

**PLANNING & ZONING COMMISSION MEETING MINUTES**  
**May 5, 2009 - 7:00 p.m.**

Clerk Wells called the meeting to order at 7:00 p.m. and called roll. Commission members present: Jim Pagles, John Killeen, Terry Smith, Ken Gabrys, Carl Opper and Harry Stafford. Member Glenda Miller was absent. Also present were Mayor Nolan, City Administrator Nelson, Community Development Director Santeler and Attorney Carlos Arévalo.

A court recorder was present from Q & A Reporting; a full transcript of proceedings to be filed with the City.

**Planning and Zoning Commission Minutes of March 3, 2009 – Approved**

Moved by Opper, seconded by Killeen to accept the minutes of the Planning and Zoning Commission meeting of March 3, 2009, as presented. All ayes. Motion carried.

**Dan Hereley and Harvard Community Unit School District #50/Petition for Final Plat of Harvard School District #50 Subdivision and Conditional Use for a School in a R-1A Zoning District**

Chairman Stafford opened the hearing in the petition of Dan Hereley and Harvard Community Unit School District #50. The parties of interest in the petition were present.

Chairman Stafford asked if there were any objectors present. There were none.

Don Dixon of Gewalt Hamilton Associates, Inc., 850 Forest Edge Drive, Vernon Hills, IL 60061, and staff were present on behalf of the petitioner. Mr. Dixon is the engineer of record for the school project as well as the off-site roadways. Also present were Tim Wilibur, architect from Ruck Pate and Richard Crosby, Harvard School District #50. Upon being sworn in, Mr. Dixon reviewed the petitions requesting approval of a final plat of subdivision and conditional use for the construction of a school in a R-1A Zoning District. The subject property consists of 22.22 acres. The final plat consists of one plat with the southern 2.30 acres being Hereley Drive and would be dedicated as a city street.

- Mr. Dixon reviewed the overall site plan showing the location of the school as it relates to the regional area with Airport Road to the north and Marengo Road which is the eastern boundary of the subject property. The southern boundary of the property will be Hereley Dr. as it is extended from its western most terminus across to the intersection of Marengo Road to the western end of the property. Offsite improvements will be made to Marengo Road for left turn lanes at both intersections of Hereley Dr. and Marengo Rd. as well as left turn lanes for the northern most bus entrance into the site. Bus traffic comes in off of Marengo Rd. and proceeds on the eastern side of the school to drop students and proceeds back out on Marengo Rd. in a one way traffic circulation and is totally segregated from parent pick-up/drop-off which occurs off of Hereley Dr.
- The offsite roadway improvements are consistent with a initial staff meeting with the City and City Engineer.
- The project will bring water and sanitary sewer utilities to serve the school property and will serve the future Century Farms Subdivision to the south. All utilities will be stubbed to the south so when Century Farms is developed they can pick up on the utilities and extend them down for service. A joint stormwater detention basin is being provided on western side for all of the school site plus the Century Farm property as well as Marengo Road right-of-way north of Hereley Dr. and a portion of Hereley Dr. east of Marengo Rd.
- Berming will be placed along the north side of the property adjacent to the residential subdivision and along the south side of the parking area for future residents of Century Farm Subdivision.

**Chairman Stafford opened the floor to questions from the Commissioners**

- Chairman Stafford inquired whether or not the property is in floodplain. Mr. Dixon stated the property is slightly elevated to work out the earth balance and clarified that the detention basin is really an infiltration basin.
- At Commissioner Pagles' inquiry, Mr. Dixon indicated there is a private agreement between the School and Mr. Hereley with respect to detention for Century Farm Subdivision.
- The Planning and Zoning Commission discussed roadway improvements which includes both Hereley Dr. extended from Marengo Road west at time of construction of school. Stubs will be made to the subdivision to be extended whenever the residential subdivision moves forward. Hereley Dr. east of Marengo Rd. is being designed as part of the offsite plan. Mr. Dixon indicated there were two separate packages. One for onsite work associated with the school and public improvements which are broken out into offsite roadway package.

**Public Comment**

Richard Jobbers, Tall Grass Dr., noted that the location of the school is right behind his property and inquired if a fence would be put up to prevent people coming down Tall Grass and just walking across his property to go to the school. The petitioners replied they are in process of bidding for a fence across the back of the property.

Wilda Haider, Tall Grass Dr., inquired if there would be sidewalks connecting the school to the Pasquinelli development so children wouldn't have to walk up the road and if there would be parking to accommodate the soccer fields so people don't park on Tall Grass and cut through their property. The petitioners indicated there would be a connection along the existing sidewalk. Also inquired if Tall Grass would be opened up to Marengo Rd. Community Development Director Santeler indicated there are no current plans to open up Tall Grass. There are 100 parking spaces directly adjacent to the soccer playing fields. There was continued discussion on sidewalks for the Country Brook Subdivision. Community Development Director Santeler there are currently sidewalks stubbed out where Tall Grass is proposed to go to Marengo Rd. and public right of way where the school can take the termination of the sidewalk where its current terminus is and bring it out to the south end of the school property. Commissioner Pagles inquired if would be possible to stub in a sidewalk on the west end for future subdivisions. Mr. Dixon noted there isn't a sidewalk in that area because it is in the vicinity of the detention basin and it is fairly deep and might not be the appropriate place to put a sidewalk.

There was considerable discussion on the fencing. The school is letting multiple bids for fencing for the project with certain areas to be fenced in depending on the cost.

Clerk Wells stated that the fees have been paid. The Certificate of Publication was noted and entered into the record. Certified notices were sent to adjacent property owners. Clerk Wells presented into record the signed petitions for a final plat of Harvard School District #50 Subdivision and a conditional use permit for a school in a R-1A Zoning District. The location of the property subject to the petition is at the northwest corner of Marengo Road and the extension of Hereley Dr., Harvard, IL. Clerk Wells also submitted into the record the report received from the Illinois Department of Natural Resources and the engineer's reply to those concerns.

Moved by Gabrys, seconded by Opper to recommend to the City Council approval of the Final Plat of Harvard School District #50 Subdivision. Roll call vote: Pagles, aye; Killeen, aye; Smith, aye; Gabrys, aye; Opper, aye and Stafford, aye. Motion approved six to zero.

Moved by Killeen, seconded by Pagles to recommend to the City Council approval of a Conditional Use for a school in a R-1A Zoning District, based on the findings of fact as outlined in Chapter 17 that shows the petition is not a detriment to surrounding property and is consistent with the surrounding zoning in the Harvard Municipal Code. Commissioner Smith recommended a condition be added that there be a fence along the entire property line between Pasquinelli Subdivision and the school district, to be maintained by the school district. There was discussion that the fence along the property line is in the plans and Commissioner Smith withdrew his recommendation. There was further discussion regarding the fence with unidentified members of the audience. The petitioners noted the common property between the school and the subdivision and the fence will be put up as close as possible to that line. Roll call vote: Killeen, aye; Smith, aye; Gabrys, aye; Opper, aye; Stafford, aye and Pagles, aye. Motion approved six to zero.

Clerk Wells noted that the recommendation will come before the City Council at their meeting on May 12<sup>th</sup>, 2009.

#### **Dan Hereley and Preliminary Plan of Century Farm Subdivision**

Chairman Stafford opened the hearing in the petition of Dan Hereley for a Preliminary Plan of Century Farm Subdivision. Russell King, Vanderstappen Surveying, 1316 N. Madison St., Woodstock, IL was present on behalf of the petitioner. Upon being sworn in, Mr. King reviewed the Preliminary Plan of Century Farm Subdivision which will be located immediately south of the school on 15.98 acres. The 40 lot subdivision will have access to Marengo Road on Hereley Dr. that will be built as part of the school. Mr. King outlined the differences between the proposed preliminary plan and the preliminary plan that was approved several years ago for Century Farms: the detention area will be handled by the school site and lots have been added on the west side. Lot size, shape and configuration is the same as previously approved. Water, storm sewer and sanitary sewer are being designed and built as part of the school project.

#### **Chairman Stafford opened the floor to questions from the Commissioners**

- Community Development Director Santeler noted that he worked with Vanderstappen to bring the plans to a point where it was complete enough to bring it to a preliminary plat. The City engineers were involved at an initial meeting and will become more involved as the plan proceeds to a final plat. Dan Hereley stated that the McHenry County Stormwater Agency has approved the plans for Centruy Farms to use the school site retention as previously discussed in the school district hearing.
- Commissioner Pagles inquired if Mr. Hereley would be developing the site. Mr. Hereley indicated he wasn't sure, but it wouldn't be done right away. The intent is to sell lots and people can build their own single family houses.
- Commissioner Opper clarified that the property in question is R-1A not R-1

Moved by Oppen, seconded by Gabrys to recommend to the City Council approval of the Preliminary Plan of Century Farm Subdivision. Chairman Stafford asked for public comment. There was none. Roll call vote: Smith, aye; Gabrys, aye; Oppen, aye; Stafford, aye; Pagles, aye and Killeen, aye. Motion approved six to zero.

Clerk Wells noted that the recommendation will come before the City Council on May 12<sup>th</sup>, 2009 at 7 p.m.

**Thomas Merryman/Petition for Annexation, Zoning and Conditional Use for Mining Operations**

Moved by Oppen, seconded by Gabrys to appoint Attorney Carlos Arévalo as a temporary hearing officer for Merryman petition. All ayes. Motion carried.

Attorney Arévalo opened the hearing in the matter of Thomas Merryman. The nature of the petition is to classify newly annexed property with M-1 Zoning for eight years, to obtain a conditional use for mining operations, permitted batch plant operations for eight years, zoning the northeasterly 47 acres of the property as B-3 Commercial district upon the expiration of the M-1 zoning and to zone the remaining 61 acres of the property R-1 Single Family Residence District.

Clerk Wells called roll. Commission members present: Jim Pagles, John Killeen, Terry Smith, Ken Gabrys, Carl Oppen and Harry Stafford. Member Glenda Miller was absent.

The parties of interest in the petition were present. Tom Zanck, 40 Brink Street, Crystal Lake, IL identified himself as the attorney representing the petitioner. Also present were petitioner Thomas Merryman, Civil Engineer Jeff Schuh, of Patrick Engineering and Patrick Merryman. Attorney Arévalo swore in all those who would testify.

Attorney Zanck identified the entire submittal package as Exhibit 1 which was entered into record as evidence. Attorney Zanck identified the aerial photograph as Exhibit 2. Attorney Zanck gave an overview of those presenting testimony. The subject parcel is 107 acres in size and approximately 1,500' east of the intersection of McGuire Road and Route 14, adjoining the city limits of Harvard. The property address is 20617 McGuire Rd. and is presently zoned A-1 Agriculture in McHenry County and is designated as I-1 (light industrial zoning) in the county's future land use plan. The topography gradually slopes to the southwest corner of the site. There is a small area in the southeast corner that is in the flood plain of Rush Creek. There are no wetlands on the site. The petitioner has a flood plain boundary study that has been accepted by the McHenry County Stormwater Review Dept. Attorney Zanck reviewed surrounding property uses and gave an overview of the petition with a clarification that the zoning request for a batch plant is not for a period of eight years, but a temporary use for a period of 12 months. Attorney Zanck noted that part of Petitioner's Exhibit 1 includes an approval letter with consultation terminated from the Illinois Department of Natural Resources dated September, 2008. The petitioners also made application to the US Department of Interior, Fish and Wildlife Service and Illinois Historic Preservation Agency with favorable responses. Preliminary application was made with McHenry County reference the McGuire Road access; the county has indicated that the location of the future access road is consistent with the McHenry County DOT plan as well as the City's planning documents. The mining and reclamation plans have been submitted to the City Engineer. The petitioner is also working with the City Attorney on the annexation agreement.

Attorney Zanck reviewed the conditional use as specified in the petition. All mining activity would be conducted in accordance with City ordinances as well as IEPA and IDNR regulations. A reclamation bond would be posted. Fees would be paid if there was a 12 month concrete or asphalt batch plant. Berms and fencing would be installed as indicated on the Mining Plan. Attorney Zanck submitted and reviewed Exhibit 4 depicting the portable plant with conveyors. Hours of operation would be consistent with city ordinances: Monday-Friday from 6 a.m. – 6 p.m. and Saturday from 7 am – 3 pm. The entrance would be paved in accordance with the annexation agreement and plans. The end use, as depicted in Exhibit 3, results in a 47 acre commercial property and extends the commercial corridor east along the south side of McGuire Rd. Right of way dedications at the time of development to be consistent with both county and city requirements. McGuire Road intersection improvements at the time of development would be as the City and County would require based on who the users were.

Attorney Zanck introduced Thomas Merryman, business address is 13212 Washington St., Woodstock, IL. Mr. Merryman ratified as true and correct the documents set forth in Exhibit 1. Attorney Zanck asked the petitioner that in the event the zoning and conditional use are granted, if he would operate the gravel pit consistent with provisions of Section 17.44.030, Standards for Conditional Uses and the obligations under Section 17.44.050, Extraction of Earth Products as well as any additional conditions imposed either by the Planning and Zoning Commission or City Council. Mr. Merryman indicated he would do so and would be available for any questions at the end of the presentation.

Attorney Zanck introduced and reviewed the credentials of the project's civil engineer, Jeffrey Schuh of Patrick Engineering. Mr. Schuh identified petitioner's Exhibit #5 which is a synopsis of his qualifications which was then submitted into evidence. Mr. Schuh further indicated that the mining plans, geological reports that were submitted to the City of Harvard were prepared under his supervision. Mr. Schuh has observed the proposed site and indicated he would be available for any questions at the end of the presentation.

Attorney Zanck asked Mr. Merryman that if the zoning amendment request were granted that it would be consistent with the zoning ordinances of the City of Harvard. Mr. Merryman replied that it would.

#### Attorney Arévalo opened the floor to questions from the Commissioners

Attorney Arévalo opened the floor to the Commissioners to question the petitioners and the evidence.

- Commissioner Pagles inquired how the excavation would affect the lake at the Sportsman's Club to the west of the site. Mr. Schuh reviewed hydrogeologic reports and the elevations of the Sportsman's Club lake and noted that any work on the site will not cause the water level of the lake to go down because the level on the site is already higher than the water level of the lake.
- Commissioner Killeen asked if the final finished grade of the entire project would be lower than the existing grade. Mr. Schuh indicated that there aren't final plans yet and reviewed the flood plain in the area which is around 9.30 so the lots will have to be at or higher than that to stay out of the flood plain.
- Chairman Stafford asked how deep the monitoring wells would be. The monitoring wells are between 20-40' and are located in the upper sand and gravel layer.
- Chairman Stafford clarified that the project will not affect any private water wells.
- Commissioner Killeen noted that since the lake is in the aquifer of the water table, if there was a possibility of run off from streets and yards entering the water table at the point of this open lake. Mr. Schuh indicated that the lake is in the aquifer and it wouldn't be any different than any other lakes in the area and nitrates could get in if people are applying fertilizers inappropriately. Attorney Zanck noted that the City Attorney has recommended a provision in the annexation agreement, which is acceptable to the petitioner, that there would be strict management and covenants that would have to be complied with, with respect to the management of the lake and that there would be a Letter of Notification recorded to every future property owner that you would have to comply with the best management practices as established by the city and Mr. Merryman as he goes through the final platting process.
- Chairman Stafford noted that at one point, the site is 58' from Rush Creek and asked if Rush Creek was in the flood plain and whether or not berms would be built. Mr. Schuh noted that Rush Creek is in the flood plain and noted that berms won't be built in the flood plain.
- Commissioner Smith noted that the petitioner has a requested to operate a batch plant for twelve months and asked the petitioner to describe the structure that would be brought on site, how it would generally operate and what materials would be brought on site to make the batch plant function. Mr. Merryman responded that the proposed batch plant is a portable plant which is set up for single job use which is about the size of two or three semis and is pieced together and only used for the duration of a single project. Upon completion of the job it would be dismantled and pulled off the site. It's not used for an ongoing operational batch plant.
- Commissioner Killeen asked where the product would be sold in an 8 year period. Mr. Merryman stated he hoped Harvard and the surrounding communities would continue to grow. If all the gravel under the site isn't sold in 8 years, Mr. Merryman stated he was still going to develop the manufacturing and residential part. He will build the lake regardless and if unable to sell the product, will change the elevation of the front of the property to have a pad-ready site.
- Commissioner Gabrys noted there are some houses to the east of project that are on wells and inquired if the petitioners had checked the impact to those homes. Mr. Schuh indicated that they're all good.

#### Public Questions to the Petitioners

Attorney Arévalo opened the hearing to the public for any questions of the petitioner and asked individuals to state their name and address for the record.

- Elroy Baumann, 901 Ratzlaff St., IL noted he has been secretary for Sportsman's Club for 50 years and expressed concern that the petitioners could guarantee that there wouldn't be any pollution to the lake. Mr. Schuh was asked what kind of engineering steps could be taken to assure that this project doesn't adversely affect the lake. Mr. Schuh responded that the Sportsman's Lake is also a mining lake and the water quality is no different than other lakes that are formed by mining. He couldn't guarantee that nothing would happen, but felt that the management with what Merryman is planning to do to have restrictive covenants on the property seems to be responsible and felt they would have a good quality lake. Mr. Baumann stated this one shouldn't be allowed and noted there are other gravel pits in the area.
- Bill Schack, 210 E. Front St., Harvard, IL noted he is a member of the Harvard Sportsman's Club and asked if the water level of the Sportsman's Club lake could rise. Mr. Schuh noted that everything is up now because it's been very wet and most of the sites he's seen the water level has come up 2-3' since last year. Mr. Schuh

indicated that the level of the lake could go up, but he didn't think it would go up more than a foot, probably a ½ foot. There was further discussion on the fluctuation in the lake's water level.

- Randy Kosch, 1102 Eighth St., asked if the lake gets too full, where the water will run out. Mr. Schuh stated that it would discharge into the creek if there was too much water in the lake.

#### Objectors

Attorney Arévalo asked if there were any objectors to petition. There are none.

#### Attorney Arévalo opened the floor to additional questions from the Commissioners

Attorney Arévalo opened the floor to further questions from the Commissioners in light of the public questions.

- Commissioner Killeen asked if there were any provisions either in the annexation agreement or on the plans that should the separating soil between the two lakes fail at some point, if there is a back-up plan in place. Mr. Schuh stated should something fail, the plan is to excavate a trench along the area where it is seeping through and cap it off with clay to stop infiltration of the water. Attorney Arévalo noted that Exhibit 3, Concept Plan is just a concept plan. The petitioners will have to come back at some point in time for approval at which time some of these engineering issues will be addressed.
- Mining will be done in cells, starting in the southwest cell and move to the east. As cell 1 is finished and cell 2 started, cell 2's overburden will be used to reclaim cell 1.
- Commissioner Smith inquired as to the estimated number of jobs that would be associated with the mining and batch plant. Mr. Merryman noted that it would depend on the economy.
- At Commissioner Killeen's inquiry, Mr. Merryman noted that local contractors would be able to purchase loads of gravel.

Attorney Arévalo introduced into the record a letter sent by the McHenry County Conservation District, dated April 30, 2009.

Attorney Arévalo closed the public portion of the hearing to deliberation by the Planning and Zoning Commission.

Attorney Zanck noted informal discussions just before the meeting opened with members of the Harvard Sportsman's Club as well as the dialogue during the public portion of the meeting and reported that Mr. Merryman has agreed that berming and fencing on that west border would be acceptable.

Commissioner Opper noted the letter from the McHenry County Conservation District in which they inquired how much of the mining operation would happen on the weekend and requested a 9 a.m. start up time on the weekends. Mr. Merryman indicated that the economy would dictate that, but stated they would only run the crushing plant and mining operation for two months a year and will be able to produce enough material in those two months to supply them for the whole year. Mr. Merryman also noted much of the weekend business would be to the general public or local contractor. There was discussion as to the opening time on Saturday and Mr. Merryman felt it was important to be open at 7 a.m. otherwise it wouldn't be worth opening at all. Mayor Nolan suggested restricting production until 9 a.m. with sales allowed to begin at 7 a.m. Mr. Merryman was in agreement with that.

Commissioner Killeen inquired if the Sportsman's Club had all their questions and concerns addressed. Elroy Bauman said he didn't think they could really control the pollution and further noted he didn't see a need for another gravel pit or land for housing. Bill Schack stated the Sportsman's Club would like the record to reflect that they object to the petition. Mr. Merryman addressed the secretary's concerns with pollution and stated there will be two monitoring wells to verify water quality. Commissioner Gabrys stated he belongs to the Harvard Sportsman's Club and understands where they're coming from but noted the number of gravel pits in Crystal Lake with a real similar scenario but on a larger scale and that the lakes are clear.

Moved by Gabrys, seconded by Opper that pending approval of the annexation by the City Council, to recommend that the subject property be rezoned to M-1 for eight (8) years with a conditional use for the mining operations as presented and for a batch plant operations limited to portable bituminous asphalt and concrete production plant of a temporary nature not to exceed 12 months with certain conditions:

1. To zone the northeasterly 47 acres of the property B-3 Commercial District upon the expiration of the M-1 zoning.
2. To zone the remaining 61 acres of the property R-1 Single Family Residence District.
3. Compliance with the ordinances, annexation agreement and all commitments made by the petitioner with the city.
4. Adding a berm and the separation and protection to the western boundary line of the Sportsman's Club property.

Said motion based on the findings of fact as outlined in Section 17.44.030, Standards for Conditional Use and Section 17.44.054, Extraction of Earth Products. Roll call vote: Gabrys, aye; Opper, aye; Stafford, aye; Pagles, aye; Killeen, aye and Smith, aye. Motion approved six to zero.

At 9:10 p.m., moved by Gabrys, seconded by Opper to adjourn the meeting. All ayes. Motion carried.

Submitted by:

City Clerk Andy Wells

Date: \_\_\_\_\_