

TOWN OF CLAYTON
 Town Plan Commission
 Meeting Minutes
 7:00 P.M. – on Wednesday, January 8, 2020
 Town Office Meeting Room, 8348 County Road T, Larsen, WI 54947

I. Call to Order: Chair Knapinski called the meeting to order at 7:00 p.m.

A. Notice Verification, Roll

1. Pledge of Allegiance
2. Verification of Meeting Notice
3. Roll

a. Plan Commission Members

Chair Knapinski	PRESENT
Commissioner White	PRESENT
Commissioner Nemecek	PRESENT
Commissioner Linsmeier	PRESENT
Commissioner Dorow	PRESENT
Commissioner Haskell	PRESENT
Town Board Representative Wisnefske	PRESENT arrived at 7:15 p.m.

b. Staff

Econ. Dev. Director Johnston	PRESENT
Administrator Straw	PRESENT arrived at 7:15 p.m.
Clerk Stevens	PRESENT arrived at 7:12 p.m.
Planner Ken Jaworski	PRESENT

II. Public Hearings:

A. Plan Commission Public Hearing on proposed Amendments to the Town’s Comprehensive Plan, Future Land Use Map to Change the Following Tax ID #s:

Tax ID #	Acreage	Address / Location	Current Future Use	Proposed Future Use
All of 006-0535-06-04	0.42	CTR “T”, Larsen	Residential/Recreation-Conservation	Utilities and Public Facilities
All of 006-0535-06-02	0.49	8328 CRT “T”, Larsen	Residential	Business
A Portion of 006-0535-03	0.66	8338 CRT “T”, Larsen	Recreation/Conservation	Utilities and Public Facilities
Part of 006-0535-06-01	1.20	8348 CRT “T”, Larsen	Recreation/Conservation and Agricultural-Rural Residential	Utilities and Public Facilities
Part of 006-0055-03 and Part of 006-0055-02	3.43	9416 Center Road, Neenah	Officially Mapped Future Road	Removal of Mapped Future Road

- Chair Knapinski reviewed the changes to the Future Land Use Map
- No Public Comments were received

PUBLIC HEARING CLOSED AT 7:05 p.m.

- B. Plan Commission Public Hearing on a Conditional Use Application submitted by Black Creek Limestone Co. (MCC, Inc Operator) for a Non-metallic Mining Operation (Limestone Quarry) for property located at 4729 and 4763 County Road II; specifically described as Tax ID #006-0499-02, 006-0501, 006-0508-03, 006-0503, and 006-0508, being located in Section 19, Town 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.
- MCC Representative, Adam Tegelman, explained the CUP application was an administrative process ensuring the quarry is operating with the correct and proper permits. The quarry has a County issued CUP and a Town CUP would bring them into compliance with the Town’s Zoning requirements. Current Operations are not changing.
 - Randy Kuehl, 4614 Grandview Road, asked for an explanation of a CUP
 - Chair Knapinski explained that a Conditional Use Permit (CUP) is a zoning exception which allows the property owner use of his land in a way not otherwise permitted within the particular zoning district. He explained that certain conditions and requirements may be placed on the permit depending on each individual application.

PUBLIC HEARING CLOSED AT 7:07 p.m.

I. Approval of Minutes:

- A. Approval of the minutes of the Wednesday, December 11, 2019 Plan Commission Meeting.

MOTION:

Motion by Commissioner Nemecek

Second by Commission Haskell

Motion to approve the December 11, 2019 Plan Commission Meeting Minutes as presented.

Motion carried by unanimous voice vote

II. Open Forum Town-related Matters not on the Plan Commission’s Agenda: NONE

III. Correspondence:

- A. December CY 2019, Building Inspection Report.
- B. Village of Kimberly invitation to participate in the “Imagine Fox Cities”

IV. Business:

- A. Discussion/Recommendation: Plan Commission review and consideration of Resolution 2020-001 a Resolution recommending proposed amendments to the Town’s Comprehensive Plan, and Future Land Use Map for the following Tax ID #s:

Tax ID #	Acreage	Address / Location	Current Future Use	Proposed Future Use
All of 006-0535-06-04	0.42	CTR “T”, Larsen	Residential/Recreation-Conservation	Utilities and Public Facilities
All of 006-0535-06-02	0.49	8328 CRT “T”, Larsen	Residential	Business
A Portion of 006-0535-03	0.66	8338 CRT “T”, Larsen	Recreation/Conservation	Utilities and Public Facilities
Part of 006-0535-06-01	1.20	8348 CRT “T”, Larsen	Recreation/Conservation and Agricultural-Rural Residential	Utilities and Public Facilities
Part of 006-0055-03 and Part of 006-0055-02	3.43	9416 Center Road, Neenah	Officially Mapped Future Road	Removal of Mapped Future Road

The Commission reviewed a copy of Resolution 2020-001, A Resolution forwarding a Plan Commission Recommendation that the Town Board adopt the listed amendments to the Town of Clayton, Comprehensive Plan 2016-2036. Staff had reviewed the proposed amendments to the Town’s Comprehensive Plan with the Commission at earlier meetings. The proposed action formalizes the process and allows the Town Board to adopt the proposed amendments to the Town’s Comprehensive Plan and Future Land Use Map.

MOTION:

Motion by Commissioner Haskell

Second by Commissioner Linsmeier

Motion to approve Plan Commission Resolution 2020-001 and direct staff to forward the Resolution to the Town Board for its consideration and action.

Motion carried 6-0. Commissioner Wisnefske was absent

- B. Discussion/Recommendation: Plan Commission review and consideration of a Conditional Use Application submitted by Black Creek Limestone Co. (MCC, Inc Operator) for a Non-metallic Mining Operation (Limestone Quarry) for property located at 4729 and 4763 County Road II; specifically described as Tax ID #006-0499-02, 006-0501, 006-0508-03, 006-0503, and 006-0508, being located in Section 19, Town 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.

Site Location: The property is located at 4729 and 4763 County Road II; specifically described as Tax ID #006-0499-02, 006-0501, 006-0508-03, 006-0503, and 006-0508, being located in Section 19, Town 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.

Applicants: Black Creek Limestone Co. (MCC, Inc Operator)
 2600 North Roemer Road
 Appleton, WI 54911

Property Owners: Black Creek Limestone Co. (MCC, Inc Operator)
2600 North Roemer Road
Appleton, WI 54911

Consultant: N/A

Property Information:

1. The surrounding properties are zoned:
 - a) North: A-2 (General Agricultural District), and A-1 (Agribusiness District).
 - b) South: R-2 (Suburban Residential District), and R-3 (Two Family Residential District).
 - c) East: I-2 (Heavy Industrial District).
 - d) West: R-1 (Rural Residential District) and A-2 (General Agricultural District)

Property Information Specific to Tax ID # 006-0503:

1. Black Creek Lime Stone Company, 2600 North, Roemer Road, Appleton, WI 54911.
2. The Lot is 29.85 acres.
3. The property is in the Winneconne Community School District (6608).
4. The property is in the Department of Natural Resources Special Well Casing area.
5. The property is currently zoned by the Town as A-2 (General Agricultural District).
6. The property has no Navigable Stream and Surface Water Drainage Information.
7. The property has no Airport Zoning and Height Limitation Information.
8. The property is out of the County Shoreland Area.
9. The property has no County Floodplain and FEMA Special Flood Hazard Area (SFHA) Information.
10. The property has no Wisconsin Wetland Inventory Information.
11. The Town's Future Land Use Planning Information is showing the property as non-metallic mining uses.
12. The current land use is consistent with the Town's adopted Land Use Plan.
13. The proposed land use is consistent with the Future Land Use Plan.

Property Information Specific to Tax ID # 006-0508-03:

1. Black Creek Lime Stone Company, 2600 North, Roemer Road, Appleton, WI 54911.
2. The Lot is 43.00 acres.
3. The property is in the Winneconne Community School District (6608).
4. The property is in the Department of Natural Resources Special Well Casing area.
5. The property is currently zoned by the Town as A-2 (General Agricultural District).
6. The property has no Navigable Stream and Surface Water Drainage Information.
7. The property has no Airport Zoning and Height Limitation Information.
8. The property is out of the County Shoreland Area.
9. The property has no County Floodplain and FEMA Special Flood Hazard Area (SFHA) Information.
10. The property has no Wisconsin Wetland Inventory Information with an excavated pond on the site.
11. The Town's Future Land Use Planning Information is showing the property as non-metallic mining uses.
12. The current land use is consistent with the Town's adopted Land Use Plan.
13. The proposed land use is consistent with the Future Land Use Plan.

Property Information Specific to Tax ID # 006-0501:

1. Black Creek Lime Stone Company, 2600 North, Roemer Road, Appleton, WI 54911.
2. The Lot is 20.00 acres.
3. The property is in the Winneconne Community School District (6608).
4. The property is in the Department of Natural Resources Special Well Casing area.
5. The property is currently zoned by the Town as A-2 (General Agricultural District).
6. The property has no Navigable Stream and Surface Water Drainage Information.
7. The property has no Airport Zoning and Height Limitation Information.
8. The property is out of the County Shoreland Area.
9. The property has no County Floodplain and FEMA Special Flood Hazard Area (SFHA) Information.
10. The property has no Wisconsin Wetland Inventory Information.
11. The Town's Future Land Use Planning Information is showing the property as non-metallic mining uses.
12. The current land use is consistent with the Town's adopted Land Use Plan.
13. The proposed land use is consistent with the Future Land Use Plan.

Property Information Specific to Tax ID # 006-0499-02:

1. Black Creek Lime Stone Company, 2600 North, Roemer Road, Appleton, WI 54911.
2. The Lot is 10.00 acres.
3. The property is in the Winneconne Community School District (6608).
4. The property is in the Department of Natural Resources Special Well Casing area.
5. The property is currently zoned by the Town as A-2 (General Agricultural District).
6. The property has no Navigable Stream and Surface Water Drainage Information.
7. The property has no Airport Zoning and Height Limitation Information.
8. The property is out of the County Shoreland Area.
9. The property has no County Floodplain and FEMA Special Flood Hazard Area (SFHA) Information.
10. The property has no Wisconsin Wetland Inventory Information.
11. The Town's Future Land Use Planning Information is showing the property as non-metallic mining uses.
12. The current land use is consistent with the Town's adopted Land Use Plan.
13. The proposed land use is consistent with the Future Land Use Plan.

Property Information Specific to Tax ID # 006-0508:

1. Black Creek Lime Stone Company, 2600 North, Roemer Road, Appleton, WI 54911.
2. The Lot is 2.00 acres.
3. The property is in the Winneconne Community School District (6608).
4. The property is in the Department of Natural Resources Special Well Casing area.
5. The property is currently zoned by the Town as A-2 (General Agricultural District).
6. The property has no Navigable Stream and Surface Water Drainage Information.
7. The property has no Airport Zoning and Height Limitation Information.
8. The property is out of the County Shoreland Area.
9. The property has no County Floodplain and FEMA Special Flood Hazard Area (SFHA) Information.
10. The property has no Wisconsin Wetland Inventory Information.
11. The Town's Future Land Use Planning Information is showing the property as non-metallic mining uses.
12. The current land use is consistent with the Town's adopted Land Use Plan.
13. The proposed land use is consistent with the Future Land Use Plan.

Staff Comments on the Conditional Use Permit Application:

1. The Conditional Use Permit Application does not change the existing use of the property and therefore it is consistent with the Town's Zoning Code and approved Future Land Use Plan.
2. The Conditional Use Application has been submitted by the Applicant in order to update their files.
3. Given the ongoing nature of the non-metallic mining operation, the absence of an expiration date and/or a sunset clause as a listed condition of award, the Applicants existing Conditional Use Permit will not expire unless operations are terminated for 12 consecutive months.
4. Staff is recommending that the Plan Commission approve the Conditional Use Application as submitted with the following conditions (the same conditions required by the County and the Town on June 3rd, 2002):

Town Conditions:

- a) Continued compliance with the Town and County Approved Drainage Plan.
- b) Continued compliance with the Condition that all homes and wells within 500-feet of the quarry be videotaped at the expense of Black Creek Limestone if requested.
- c) Continued maintenance of the staggered 4- to 5-foot vegetative barrier placed on the berms surrounding the site.
- d) These requirements are similar to those placed on the Northeast Asphalt site.
- e) Continued provision by mail of blasting schedules to property owners within 2000 feet of the entire site so that schedules are received no later than 24-hours prior to blasting.

County Conditions:

- a. Continued compliance with NR 151 as amended.
- b. Continued approval is limited to the terms and conditions as specified on the Application, the Site Plan submitted with the Application, or as may be modified herein.
- c. Continued compliance with all setbacks must be met unless a Variance has been appropriately granted by the Town of Clayton, Board of Adjustments.
- d. Continued understanding that the Conditional Use Permit to the Applicant is not transferable.
- e. Abandonment of the existing slurry pit in accordance with the LWCD requirements within 12-months of the Conditional Use Permit issuance.
- f. Continued compliance with the requirement that the discharge of water off-site where said discharge is a result of dewatering, or similar activity, shall be done in accordance with the following:
 - i. If the discharge of water is to be onto a neighboring (adjacent) property other than the road right-of-way, the Applicant shall be responsible for obtaining a drainage easement from the owner.
 - ii. The terms and conditions of the easement shall be solely between the Applicant and the neighbor provided that the easement clearly

- states that it is for the purposes of conveying water from the quarry site to a public road right-of-way.
- iii. The size and construction specifications of the easement area shall be specifically noted on the drainage plan submitted for the quarry operation. The County review and approval of the easement area as part of the overall drainage plan review and approval shall be limited to verification that none of the water will be discharged onto a different property owner other than the one granting the easement.
 - iv. The point of discharge of the water to a public right-of-way shall be approved by the Town Board, and shall be subject to conditions of approval as they deem appropriate.
 - v. If no easement can be obtained from a neighboring owner, the Applicant shall specify the means of conveying the water on their own property to a public right-of-way, subject to Town approval as specified in “(ii)” above. In this instance, the means of conveyance shall be subject to full review as part of the drainage plan review and approval.
 - vi. The Applicant is required to prepare a drainage plan in accordance with TR-55 and to submit said application to the County Drainage Inspector for review and approval, said approval is subject to reasonable conditions of approval including erosion control.
 - vii. The Applicant is required to provide written notice to the Drainage Board of the Larsen Drainage District specifying their intent to dewater a quarry. A copy of said notification to be provided to the County Zoning Office prior to the effective date of the permit.

Staff Recommendations on the Conditional Use Permit Application:

Staff recommends that the Plan Commission recommend approval of the Conditional Use Permit Application subject to the following conditions:

1. Documentation of the approval of the proposed Conditional Use Permit Application by any overlying unit of government having jurisdiction.
2. Any additional conditions the Plan Commission may wish to recommend.

MOTION:

Motion by Commissioner Linsmeier

Second by Commissioner Dorow

Motion to recommend approval to the Town Board for the Conditional Use Permit Application for MCC, Inc. with Staff recommendations.

- Commissioner Haskell requested a friendly amendment to the motion to include the continued compliance with State Statute § NR 151 as amended.
- Commissioners Linsmeier and Dorow accepted the friendly amendment to the motion.

Motion carried by a vote of 6-0 with Commissioner Wisnefske abstaining

- C. Discussion/Recommendation: Plan Commission review and recommendation on a CSM Application submitted by Joseph and Nicole Malchow, 2285 Willow Way Drive, Oshkosh, WI 54904, for property located on the west side of Center Road south of Larsen Road, specifically identified as Tax ID# 006-0701, located in the South ½ of the Southeast ¼ of the Northeast ¼ of Section 28, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.

Site Location: The property is located on the west side of Center Road south of Larsen Road, specifically identified as Tax ID# 006-0701, located in the South ½ of the Southeast ¼ of the Northeast ¼ of Section 28, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.

Applicants: Joseph and Nicole Malchow
2285 Willow Way Drive
Oshkosh, WI 54904

Property Owners: Joseph and Nicole Malchow
2285 Willow Way Drive
Oshkosh, WI 54904

Consultant: Ryan Wilgreen S-2647
Excel Engineering, Inc.
100 Camelot Drive
Fond Du Lac, WI 54935

Property Information:

1. The surrounding properties are zoned:
 - a) North: R-1 (Rural Residential District), and A-1 (Agribusiness District).
 - b) South: R-1 (Rural Residential District), and A-1 (Agribusiness District).
 - c) East: R-2 (Suburban Residential District).
 - d) West: A-1 (Agribusiness District).

Property Information Specific to Tax ID # 006-0701:

1. Joseph and Nicole Malchow, 2285 Willow Way Drive, Oshkosh, WI 54904.
2. The Lot is 20.00 acres.
3. The property is in the Winneconne Community School District (6608).
4. The property is in the Department of Natural Resources Special Well Casing area.
5. The property is currently zoned by the Town as A-2 (General Agricultural District).
6. The property has no Navigable Stream and Surface Water Drainage Information.
7. The property has no Airport Zoning and Height Limitation Information.
8. The property is out of the County Shoreland Area.
9. The property has no County Floodplain and FEMA Special Flood Hazard Area (SFHA) Information.
10. The property has no Wisconsin Wetland Inventory Information.
11. The Town's Future Land Use Planning Information is showing the property as agricultural/residential uses.
12. The current land use is consistent with the Town's adopted Land Use Plan.

13. The proposed land use is consistent with the Future Land Use Plan.

Staff Comments on the CSM:

1. The CSM does not change the existing use of the property and therefore it is consistent with the Town’s approved Future Land Use Plan.
2. The CSM **does** show the Right to Farm Language required by the Town.
3. The CSM creates 2-Lots from the parent parcel, the detail of the new Lots are as follows:
 - a) The proposed Lot-1 is zoned A-2 (General Agriculture District) and would be 5.00 acres (217,800 Square Feet) in area.
 - b) As part of developing the property a new code compliant access point will need to be permitted on Lot 1.
 - c) Lot-1 consists of vacant land.
 - d) The proposed Lot-2 (parent parcel) is zoned A-2 (General Agricultural District) and would be 14.761 acres (643,000 Square Feet) in area.
 - e) Lot-2 has an existing agricultural access point on the southeast corner of the property.
 - f) Both Lots created by the proposed CSM are zoned A-2 (General Agricultural District) and both Lots meet the Zoning Code requirements for the Zoning District.
 - g) Both Lots created by the proposed CSM are compliant with the existing zoning and would be buildable as they are being created.
 - h) The proposed CSM does deed approximately 0.503 acres (21,898 Square Feet) to the Town as Right-Of-Way for Center Road.
4. The reason for the proposed CSM is to divide the property for the purposes of residential development.

Staff Recommendations on the CSM Application:

Staff recommends that the Plan Commission approve the CSM subject to the following conditions:

1. Documentation of the approval of the proposed CSM by any overlying unit of government having jurisdiction.
2. The Applicant provide a copy of the recorded document to the Town.

MOTION:

Motion by Commissioner Dorow

Second by Commissioner Nemecek

Motion to recommend to the Town Board approval of the CSM Application submitted by Joseph and Nicole Malchow, 2285 Willow Way Drive, Oshkosh, WI 54904, for property located on the west side of Center Road south of Larsen Road, specifically identified as Tax ID# 006-0701 with staff recommendations

Motion carried by unanimous voice vote

- D. Discussion/Recommendation: Plan Commission review and direction to staff on preparing the documentation for the moratorium approved by the Town Board on construction of any new self-storage facilities as defined in Chapter 9 – Town of Clayton Zoning Code of Ordinances, Article 3 – Definitions, Section 14.0 GENERAL STORAGE, 14.02 Personal

Storage Facilities in the Town of Clayton Code of Ordinances.

The Board has authorized the Town's Planner, Ken Jaworski to submit a proposal for Planning Services to facilitate the Plan Commission's review of the moratorium on self-storage facilities in the Town. The Commission reviewed material provided by Planner Jaworski. As part of the process the Administration requested to review the following with the Commission:

1. Material relating to the Hesselman Storage LLC facility located at 2870 CTR "II" in the Town of Clayton.
2. The Hesselman facility and the adjoining lot are for sale by the owner.
3. Staff has been approached by a potential buyer that would like to expand the facility to allow for outside storage on the vacant land.

The Administration had the following questions for the Commission:

1. Is it reasonable to allow for the expansion of outside storage if the owner agrees to the following conditions as part of a Site Plan approval process?
 - a) That no additional land be purchased for the purpose of expanding the proposed outside storage facility.
 - b) That there be no new structures constructed on vacant land that is part of the existing site.
 - c) That any outside storage on the site be screened from public view as part of a Plan Commission approved Site Plan Review.
 - d) That the property owner acknowledges that Special Assessments for municipal sanitary sewer and water will likely be levied on the property in the near future (5 to 10 years).
 - e) That the property owner of record will be responsible for paying any Special Assessments as required by the Town's Policy in force at the time the Special Assessments are levied.

The purpose of the exercise was to give staff direction on how to incorporate the potential expansion of existing self-storage facilities when considering the implementation of the Board's desire to control this type of development within the TIF and the Sanitary District.

- Planner Jaworski explained that there are two viable options for amending the zoning code to address the moratorium on construction of any new self-storage facilities
 - The first option is to amend the districts and district boundaries in order to control the future development. This is a very extensive and complicated process
 - The second option is to create a zoning overlay district which would have a defined boundary within which any of the overlay restrictions and requirements would apply
 - Possible boundaries would be the TID Boundary, the Sanitary District Boundary, or the mapped Boundary Area from the proposed Boundary Agreement between the Village of Fox Crossing and the Town of Clayton which includes an approximate area from

Winnegamie Drive south almost to Oakridge Road, and from Clayton Avenue to just west of STH 76.

- Planner Jaworski noted that the TID Boundary would be the most defensible boundary as the TID Plan includes development of Municipal water and sewer services in order to maximize the land use within the TID.
- Commissioner Haskell suggested the overlap of the Airport Overlay District with the TID and Sanitary District Boundaries should be considered in the discussion.
- Commissioner Linsmeier noted that in the questions presented earlier, the idea of screening for outside storage may want to be considered, but he feels that outside storage should not be allowed within the overlay.
- The Commission determined that no new development within the overlay should be allowed unless previously approved by a Site Plan Review

DIRECTION TO STAFF

The Commission directed Planner Jaworski to develop the Overlay District and related boundary map for the Commission’s consideration at the February Plan Commission Meeting.

A. Upcoming Meeting Attendance:

- Town of Clayton Holiday Social (No Host-Pay your own way)
January 25, 2020, 6:00 p.m. at Willie Beamons

B. Adjournment

MOTION:

Motion by: Commissioner Haskell

Second by: Commissioner Linsmeier

Motion made to Adjourn the meeting at 7:59 p.m.

Motion carried by unanimous voice vote

Respectfully submitted,
Holly Stevens, Clerk