

WATERVILLE PLANNING AND ZONING COMMISSION
PUBLIC HEARING
March 30, 2016, 7:00 p.m.

There was a meeting of the Waterville Planning and Zoning Commission held in Council Chambers at 7:00 p.m. on March 30, 2016.

Present: James Hennan, James Fallon, Randy Mediger, Tim Smith and Chairperson Don Jacobsen

Absent: None

Also Present: Administrator/Clerk Teresa Hill

Also Absent: None

1. Call to Order. Chairperson Jacobsen called the meeting to order noting that all Planning and Zoning members were present. Also present City Administrator Teresa Hill.

2. Minute Approval – February 23, 2016. Motion by Mediger, seconded by Smith to approve the minutes of February 23, 2016. Unanimous vote. Motion carried.

3. Conditional Use Request – Wayne and Steve James. Wayne and Steve James P O Box 59, Elysian MN 56028 applied for a conditional use permit to allow mining of gravel and recycling of blacktop and concrete. The existing property is currently zoned Agricultural Holding and is described as follows: Parcel ID # 14.021.3000, Address: 809 North Shore Drive; Legal: Sect-21 Twp-109 Range-023 32.76 AC THAT PART OF LOTS 1 & 2 BEG 1320.01 FT S OF NE COR OF SEC 21, TH S 832.52 FT, W 889.6 FT S 33 FT, W 790.05 FT, N 865.51 FT, E 1685.92 FT TO BEG. Wayne and Steve James were both present at the public hearing. Chairperson Jacobsen read to the audience what a conditional use is “A conditional use is a permit in a particular zoning district only upon showing that such use in a specified location will comply with the standards of the ordinance of the location the operation of such use. The City may impose additional conditions in specific instances to protect the public, health, safety and welfare.” The conditional use permit is subject to a period review upon determination by the City and may be revoked if found in non-compliance. The zoning ordinance permitting conditional uses in particular districts is not intended to be inclusive; therefore the public is given the opportunity to voice their support for it or support not for it for the intended use. Wayne and Steve James addressed the P & Z and audience. A map was provided of the parcel where the conditional use permit request would take place. Mr. Wayne James said they are looking at the property which was an existing old gravel pit. Their plans are to purchase the property and clean up some of the brush and junk. They will continue to farm what they can of it and they are going to mine some gravel out of what they can find good usable gravel. Their idea is to get it cleaned up so they can find things down there. The brush is grown up and they want to get people to quit dumping junk down there. They want to use the site for a pit similar to what they have now. They have three pits by Elysian that they currently run now and they want to do the same here. They do not know if they will be able to find enough rock in the material that they will set a wash plant up. They have done some test holes and the wash plant would be just like washing up their pea rock, wash sand and inch and a half decorative rock. They will be setting the screen plant up there to screen off the rock and separate it off from the sand. There are two different products that they can use on different jobs. Mr. Wayne James said the work hours would be

7:00 a.m. to 7:00 p.m. Mr. James said most of the time they are done in the pits by 5:30/6:00 p.m. If they have an order going out where they need a lot of material and they find good material in there they would start at 7:00 a.m. and be done at 7:00 p.m. Mr. Steve James said it is going to be a gravel pit but you have to realize that it is probably not going to be like an every single day thing. It will be as jobs call for it that they would be in there. There would not be people down there every single day unless business is really booming. The other pits they have now it is not all the time it is as you need it.

Mark Sheehy, 1040 Maple Drive asked what is with the asphalt and cement recycling. Wayne James said on job sites they grind it up and mix it back into their gravel. They make what they call a Class VII, which is road material gravel and they use it for building sites. That will be crushed and it is all recycled material. Mr. Sheehy asked if there is a lot of noise involved with that. Mr. James said just during the working days. Wayne James said if they crush in the pit they crush a week or two in a year. Steve James said the crushing operation does not last very long. Mr. Sheehy said you do pile it up into big piles. Wayne James said the pile of cement is ten to twelve feet tall. Steve James said now days you have to recycle everything you can. Every job they get they try to reuse any part of it that they can. They have to try to reuse everything that they can now days. Mr. Sheehy said that pit has been taken down almost to lake level where do you intend to get the gravel from. Wayne James said there is some material around the outside edges that haven't been taken down. They will look at what they have below the water table as far as what they are going to take out. Mr. Sheehy said he knows they are close to the water table because when he was on the school board they surveyed that. Wayne James said they have that in their other pits too and they will come in and excavate out if there is good material. Mr. Sheehy said if you are going to get gravel you have to go to the south towards North Shore Drive, basically that is all that is left there. Steve James said there is a little bit along that edge yet and there is some way on the west end also, or we will go deeper. Mr. Sheehy said just to let you know where he is at he is totally against it, he does not believe this belongs inside the City limits and especially along the lake. Wayne James said there is no danger of any runoff or anything getting into the lake. Everything they will be working with materials that will be ground up, used up and hauled out. Mr. Sheehy said when you have asphalt piled there and you get torrential rains on top of that some of that would leak into the ground. Wayne James said that is not any different than the blacktop roads that you've got around the whole county. Mr. Sheehy said you are close to a lake and houses that have got shallow wells. He thinks that is a concern. Steve James said the roads don't really contaminate the ground underneath it. Ms. Hill said there is some written correspondence that we will go through first with the answers then we will open discussion to the floor. Mr. Jacobsen read the questions and answers as follows: What part of the property do you plan to mine? *We will mine the area that has gravel deposits under it;* How many years do you plan to mine the property? *7 to 10 years –until the gravel is gone;* After the property is mined and filled with debris, do you really think someone would want to build a house on the land? *We are not going to fill the pit with debris. It will be filled in with a fill material so it can be used in the future for other possibilities.* How much truck traffic do you expect on TH13? *This is unknown until we have projects in the area where the material is needed;* What steps would be taken to block the view of the men from homeowners? *There are already trees and brush to block the view – we have no plans to remove them;* What would be done to minimize dust? *We will water the road if needed;* What steps would be taken to prevent trespassers (teenagers who want to party and goof off like they did in the existing mining area)? *We will put a gate at the entrance of the pit;* How often would you use North Shore Drive? *We have no plans to use North Shore Drive.;* How does this benefit the city? *Any business will add to the city, it will bring business to the local eating*

establishments, gas stations because of employees that will work at the pit. Having a local pit can save homeowners money on projects when material is needed.

Ron McMillen said he is on the west boarder of the plans. Mr. McMillen asked if they have an environmental impact statement. Wayne James said they do not. Mr. McMillen asked if they are planning on acquiring one. Wayne James said no they haven't, being that it is an existing pit. Mr. McMillen said they are expanding this pit quite a ways. This is a real expansion of what there is there. Wayne James said somewhat yes. Mr. McMillen said you just told us you are going to take down all the trees and brush. Wayne James said not all of them, the center of the pit is solid willows that are growing up and it is all brush. Mr. McMillen said so you are going to take basically from the corn field there already existing. Wayne James said yes. Mr. McMillen said he is really against this. He just built a brand new house and now he is looking at noise all day long, every day. Steve James said not every day, there is not going to be a lot of noise. Mr. McMillen said he does not believe that. He is concerned about the traffic, the noise, the dust and he is concerned once they get the conditional use they will expand the scope of this. He does not like the recycling of blacktop. They will have to melt and get a fire going. He doesn't know what is involved in some of this. He has got to believe that there is going to be permanent buildings. Steve James said obviously you don't know what they do; they are not that big of a company. It is not going to be hundreds of trucks a day going in and out and all this noise and racket. Steve James said it might be a couple of weeks during the summer and you might never see us out there again. Mr. McMillen said you are going to spend all this money to get this property and you are not going to use it. Steve James said it is for the future, we've got seven other pits. We have to keep it so that we have something for future use.

Steve Mihalik, 802 North Shore Drive. Mr. Mihalik said the area that we are talking about is zoned agricultural. He thinks it is important to note that if it is general industry it would be zoned I-2 which that permits the use of mining and extraction of gravel. That is not a clear or even written or noted authorized conditional use in agricultural land. The fact that we are here is to speak out but he thinks it is important for everybody to understand in planning and zoning that he can't even see why it would pass for that one purpose alone. Mr. Mihalik said you mentioned you probably wouldn't use North Shore Drive although be it not a guarantee, in which case you would have to use Trunk Highway 13. What is important to note is that my question did you check with DOT on how they would feel on using Trunk Highway 13 on pulling trucks out. Right now you are on a road that is 55 to 65 miles per hour right around a bend and he cannot imagine DOT permitting that so his question is have you checked with DOT if that can be used. Wayne James said no we don't have to. Mr. Mihalik said yes you do. Mr. Mihalik said there are a number of homes for sale on North Shore Drive that are having difficulty to sell. They have not been selling. The questions that were read earlier were questions from him; the question was how would this benefit the City. This would not benefit the City the depreciation of home values only lowers the taxable income hence it hurts the City. He understands employees would buy gas, but if you have pits in Elysian, they would buy their gas and their meals while they are coming through. When you talk about noise 7:00 to 7:00 a business day, also respect that people are not gone 7:00 to 7:00, they are people working at their homes, or have daycares, there are people that work at night and they sleep during the day, 7:00 to 7:00 doesn't do anybody any good except for you. Mr. Mihalik said he would also like to mention the parties, he lives right near the corner of Trunk Highway 13 and North Shore Drive and on a regular basis during the summer they hear kids out their partying. We hear them screaming, we call the police and they

come and check on them. We don't want that closer to our homes. We have a campground another welcome area where people bring residents throughout the summer and he is sure Bob will talk about those benefits as well. Mr. Mihalik said dust; great he is glad they are going to water the road. Have you seen the condition of our road? He doesn't think you have. While we are on that note about the condition of our road we have a line of trees. You mentioned that there is already brush there and people won't be able to see, before you even consider this why don't you drive down in the summer time and see how thick that brush is, it is actually one row of pine trees that you can see clear through. Mr. Mihalik said he would recommend to the Planning and Zoning that if you were to go against the agricultural conditional use that you would actually require a buffer of 50 feet of trees to be built, he would also recommend that the plans would be to backfill that after 7 to 10 years to use for future residential use. That you put up \$200,000 in escrow because he doesn't want to see them go broke and not be able to do what they have promised to do.

Bill Wilson, 814 North Shore Drive. Mr. Wilson said his question is regarding the breakup of asphalt and concrete. Prevailing winds are out of the northwest whatever is kicked up by that operation is going to bring all of that right across and toward the lake. Along with everyone else who has spoken here tonight he agrees, he is totally against this.

Brenda Bemis Novak, 808 North Shore Drive. Ms. Novak said she runs a daycare out of her Mother's home. The property is adjacent to that field and the road. What her concern is the trucks. Her playground is across the road from her Mom's house so it is right next to this field and adjacent to the road. She is concerned. She does not have it fenced in, she doesn't plan on fencing it in. She is concerned about dump trucks and little kids. Wayne James said the driveway is on the far end of that property. That is where we would access. Ms. Novak said so you are not going to be doing anything along that field. Wayne James said as far as driving in there no. We will be mining material out along that side but all of our driving and access will be at the far end. Ms. Novak said she can't say that she is for it. She is concerned though.

Bob Gleason, 1050 Maple Drive as well as two empty lots and the resort at 904 North Shore Drive. On the road access looking at the map it actually goes through someone else's property. Has an easement been laid out for that or anything? Wayne James said it comes off of Highway 13. He agrees but looking at the picture you can see it is on another piece of property. Wayne James said it is all highway right-of-way. It is an existing driveway. Mr. Gleason said his other concern is 7:00 to 7:00 is that week day, weekend, seven days a week? Wayne James said we will be working 5 days a week. Mr. Gleason said he runs a resort and he has a lot of customers that are there during the week. Wayne James said everyone is concerned about noise, there is not a whole lot of noise out in the pit. Mr. Gleason said he can hear the machines that are already out there at the other pit further away from us. Wayne James said it is not an everyday deal. In the summer we have about 20 days in the pit. Ms. Hill said the map is a depiction of where the property lines are, it does not say exactly where the property lines are. It gives you an idea of where they are.

Craig Siem, 811 North Shore Drive. Mr. Siem said part of job that he does as a profession is an environmental engineer. He is concerned about the pollution. He is specifically concerned about the asphalt recycling. The ground waters go to the lake and asphalt is a designated carcinogen.

It is full of BOT's, it is something that we don't want in our ground water. To go to the lake it is going to go through our wells and into the lake. The dust that is going to be spun from this operation is going to be drifting over our neighborhoods and into the lake. He does not think that this is the right location for this type of operation. Mr. Siem said he is one of the people that is trying to sell our house. He does not think it is going to help their property values at all when they see that across the street from us. He thinks it would be poor use of land next to a residential area.

Kate Wilson, 814 North Shore Drive. Ms. Wilson said she agrees with all the points that have been mentioned thus far and she would also oppose it. Ms. Wilson said when you are within 1,000 feet of a lake you are in a lake shoreland district and there are very specific environmental requirements within a shoreland district. The fact that an environmental survey hasn't been done, she also believes that there is some serious contamination issues involved. If you just walk up the road you will see that the land dips down into a ditch and then it winds around Mr. Benson's backyard and goes into the lake. There is no way that you are not going to have runoff from any operation one day, twenty days, thirty days however many days you are going to have runoff in a rainstorm. We already have got so many problems with the lake she doesn't think we need to on purpose add another one.

Steve Mihalik said he had another comment. He thinks it is also important for Planning and Zoning to refer back to the 2004 land use study that was produced, that land was proposed for future residential and future commercial, not for future industrial. Again as a reminder this is agricultural land this is not a permissible use for that purpose. This would be a rezoning not a conditional use. Again he sees no reason why you could pass this for any reason.

Royal Myers, 812 North Shore Drive. Mr. Myers said one question is where are you going to access to get into the field once the trucks come in off Highway 13. Wayne James said they will be accessing that existing road going into the pit. They will be coming in at the far north end. Mr. Myers said the trees that are behind the field are those the ones that you are going to take out. Wayne James said not behind the field. You can see where the field lays through there we are going to clean up a lot of the trees and brush through there. There are some huge cottonwoods in the far back corner that are going to probably stay and there are a bunch up in the southwest corner. Mr. Myers asked where are they going to put the machinery to recycle the concrete and the asphalt. Wayne James said probably on the far north. Steve James said that doesn't sit there. It is something that they rent. They bring it in for three days and it is gone. It does not stay there. It would be at the northeast corner. Sandy Struve, 804 North Shore Drive said she had the same question.

Mr. Hennan said he has been over to their other pits in Elysian quite a few times. He has driven by on the road and he has never heard the equipment that is down in there. He doesn't hear them until he is actually almost upon them. Mr. Hennan said he doesn't really hear the equipment it is very quiet that way. As far as your water, you have to dig down far enough to get water and start pumping that so you can wash the rock. Steve James said only if we wash it, we may just dry screen, we might not have a wash line in there. Wayne James said we have a wash plant at our other pit. We would dry screen and then haul that material to our other pits to wash it. Mr.

Hennan said so you probably wouldn't be digging down far enough to hit water. Steve James said not right now, maybe down the line somewhere it is hard to say, but not to start with.

Mr. Smith said is it his understanding that eventually you are going to be filling these pits in. Wayne James said when they are on a job site they have clay and clean material, we will fill in with that. Mr. Smith said to the existing ground level? Wayne James said yes. Mr. Smith said you are talking potentially hundreds and thousands cubic yards of fill and he is wondering where they are going to get all that. Wayne James said they aren't going to build the slopes and everything back up. It is an existing pit and it will just keep getting used and as we have jobs where we have extra clay and dirt off of them we haul it back to the pit. Steve James said we are working on a pit in Owatonna now and what they are designed for is where you take the material out below water level you actually leave that little lake or pond that is there and you just fill around it. You are not going to fill this whole pit back up to where it originally was. They have housing developments that are going around the old pits. Mr. Hennan said you really wouldn't have any run-off. Mr. Smith said he knows there was a mention of the possibility of rezoning, but he was looking under conditional uses for agricultural holding and conditional use #13 says land alterations of 400 cubic yards or more so he wants to question if this would fall under this category or if we truly would need to rezone it for this. Ms. Hill said the land alteration portion that you are referring to is when you are doing a clearing type situation. What was mentioned as far as a rezone that would be something that you are actually saying that this mining location is available and this is the activity that is allowed within that zoning. If you were going to allow it by zoning you would have to do a zoning amendment writing in that as an allowable use is mining of gravel and so on. If you look in the general industry I-2 it actually specifies that as a conditional use that is allowable in that zoning district. So somewhere along the line when the zoning was developed they take a look at the areas and what types of uses the City would like to see in those. As Mr. Jacobsen mentioned before they are not all inclusive. That is why you have hearing process. It is not meant to be all inclusive. When you are talking a change in zoning that is a totally different process.

Bill Wilson said somebody has been mining gravel down in there in the past, he is just wondering how were they able to mine gravel down there if we have to go through this to continue. Ms. Hill said approximately ten years ago or so there was a conditional use process that allowed the mining of gravel in that pit. The restrictions that were placed on the conditional use was operation hours. That was the only thing that was stipulated on the conditional use. If that process would have stayed active throughout the years you would still be staying next to an active gravel pit. But since the use had not been used for a year then this process needs to be reopened. A conditional use does stay with the property until such time as the use is discontinued for a year.

Royal Myers said if you bring the machinery into the site to do the recycling, do you have that at your current location. Wayne James said they rent one every year or every other year to recycle our material. They have some equipment there now but not the impactor. Mr. Myers asked if they recycle at their pits in Elysian. Wayne James said yes they do. Mr. Myers asked if they can continue to do it there. Wayne James said yes we can. Steve James said and we will. Mr. Myers said and not do it here. Wayne James said it is a possibility if that is one of the conditions that is what we will have to deal with. Wayne James said it depends on where the location of

your pit is and the jobs that you have. When you have a job where you are hauling 1,000 yards of material out and you have to bring in 200 to 300 yards of concrete to go to Elysian and dump the concrete when you are right in the Waterville pit it is not real good business practice to run around in circles and burn more fuel.

Bill Wilson said it seems like there are a lot of unknowns. If you start digging in there and it turns out to be a gravel bonanza then what happens? We're stuck. Wayne James said you can only move so much material that you can sell. We only move a few thousand yards a year out of some of our other pits. It depends on what kind of material and what jobs we have and which areas. Mr. Wilson said you don't know what is under that ground right now. Wayne James said yes we do, we have done some soil borings. Mr. Mihalik said they wouldn't be interested in buying it if it wasn't good.

Mr. Mihalik said he just wants to say one more time Planning and Zoning needs to consider the greater good for the City and when we are looking at levy increases, looking for taxable income, we are building a wastewater treatment plant so we can have more homes in the area and we have an area that is already designated for future residential use why would you even consider offering a conditional use that is not even permitted when the only thing it can do is hurt the City.

Mark Sheehy said thinking of the City itself we have two major highways, highway 60 and highway 13, do you really want an asphalt/concrete dump on one of the major highways coming in? He doesn't think that does much for the City. He does not think that should be in the City limits.

Carol Bauer, Maple Drive. They have an empty lot that they are trying to sell and they do not see this being an asset for them to sell. What does the City get as far as the mining goes if it goes through? What kind of an asset is it to the City taxpayers or as a City. Ms. Hill said a tax base is a tax base. It is already generating revenue off of taxes and it would continue to generate revenue off of taxes. Ms. Bauer said in some places where you have the landfills they charge a little extra. The City gets a kick back on that, is there anything like that in this mining? Ms. Hill said not that City would be imposing as far as an extra tax on them. Wayne James said there is a gravel tax that the City will get that because it is in the City limits. Wayne James said in townships if we pull gravel out each township pit that we have that we pull gravel out of the townships all get the gravel tax money. Steve James said a share of it, he doesn't know if they get it all. Ms. Hill said it is her understanding gravel tax money went to the County level. Wayne James said then it gets reimbursed back. Ms. Hill said by project items. Ms. Hill said it is not a direct payment from you to the City.

Mr. Mihalik said he wants to go back to one of the questions was how does this benefit the City. The answer was any business will add to the city, it will bring business by eating at local establishments and gas stations, by their own admission this might only be two weeks a year. He does not see this as being a huge benefit. He didn't see anything about what they said employing people from Waterville and to answer anybody's question does the City get a sales tax from this no. Does the City get a payroll tax from this? No. Does the City benefit from this? No. Do home values go down? Yes. Do taxes in the City go down, yes. This does not benefit the City.

Wayne James said when he talks about employment in the City we probably have five or six of their guys from either in town or around the Waterville area. Mayor Mihalik said but that wouldn't increase by this project that is not relevant to the answer. Steve James said it possibly would.

Craig Seim asked if there would be any County oversight of this facility as far as any environmental issues. He knows if they put in a new septic system they have to have the County take a look at that to make sure it is not leaking. If you put an asphalt recycling plant up there is there anything the County would oversee, environmental people from the County. Any permits or any oversight at all in this case? Ms. Hill said the City has the oversight on the site, it is in the City limits. The City can ask the County for assistance on certain things. Ms. Hill said that is what we did with septic systems. We do contract or ask the County to monitor those. Mr. Seim said would you do so in this case. Ms. Hill said we could. Those resources are available to us.

Mr. Hennan asked how long do you think it would take to use up that whole area, about ten years? Mr. James said yes. Do you use the pit north of there at all? Wayne James said that is not on this property it belongs to somebody else.

Mr. Smith said he makes a motion that we look into this a little deeper before we make a final decision on it. Ms. Hill said if you want to look into it further you need to specify specifics that you want. Ms. Hill said there are timetables and if you are not specifying perse they said there was environmental concerns you would want to make your motion specific on the ideas of what you want to look in and have further information presented on. Mr. Smith said he would want to see more of the environmental impact on it information before he would want to make a final decision. Mr. Fallon said he seconds that. Ms. Hill said she wants to make sure your motion is the way she understands. Basically what you are saying is that you want to table this matter until such time as James Brothers presents an environmental impact study on the site. Ms. Hill said she just wants to make sure that we all understand that it is being tabled until additional information can be presented by the James Brothers and then be reexamined. Motion by Smith, seconded by Fallon to table this matter until James Brothers provide an environmental impact study and then re-examine the request. Mr. Jacobson said we do have an agricultural area is what we have and an industrial area is a different category altogether, that is two separate requests, with a conditional use can we do that? Can you do it with a conditional use in an agricultural area? Are we allowed to do that without it being an industrial area? Should we look it over and see if we can make it an industrial area or not make an industrial area, can we do that? Ms. Hill said you have a motion on the floor and it was seconded you should do a vote on that. The request was for a conditional use. If you are looking at a rezone then that is a different application process. Mr. Jacobson said so we have a motion on the floor. Voting for: Smith, Fallon Voting against: Mediger, Jacobson, Hennan Motion failed.

Mr. Mediger said his issue is why make them go through all of this if it is a moot point. We were just told that we can't do this. We need to really find out what we can do with this otherwise it is just wasting everybody's time. Mr. Hennan said he doesn't think they are here for the environmental impact on it they are more here on the future housing of it. He is sure in the long run it will be fine anyway. Mr. Hennan said he doesn't know how you can get anything to

leak that far in there. He has been in the pits the last 11 years, he has been in there every summer a couple of times. He has never seen anything change. It is kind of filling here and they kind of moved over here now, it is always kind of in the same area, to him it is quiet. There are only a few farm houses along the way there. It kind of fills itself back in, there is always material there as they are taking material out they are bringing material in. You see it crushed up and they use it to fill back in. It is just all around there, he understands your point as far as housing being that close to it. He does not know what they could do, ten foot walls, tree it in, and you can't see it. If you are worried about your houses, these guys aren't in there that often.

Mr. Mediger asked if they can do a conditional use request. Ms. Hill said yes you can. A conditional use is granting an exception to the rule. You have an agricultural holding area that they are asking to do a use in it that is not normal or customary. Zoning says you can do it in this area so a conditional use can be granted with findings that it is not going to be detrimental, so on and so forth to the community. You have to do your findings that would support your decision one way or the other. Mr. Mediger said he thought we were told that we couldn't act on it. Ms. Hill said yes you can. Mr. Mihalik said he checked with his attorney and his attorney was clear that in an agricultural district there are certain items that are permissible to be conditional use, this is not listed. This is only listed under I-2, this is not listed under agricultural. He can only tell you from his attorney that if this is something the City would go through he is sure that we would have a nice class action lawsuit against the deterioration of our home values. Ms. Hill said she will also add to that in recent lawsuits that have occurred also that have a use in one zoning district they are being challenged under the other zoning districts too. There is not a hard line that says you cannot do it. It is up to the Planning and Zoning to make the decision and the findings that you would be making would need to support the information that it would be good for the environment, it is going to be okay with your long term plans. You are going to want to state your specific reasons as to why you feel that it should be allowed in that district. If you make a motion that you do not want to recommend on the other hand you will also want to state that it does not comply with these particular issues. So you have grounds either way. Either way your decision needs to be factual. Some of those basis that you do your factual basis on is based off of long term plan, impact of future use, environmental and those other types of issues, property value impact, and depletion are some of the things that were brought out. She does not know how they are demonstrated at this point but those are all concerns that you can make valid as far as recommending or not recommending to the Council. Mr. Hennan said you have got this down for 7 to 10 years is that your max? Wayne James said that it depends on the amount of material that is going to be in there. That is something we don't know. How many yards are we going to move out every year, it is an unknown. Some of the other pits that we have been in longer than that. It depends on how much material there is to move out and how much business we have in the area for selling the material. Wayne James said he thinks the last time that pit was real active all the material went to Montgomery for Seneca Foods. They hauled several thousand of yards out of there. At that time it was permitted and that was ten or fifteen years ago. Ms. Hill said you are talking about time limits and how long they are going to take the gravel out. She just wants everybody on the same page. If a conditional use is accepted and granted by the City Council then that use stays in place until it stops. You cannot limit the time. You cannot say you can only gravel this for two or three years. It is basically they use it for the time span as long as they are doing the activity. She does not want people to think there is an avenue of saying they say they are going to do 7 to 10 years but that does not necessarily mean

that they have to halt production at 7 or 10 years. Mr. Jacobsen said they could go on for 25 years. She wants everyone to understand that the conditional use does go with the property as long as it is continued. We do not have language in our zoning ordinance for an interim use which would allow that. That is not an option.

Ron McMillen asked if there are going to be two pits here? So two pits, two owners. Ms. Hill said one is in the Township which does not fall under City jurisdiction. If you see on the top the 14 parcel ID that is a different property owner and that is governed by the County and by the Township. That is not governed by the City. Our parcels all start with a 24 number.

Carol Bauer said conditional use permits, they can be visited each year to be sure that they are in compliance and if there is any other issues with homeowners and property owners they can be addressed correct? That can be one of the stipulations in your conditional use permit. Ms. Hill said a conditional use is permission to do a particular activity. Restrictions can be placed on that and if they violate those restrictions then there is a process that you go through to revoke that permit. It doesn't mean that there is going to be an on-site inspection every two months of the property. For instance if there is a condition in there that they can only operate from 7:00 to 7:00 and they are running trucks at midnight as a violation then that would be visited and you would say you are outside of the parameters of what was guaranteed. It does take a process to revoke it.

Bill Wilson said they just stated they have no idea how much gravel is down there. No one knows for sure how groundwater moves. It can move all over the place and wind up back down in the lake. We have those issues all over the U.S. So to state what they do down there is not going to get into the lake is ridiculous, it might be true but it might not be true and you don't know it until it starts popping up in the lake.

Steve Mihalik just as Ms. Hill mentioned you have to make a decision based on something factual. The only thing he has heard stated by anybody tonight is the fact that this is detrimental. He has yet to hear any fact of how this is beneficial. He is challenged as to why this is still deliberated. Mr. Hennan said in Apple Valley those gravel pits are surrounded by new housing moving around up to the back door of the gravel pit. The gravel pits keep moving as the housing keeps moving up around them. Mr. Mihalik said that makes a lot of sense in a congested area where maybe there is nowhere else to go or maybe that is water and sewer may be. We do have a 2004 plan on future residential and future commercial in that area. In Waterville we have very limited area for commercial and residential growth. We just built a very expensive wastewater treatment plant to accommodate that. A move like this is not just detrimental to the future income for the City but it is detrimental to the past expense. Again he has yet to see a factual impact of how this would benefit the City, only how it would hurt the City.

Motion by Mediger, seconded by Smith to recommend to the City Council that they deny the conditional use permit. Unanimous vote. Motion carried. Mr. Jacobson said motion is carried to not have the gravel pit.

4. Adjourn. Motion by Smith, seconded by Fallon to adjourn. Unanimous vote. Motion carried. Meeting adjourned 8:00 p.m.

4. Adjourn. Motion by Smith, seconded by Fallon to adjourn. Unanimous vote. Meeting adjourned 8:00 p.m.

Donald Jacobsen, Chairperson

Teresa Hill, Administrator/Clerk