination from leaks or spills.

21. The operator shall require all trucks and excavation equipment to have muffler systems that meet or exceed current industry standards for noise abatement.

22. The operator shall meet DNR standards for particulate emissions as described in NR 415.075 and NR 415.076.

23. Dane County and the Town of Springdale shall be listed as additional named insureds on the operator’s liability insurance policy, which shall be for a minimum of $1,000,000 combined single limit coverage per occurrence. The operator shall furnish a copy of a Certificate of Insurance as evidence of coverage before operations commence. The liability insurance policy shall remain in effect until reclamation is complete. Copies of appropriate insurance policies shall be filed with the Town of Springdale.

24. The zoning administrator or designee may enter the premises of the operation to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation. If the operation is not in reasonable compliance with the terms of this approval, such approval is subject to amendment or revocation. Motion to approve with conditions carried 5-0.

PLAN COMMISSION PROCEDURES:

Fees: The PC recommends to the Town that the fee structure for site visits, CUP, rezonings, CSMS be reevaluated to determine whether the cost to the Town is covered by the fees. Should there be a fee for the second, third site visit to a property? In the case of an applicant who has started a business without obtaining the necessary CUP or rezoning, double application fees were suggested. Based on some experience in other towns in Dane County, our fees are below average.

Election of Officers: Motion by Bunn/Hanson to nominate John Rosenbaum as Chair and Mike Fagan as Vice Chair for the next term. Motion carried 4-1 (Rosenbaum dissented.)

Subcommittee to discuss proposed amendment to the Plan to allow for an additional lot when the lot would be perpetually restricted, voluntarily, to agricultural or open space preservation. Mike Fagan continues to work on developing a committee and three individuals have expressed an interest to learn more about it.

The next meeting of the PC will be Monday, June 22, 2015 or June 29, depending upon the availability of the Building Inspector to attend and answer questions. Applications for the meeting should be submitted by Monday, June 8, 2015. If a site visit is requested, the PC prefers a week night after 5:30 p.m.

ADJOURN: MOTION by unanimous consent.   
  
Respectfully submitted, Vicki Anderson, Recording Secretary