

**WRIGHT COUNTY PLANNING COMMISSION**

**Meeting of: March 3, 2022**

**MINUTES – (Informational)**

The Wright County Planning Commission met March 3, 2022, in the County Commissioners Board Room at the Wright County Government Center, Buffalo, Minnesota. Commission members in attendance were: Dan Mol, Jan Thompson, Ken Felger, Dan Bravinder, Sandy Greninger and Mark Daleiden. Absent: Pat Mahlberg. Stacy Marquardt and Scott Deckert, represented the Planning & Zoning Office; Greg Kryzer, Assistant County Attorney, was legal counsel present.

**ACTION ON February 17, 2022, MINUTES**

On a motion by Daleiden, seconded the Bravinder, all voted to adopt the minutes for the February 17, 2022, meeting as printed.

**PUBLIC HEARINGS:**

1. **JACKI DOTY** – Continued

LOCATION: 799 Chamberlain Ave SE – Part of E 1/2 of SE 1/4 Section 4, Township 1119, Range 25, Wright County, Minnesota. (Rockford Twp.) Tax #215-100-044404 Property Owner: KO Storage of Buffalo LLC.

Petitions for a Conditional Use Permit to allow expansion of the existing storage facility with a 44' x 80' shop as regulated in Section 155.029 & 155.054(B), Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Applicant not present

- A. Marquardt informed the Commission the applicant has requested to continue the hearing until April 21, to allow time to revise plans and meet with the Township.
- B. Bravinder moved to continue the hearing to April 21, 2022, at the applicant's request. Greninger seconded the motion.

VOTE: CARRIED UNANIMOUSLY

2. **VALLEY PAVING, INC.** - New

LOCATION: Part of the East ½ of the SE ¼, Section 21 & W ½ of the W ½ of SW ¼, Section 22, all in Township 121, Range 25, Wright County, Minnesota. (Monticello Twp) Tax #213-100-214100 & 213-100-223200 Property Owner: Joseph & Janice Holthaus

Petitions for a Conditional Use Permit to allow the operation of a temporary asphalt hot mix plant for the 2022-2024 road construction seasons. Hours of plant operation to be Monday-Friday 7 a.m. – 7 p.m. Saturday operations to be from 7 a.m. – 5 p.m. with prior notification to the Town Board, as regulated in Section 155.029, 155.048(D) & 155.100 Chapter 155, of Title XV Land Usage of the Wright County Code of Ordinances.

Present: Joe Holthaus, John Wokasch & Brent Carron with Valley Paving

- A. Marquardt displayed the site plan. The property is in Monticello Township Southwest of the MN Hwy 25 and County Road 106 intersection. Zoning is General Agricultural and in the Land Use Plan to remain AG. Approval was given in 2021 to allow a temporary hot-mix plant for one year. This request is to renew the hot-mix plant for 3 season.
- B. Wokasch stated last year the asphalt plat was not moved into the pit due to lack of securing work in the area. Back before the Commission proposing the same operation. Currently mining in the pit for sand, gravel, and class five. Request is for the next 3 years.
- C. Andrew Bardwell introduced himself as an Attorney with Skolnick Bardwell, representing Sustainable Holdings, LLC. Reminded the Commission that in October 2021 a CUP was approved for a 1 MW solar operation on a portion of the property in question. Before the Commission to voice Sustainable Holdings, LLC opposition to a new and different CUP. Believes a new CUP approval would be inappropriate under Ordinance 155.029(A)(1) as approval would impact the already granted CUP. There is a pending lawsuit between the Holthauses, who are owners of record, and Sustainable Holdings related to the ownership and right to possess portions if not all of the property in question. It would be inappropriate to change the use of the property with a pending lawsuit related to who actually has the right to control the property. Copies of lawsuit were offered to the Commission members. Kryzer addressed Bardwell with clarification comments. Clients do not currently own the property; they are contesting ownership in court. Currently Mr. Holthaus is the owner of the property in question. Client's CUP is on the property which Mr. Holthaus owns. The request before the Commission is for an asphalt plant to be placed on the same property his clients have a CUP. Bardwell – confirmed statements were accurate. Kryzer – clients CUP conditions indicate the solar location is on another property. The issue presented appears to be a merger issue, not related to this request. There are 2 easements with 2 issues all on the same property. As property owner, Mr. Holthaus can decide what he wants to do with his property. If he chooses to add an additional CUP, and it impacts a prior CUP, that is up to Mr. Holthaus. The property owner can do what they want with their properties. Bardwell – Wright County District Court will answer the question of ownership rights. It would benefit all parties to remain status quo while the Court addresses the issues and table the decision until the Court makes a ruling. Holthauses have filed a motion to dismiss, which will be heard the middle of May. Kryzer – comment was made regarding maintaining status quo, which can be done through District Court, with an injunction. Questioned if an injunction has been pursued. Bardwell – felt that addressing the Planning Commission was the 1<sup>st</sup> and easiest step. If unsuccessful, that option can be explored. Kryzer – Commission has set criteria under Ordinance

155.029 to follow and nowhere does it mention keeping status quo during litigation. Sounds like a civil matter that can be resolved through other judicial remedies. Bardwell – other remedies are being pursued. Ordinance does rerefer to CUPs in place that conflict. Felger questioned who Sustainable Holdings is. Bardwell – prior owner of the entire parcel. The company sold the parcel to the Holthaus with a purchase agreement that includes a statement preserving easement options that would allow for development of solar. The dispute is related to whether or not one of those easement options can be exercised. Sustainable Holdings tried to exercise an easement and the Holthaus denied the request. Clients position in District Court is that they have possession and potentially ownership in the property.

- D. Daleiden – asked for clarification on where the solar farm in question would be installed. Marquardt – with aerial image displayed reviewed the location of a current solar farm and where the solar farm being discussed was approved. Bardwell – Southeast area of the property is where the CUP was approved for solar to be installed. Kryzer – current solar farm is owned by MN CSG 10, LLC.
- E. Felger questioned the easement in question and location. Bardwell – understanding the solar would be on a 10-acre portion that does not believe it goes to the road. Mol – access is off Highway 25, with the Gun Club access.
- F. Duane Rolstad – pit is well run and should be kept and operating as is. Daleiden – request does not relate to the pit operation, simply just bringing the hot mix plant in.
- G. Deckert – the pit had been sitting idle and is partially reclaimed. The 2021 mining CUP was for 3 years of mining and 1 year for the hot mix asphalt plant. The mining portion of the CUP is still valid. The request being heard is strictly for renewal of the asphalt plant.
- H. Felger – unsure the lawsuit is relevant to the request. Kryzer – the applicant and owner can discuss matters related to the lawsuit if they choose. Felger – addressed those present if they would be willing to discuss their side of the lawsuit. Wokasch – the 10 acres for the solar is not part of the 39 acres that is mined. The future solar farm is not even part of the mining plan and was always taken into consideration when planning out the mining operation. Not sure what the easement has to do with impact on the mining operation. If talking status quo, the original CUP was for an asphalt plant. The difference between a mining and asphalt plant permit is the asphalt plant needs to be renewed yearly. Nothing has changed since the CUP was approved. Felger asked Mr. Holthaus to review what he owns. Holthaus – with aerial photos displayed ownership and easements were reviewed. The mining location is not changing. The request is to simply renew the asphalt portion of the operation.
- I. J. Thompson – asphalt plant will be placed on the property to the far left and has nothing to do with the parcel where the proposed solar is to go. Wokasch – confirmed that was accurate. J. Thompson – nothing in the request will happen in the area where the solar would be installed. Wokasch – the mining CUP permit does not allow them to operate on the 10 acres where the solar would go. J. Thompson – Counsel was contending there is a lawsuit related to the 10 acres and therefore the Commission should not act on the hot mix request. Does not see how the two items are connected. There must be easement to access the 10 acres. Holthaus – that easement runs with the land that was purchased.

- J. Bravinder motion to approve a Conditional Use Permit for a temporary asphalt plant, in accord with the plans and description provided by the applicant, with the following conditions: 1) A temporary bituminous plant is approved for the 2022-2024 seasons only; 2) Hours of operation to be 7am to 7pm M-F and 7am to 5pm Saturdays; 3) Notification must be given to the Township when the asphalt plant will operate on Saturdays; and 4) The plant must operate in compliance with all applicable state and federal requirements. Seconded by J. Thomson.

*Discussion: Daleiden questioned the applicant if they would be interested in changing the request to a single construction season, allowing time for the lawsuit to be resolved. Bravinder feels the issue brought up is a civil matter. Kryzer – feels the issue in question is a private civil matter and Sustainable Holdings has remedies they can pursue. The Planning Commission has criteria they are required to evaluate. All the property is owned by one person, that can do what they want with their property. If they want to expand the mining operation into the area of the solar CUP, they can do that. If this violates a private agreement, then that discussion will be addressed in District Court. Felger – supports the motion as read. Bravinder – motion is in line with what the Township approved.*

VOTE: CARRIED UNANIMOUSLY

3. **MID-MINNESOTA HOT MIX INC.** - New

LOCATION: 8779 Oliver Ave NW – Part of the NE 1/4 that lies north of the railroad and except tract....,Section 22, Township 121, Range 28, Wright County, Minnesota. (Southside Twp.) Tax #217-000-221100 Property Owner: LAMCO L and LLC

Petitions for a Conditional Use Permit as regulated in Section 155.029 & 155.100 Chapter 155, of Title XV Land Usage of Wright County Code of Ordinances to locate a hot-mix plant in the existing pit with related stockpiling and recycling of materials for a period of three years. Temporary permit issued through the 2021 season has expired.

Present: Tim Ferrell

- A. Plans showing the property on State Highway 55 and County Road 3 were displayed. Marquardt noted the land is zoned AG and in the Aggregate Resource Area of the Land Use Plan. The last few hot-mix approvals were for multiple years and the applicant is requesting another multi-year permit for the 2022-2024 seasons.
- B. Ferrell – before the Commission several times, nothing has changed. He is not aware of any opposition that was received. The Township was in favor.
- C. J. Thompson – lives in Southside Township and travels by the pit once or twice a day. Watched the site go from a small pit to a huge operation. For the last CUP renewal, the Commission discussed screening and the look from the highway. There is a tremendous visual path where you can see the pit. Feels a better job can be done with screening to keep the neighborhood looking better and more appealing for residents and those doing business in South Haven or Annandale. It would be fair that the screening is reviewed with this renewal and possibly adding a condition referencing improved screening and potentially planting of additional trees. Not sure if other Commission members have had a chance to watch the operation progress. Recognizes that this is a business with purpose to make money but with that comes an investment in the area. Questioned the applicant if he would consider planting more trees and landscaping the frontage along Hwy 55 and County Road 3. There are berms in that area, but they are not well maintained. Before voting to approve, would request and ask that the Commission goes out to do a site inspection. Feels this is the time to address the screening.
- D. Daleiden questioned if Staff had been to the site and if they have thoughts on screening. Deckert – frequently drives by the site and has been there many times. Tree screening along the east side is good. Believes screening is in compliance with the original 1990's permit. With the layout of the land and roads it is tough to block the view into the pit from Hwy 55. Daleiden – would additional screening cause difficulty for trucks entering the highway? Deckert – not sure how much screening accomplishes. Directed the question to Mr. Ferrell if additional details were wanted. J. Thompson – disagrees with comments from Staff.
- E. Mol – drives that area daily and has watched the progression. Along County Road 3 there are some trees that have died and been replaced. Behind Malco, there is screening and a large berm. Along Hwy 55 the property angles in such a way the pit will be seen, and any screen would be difficult. Have not witnessed the asphalt plant being run all that often. Most times it appears to start up in the Fall for a short period and is not run consistently all season long. Having berms along the outside edges blocks the view but being able to

see into the pit allows one to watch and see what is happening without having to go into the pit. Has not had problems with trucks on the road and overall thinks the operation is well run.

- F. Bravinder –Township comments made no mention of more screening. Drives by frequently and agrees with comments Staff made with regards to screening along Hwy 55. Has no issues with what is visible. The property is in an industrial area, and it is not necessary to try and screen all industrial operations. The public needs to see some of what happens in the County. Feels there is a good attempt to hide the pit from houses and the screening that is in place is well maintained.
- G. Daleiden motion to approve a Conditional Use Permit for a temporary asphalt plant, in accord with the plans and description provided by the applicant, with the following conditions: 1) A temporary bituminous plant is approved for the 2022-2024 seasons only; and 2) The plant must operate in compliance with all applicable state and federal requirements; and 3) No Sunday operation. Seconded by Greninger.

*DISCUSSION: J. Thompson – no objection to how Mr. Ferrell runs the operation but does object to the look of the operation and would hope after hearing concern he would consider doing something on his own to make the area more attractive. Felger – questioned Mr. Ferrell, if he would consider the request by J. Thompson and provide more screening. Ferrell – in response to screening, the only area in question, is the area along Hwy 55. The trucks are lined up there at the end of the day and that does act somewhat like screening. Feels the ready-mix operation is kept neat and professional looking. The plant is in the middle of the property and sits 15-20 feet lower than everything else. With how low the plant sits he is not sure any part of the plant can be seen from the road. Not sure with the angles and elevation the addition of trees or a berm would hide the plant. J. Thompson – looking at the lower area, by Malco Tools, there seems to be a lot of trees that are now gone and have not been replanted. Questioned Mr. Ferrell if he would consider adding some additional screening? Ferrell – has tried to do anything the Township and others have asked, while also being cooperative with neighbors and any officials. This is the first time he has heard a comment regarding concerns with the screening. No one has shown up to a Township meeting or approached him with concerns. The pit is close to being mined out and chances are slim that there would be a need to come back for a renewal in 3-years. In 3-years the site will look different, so it doesn't make sense to put the money and time into trees when the operation will be done before the trees are mature.*

VOTE: CARRIED UNANIMOUSLY

4. **DUANE ROLSTAD** - New

LOCATION: 1735 40<sup>th</sup> St. SE – NE 1/4, Section 29, Township 119, Range 25, Wright County, Minnesota.  
(Rockford Twp.) Tax #215-100-291400 Property Owner: Gauger Ltd. Partnership LLP

Petitions for a Conditional Use Permit to extend the 2019 Conditional Use Permit for another two years for the temporary sand borrow operation with an estimated 6,000 – 8,000 cu. yds. left as regulated in Section 155.027, 155.029 & 155.048(D) & 155.100 of Chapter 155, of Title XV Land Usage of Wright County Code of Ordinances.

Present: Duane Rolstad

- A. Marquardt – the request is in Rockford Township just south of CSAH 32. Currently zoned General Agriculture and in Land Use Plan as Resource Land. The project is not in shoreland, but there are wetlands and floodplain nearby. The request is for a 2-year extension of a 2018 CUP. The Township did approve the request. Most of the pit has been reclaimed and back into land being farmed. There is roughly 6,000-8,000 cubic yards of material left.
- B. Rolstad – made a deal with the City of Delano to provide sand for a road project. Hopes this site has enough material for the project. The material to fill the hole is on site. Roughly 4 acres of the 6 acres will be farmed this year.
- C. Charles Workcuff – neighbor to the east and opposes the extension. The project was started in 2018 as a temporary sand borrowing operation and proposed as a short 2-year project. Stated in the meeting minutes, by the applicant, the property owner does not want a sand pit, they wanted to get rid of a large pile of sand. The Planning Commission granted a CUP with 5 conditions, 1 of which stated the project must be completed by 12/01/2019. If sand was used for construction projects, completing the project would have been easily obtainable. There should not be a shortage of sand for sale in this area of the County. There is a sand pit across that road, on the north side of CSAH 32, that has over 200,000 cubic yards of material. From the start of the project does not think the applicant has been totally truthful with intentions. The applicant continues asking for additional 2-year extensions.
- D. Ron Hartneck – neighbor to the east. The area to the west of his property is all swamp. Questioned why the notice letter was sent to him. Mol – a notice is sent to property owners within a quarter mile of a CUP making them aware there is going to be a hearing. Hartneck – this is the 3<sup>rd</sup> time he has received a notice, with 2 permits already approved. The 1<sup>st</sup> permit was to knock a sand hill down and make the area farmable. Now the applicant finds out there is more sand, so he came back for a permit to mine the sand. This is the 3<sup>rd</sup> permit request for this site. Will they be coming back every 2 years? Mol – depends on the outcome of this meeting and what the applicant and owners would like to do with their property. Hartneck – wife and neighbors are tired for hearing the slamming of tailgates all week and weekend. There are no gates to prevent trucks from coming and going. Questioned if the operation was only supposed to operate 5 days a week. Mol questioned if the Sheriff or County have been called during these disturbances, so a formal complaint is on file. Hartneck stated he has not made a formal complaint. Questioned the Commission if they are aware of the human garbage disposal being pumped onto the farmland. Concern this waste is draining into the swamp then into the river. Last fall while sitting in his deer stand, with friends, they witnessed waste being spread onto the field. Daleiden – is the waste coming from a septic truck or from a City hauling sludge? Mol - questioned if it could have been livestock waste or human

waste. Hartneck – did not approach and ask. Felger stated the comment was, human garbage disposal. Questioned was it human or animal waste. Hartneck – it said human on the side of the truck.

- F. J. Thompson stated it would be a good idea if Staff would look at what is happening at the site. This is an issue, if happening, should be addressed. By having Staff make a visit to the site they can make sure issues are not being missed. Deckert stated he is willing to visit the site and has been out there a few times, even unannounced, and has not witnessed any problems. No complaints have been received by the Planning & Zoning office nor has Staff been asked to visit the site. There is an allowance for human septic waste to be applied to land. This process is regulated by the State of Minnesota. Staff can visit the site but does not have the expertise to verify if the process is being completed correctly. J. Thompson – if someone doesn't deal with government on a day-to-day basis it is hard to know where to go with concerns. Would like to make sure that the concerns are heard. Rolstad – regarding the tailgate noise on Saturday and Sunday; there are 2 cameras on site and the only traffic viewed coming and going is neighbors snooping around or one of the property owners walking around. Septic being dumped is done by Kothrade Sewer & Water. They went through Sean Riley, with Planning & Zoning, and the State of MN for proper permits. The waste is disced into the soil. Felger – the waste gets incorporated into the soil? Rolstad confirmed the waste is disced into the soil and the area is at the required level, which is 12-14% grade. Along the east side of property there is a large hill that goes along the fence line. Water runs from the fence towards the west. There is a stockpile of rock spread near the roadway so that during wet days the trucks do not drag mud onto the County Road.
- G. Felger – this would be the 3<sup>rd</sup> CUP; do you foresee 2023 being the last season? Rolstad – after this material is extracted, there will not be any material left. With a death in the family the farm will most likely be sold. Felger – addressing Staff question if there have been any complaints filed on the operation. Deckert – a few years ago there was an issue with concrete or asphalt being piled at the site but when he visited the site there was no such pile. Last year, he did witness a truck spreading septage but because the County doesn't do the permitting for land spreading of septage, it was not a concern. Rolstad – the concrete material was dumped by another party and properly disposed of.
- H. Daleiden questioned Deckert if the gravel tax has been received. Deckert stated he is not aware, as Planning and Zoning does not track that tax. Rolstad stated he has not missed a single payment.
- I. Felger moved to approve a Conditional Use Permit to allow continued operation in the pit for the 2022 and 2023 seasons with the same conditions as the original permit, according to the plans on file. Motion seconded by Bravinder.

VOTE: CARRIED UNANIMOUSLY

5. **JLC MATERIALS INC.** - New

LOCATION: 3424 Dempsey Ave SW - West Half of the NW ¼ Section 22, Township 119, Range 26, Wright County, Minnesota (Marysville Twp.) Tax # 211-000-222300 Property Owner: Granger Family Farm LLC

Petitions for a Conditional Use Permit to renew the mining permit issued in 2019 for mining, crushing, and recycling of concrete and asphalt and the operation of a wash plant for another 5 years. Also, to include a slight expansion of the original pit boundaries, as regulated in Section 155.029, 155.48(D) & 155.100 of Chapter 155, of Title XV Land Usage of Wright County Code of Ordinances. Current mining permit expired December 31, 2021.

Present: Jason and Lois Carlson

- A. Marquardt reviewed the property with the mining plan displayed. The request is to renew the 2019 CUP. The Township did approve. The applicant is requesting a 5-year permit and an expansion of the pit to a total of about 12 acres. Deckert – has reviewed the reclamation pond requirements with the applicant. Mr. Carlson is well aware that ponds need to be at least 10 feet deep and not steeper than a 2:1 slope.
- B. J. Carlson – the large pond will end up being 13-14 feet deep. Holds a signed 10-year lease with property owners to allow for the large pond remain on site, as long as County’s terms are met. The owners want the sludge pond filled in, that is where he will get his 2:1 slope. Mol questioned if the lease agreement and details on file with the County. If not, it would be a good idea to include that agreement with the reclamation plan. J. Carlson – it is noted in the contract.
- C. Greninger moved to approve the renew the 2019 Conditional Use Permit for another 5 years with the same conditions as the original and to approve the newly expanded mining limits as proposed (Northstar Surveying Job 19190A), with the following condition: The pond as shown on the reclamation plan must be at least 10 feet deep and the slopes must be no greater than 2:1. Seconded by Daleiden.

*DISCUSSION: J. Thompson questioned if the motioned mentioned screening being needed near the County road.*

*Mol*

*– the motion does not include mention of screening. That would be included in the plan on file. J. Thompson – comment in the Staff report states screening might be needed in future, as the mine moves towards the road. Would it be prudent to include a reference related to screening to ensure the concern is addressed in the future? Deckert– work is currently far away from the road and screened by a hill, the pit cannot be seen. Spoke with the applicant and advised that as work moves towards the road the mining plans will need to include screening.*

*As of*

*now there are no plans for screening on file. Daleiden – suggested little trees are planted now so they are mature when screening is needed. Deckert – Ordinance only mentions tress, does not mention berm. Standard procedure is to leave screening up to the applicant, as long as recommendations are followed. Mol questioned the applicant if he would consider moving forward with screening. J. Carlson – the owners have asked that he work 4-5 acres at a time and restore back to farmland as he moves along. He would need them to approve, and they have clearly stated want to keep as much farmland in operation as possible. Felger - recalls the pit and remembers it being roughly 400 ft off the County Road. Screening does not seem to be an issue that warrants being discussed. Carlson – willing to check into it.*

VOTE: CARRIED UNANIMOUSLY

6. **KNIFE RIVER CORP. – NORTH CENTRAL** - New

LOCATION: 4301 County Road 39 NW – S ½ of NW ¼ of SE ¼ and S ½ of NE ¼ of SE ¼ and S ½ of SE ¼ and N ½ of NW ¼ of SE ¼, except tract described in Book 321 of Deeds, page 439, at the Office of the Wright County Recorder; all Section 8, Township 121, Range 26, Wright County, (Silver Creek Twp.) Tax #216-000-084300 Property owner: Naaktgeboren

Petitions for a CUP to allow the operation of a temporary asphalt plant with related truck hauling and stockpiling and storage of recycled asphalt and concrete for the 2022 season. Request extended hours to allow for 6:30am start time for generator warmup and hours of plant and mining operations to be Monday-Saturday 7am to 7pm as regulated in Section 155.029, 155.048(D) & 155.100 Chapter 155, of Title XV Land Usage of the Wright County Code of Ordinances.

Present: Holly Runnoe

- A. Marquardt displayed the zoning and land use maps to show the area is zoned AG and, in the Plan, to remain AG. Deckert – the operation was approved long ago with recent expansion in 2017, with an EAW. The 2017 plan was to move the plant farther way from the road and lakeshore. That has been done, with little expansion into the new area. This request before the Commission is an asphalt plant renewal.
- B. Runnoe – simply back before the Commission for the renewal of the asphalt plant.
- C. Mol – as a Commission they have been at the site several times. A few years ago, Knife River provided a tour. There was an issue with the South wall that has hopefully been addressed. Runnoe stated issues were resolved. Mol – looking at the aerial of the operation, one can tell the plant has been moved back from County Road 39. Runnoe – the primary access is now off of the Township Road with the previous access being closed off.
- D. Deckert – no complaints this last year. The Staff created a motion that is unique with very specific wording for holidays. This motion is one that has been used for this operation in the past. Mol – this plant is in Silver Creek Township and past meetings the room has been full of resident and neighbors. The motion really addresses the concerns of citizens with specific weekends, holidays, and night hours. The pit has been in operation for a long time.
- E. J. Thompson – there has been a lot of input over the years with concerns of the operation and the company has done well cooperating with the Commission and citizens. This is a CUP that has been formulated over the years to address the concerns of the neighbors. Pleased with how the Commission and applicant have worked with the neighbors to make sure the operation is running well.
- F. Bravinder motioned to grant a Conditional Use Permit for the temporary placement of a bituminous plant for the 2022 construction season, both according to the applicant's site plan and descriptions and with the following conditions: 1) Operation of the plant shall be limited to five working days in a calendar week, no plant operations on Sundays or legal Holidays, weeks with weekday holidays shall be four day work weeks, and no more than a total of five Saturdays over the course of the season for plant operations and plant operation is not allowed on the following Saturdays, May 28, July 2 & September 3; 2) All adequate

measures must be taken to restrict loud trucks from operating without mufflers and other required sound equipment; 3) The plant must be kept in proper working condition and meet all State and Federal regulations; 4) Operation of the wash plant to comply with all applicable State regulations; and 5) Generator may start no earlier than 6:30 a.m. to warm up the plant with no trucks leaving the pit before 7:00 a.m. Seconded by Daleiden.

VOTE: CARRIED UNANIMOUSLY

7. **NELSON ACRES LLC**- New

LOCATION: 398 127<sup>th</sup> St NW – Gov't Lot 1 & 80 rods of Gov't Lot 2 & W ½ of SE ¼ of Section 36, Township 122, Range 26, Wright County, Minnesota. (Melrose Lake - Silver Creek Twp.) Tax #216-100-361301

Petitions for a Conditional Use Permit as regulated 155.029, 155.048(G)(5)(a), and 155.057, Chapter 155, of Title XV Land Usage of the Wright County Code of Ordinances to allow a cluster of three “1 per 40” entitlements in one location.

Present: Ryan Nelson

- A. Marquardt displayed the proposal. The property is located in Silver Creek Township, along 127<sup>th</sup> Street. Currently zoned General Agricultural and is designated in the Land Use Plan as Agricultural. Earlier in 2022 the Board of Adjustment approved the southern 20 acres being divided and attached to the property to the south. The original property was 119 acres with 3 entitlements. The request is to cluster the three entitlements along 127<sup>th</sup> Street. There will be one lot on the north side of the road, which is the original farmstead on Melrose Lake. Two lots will be on the southside of the road. The prime tillable soil map was displayed and reviewed. Remainder of the 119 acres will be restricted lands and farmed with the current operation of the applicant. The Township did approve. The existing farmstead parcel of 5.93 acres, includes existing accessory buildings at 4,836 sq. ft. with the total allowed square footage for a lot of this size being 4,000 sq. ft. There is an exception for original farm sites, as many have large old barns and buildings. In situations like this a division is allowed, however the Deed Restriction document will state the buildings cannot be improved, replaced, or expanded until the property is brought back into compliance.
- B. Mol addressed the applicant and questioned if the lot size and limitations of the accessory buildings was understood. Nelson – parcel “A” has a large barn that is falling down and is not even repairable that is taking up a lot of square footage. There is an older house, which might have been an old chicken coop, that is in rough shape as well. Fully understands the limits and does not feel it will be an issue. They neighbors, owning the property to the north, purchased the property to maintain the tillable acres for farming. Explained that the location of the proposed parcels works with the irrigation system. Each field area will have a center pivoting irrigation system and will be able to be run with how the parcels have been proposed. The goal is to efficiently farm the fields and use up the entitlements. Mol questioned if the three entitlements are existing with the property and that no entitlements were being created. Nelson confirmed that was the case.
- C. Felger – some areas will be left as restricted? Marquardt – the rule is one house per 40 acres. Looking at an overall farm the total acreage is divided by 40, giving the number of entitlements. In this case three entitlements are available. When three or more entitlements are grouped in one spot the term used is a cluster. Essentially, you are taking the entitlements from each of the 40 acres and grouping them in an area. There is a lot of this property that does not have road frontage to use the entitlements.
- D. Daleiden – would like clarification on the comment of an old house on the original farm site. Impression is that no one lives in the home. Nelson – the actual house is in great shape. There is another house that is

called a chicken coop. The house itself was remolded in 2017 or 2018. The owners started to build a mother in-law house that was never finished, and this is the other house or chicken coop. The property was originally an old dairy farm with a very large barn that is still there but in very rough shape. There are two really nice outbuildings and then two that are not in great shape. Daleiden question Counsel if a condition could be added regarding the barn being required to come down. Concern is property selling with a hazard that could be addressed with this request. Kryzer – properties are frequently divided or sold with old barns in tough shape. Marquardt – Zoning doesn't address dilapidated or hazardous buildings. Kryzer – at the County level hazardous buildings are not dealt with, that is left to the Townships. The County will assist on matters, but the Township takes the lead on hazardous and abatement buildings. The condition is there that improvement cannot occur until existing structures are brought into compliance. If those buildings are in that bad of shape it will be in the best interest of the owner to take them down. Marquardt – from a Zoning standpoint this is how dilapidated buildings are regulated. Bravinder – Cokato Township dealt with an issue regarding a trailer house in a similar situation. The Township took the lead on removal of the building. It worked out well and was handled in a way that was considerate to the owners.

- E. Daleiden moved to approve the cluster of three “entitlements” according to the concept plan completed by O'Malley & Kron Land Surveyors Inc. dated 1/27/2022, subject to the following conditions: 1) Existing structures may not be improved or replaced, and no new structures added, until the property is brought into full compliance; and 2) A certificate of survey is completed for each lot and a deed restriction is completed and recorded before any lots are sold. Seconded by Greninger.

VOTE: CARRIED UNANIMOUSLY

**8. ESTATE DEVELOPMENT CORPORATION – New**

LOCATION: 11216 Eastwood Ave SE – Part of the W 1/2 of the NW 1/4, Section 35, Township 118, Range 25, Wright County, Minnesota. (Franklin Twp.) Tax #208-200-352300 Property Owner: David Lubben Rev. Trust

Petitions for a Conditional Use Permit to allow a platted six-lot residential subdivision as a Planned Unit Development as regulated in Section 155.029, 155.047, & 155.059, Chapter 155 Title XV, Land Usage & Zoning of the Wright County Code of Ordinances & Chapter 154, Subdivision Regulations.

Present : Tom Gonyea, Estate Development Corporation

- A. Marquardt reviewed the 39-acre property location. Recently rezoned to Agricultural Residential with a Planned Unit Development overlay and designated in the Plan as rural residential. The request is for a 6-lot platted residential subdivision with one common outlot. The Township did approve. Soil and Water Conservation District has approved the wetland delineation but noted a condition should be placed on Lots 1 and 4 that if any improvement or alterations take place near wetlands SCWD will need to review. At the rezoning hearing there was discussion regarding the onsite ditches. Those are actually tiles which were located and now shown on the proposed plan with easements recorded. The proposed lots range from 3.23 to 6.3 acres. The closest zoning district in this case would be R-2 for all lots.
- B. Greninger – questioned which ditch. Marquardt clarified they are more like drain tile and marked on the plan.
- C. Gonyea – read the Staff report a feels it is quite complete. Agrees with the noted conditions.
- D. Dan Hoen – concern with the proposed access right across from his driveway. Not sure it is legal to have an existing driveway directly across from a new driveway. Another concern is on the corner of Eastwood and Eaken where the frost heaves boil up so bad it is almost impassable. With all the added construction traffic there is concern the condition of the road will be compromised. Also, with the added construction the impact on draining is worrisome. A creek runs through the property in question, though a culvert and onto his property. Concern with extra water running through the creek and flooding his property. Another neighbor, Steve Boylan, voiced concern with drainage and ditches flooding his horse pasture. The Township sealed the road roughly 5 years ago and since then the vehicle speed on Eastwood has increased. Numerous times vehicles coming from Deegan toward County Road 16 have missed the corner. Would like to request a speed limit sign of 30 MPH. Mol – the speed limit is not something the Commission can decide. Responsibility is looking at the plat with house locations and addressing drainage. The road and speed issues need to be addressed with the Township. Bravinder – the Township has requirements they follow, which are based on specific guidelines. Hoen – questioned if it is legal to place a driveway across from an existing driveway. Marquardt – the Township grants access permits based on requirements which they are required to follow. Franklin Township is working with the applicant and County Attorney on a developer's agreement related to the maintenance of the mentioned road. Concerns should be addressed with the developer's agreement. Felger questioned which way the drainage flows. Hoen – the water flows towards the Crow River, so flows Northwest. Marquardt – there is a drainage easement on the proposed plan.

- E. Daleiden – believes the common area is required to have a Homeowners Association. Marquardt – anytime there is common open space there is a set of covenants and an HOA established as owner, divided interest is not allowed. Part of the final plat process is the creation of the HOA. Daleiden – remembers addressing a number of out lots, at the County Board, that become tax forfeiture. Does not want to see this happen moving forward. Marquardt – correct, several occurred in the past so currently these out lots are reviewed with final plat process and during permitting time to make sure properly deeded.
- F. Daleiden moved to approve a conditional use permit for a 6-lot platted residential subdivision, one lot to include existing home, with one common outlot named Franklin Ridge, as the Commission finds the terms of Chapter 155 Section 155.059 of the zoning ordinance are met, that the plan preserves significant natural areas including wetlands and wildlife habitat and provides for a better design than a standard subdivision by utilizing the common open space of Outlot A. Therefore, the preliminary plat of Franklin Ridge is approved in accord with the record of these hearings and the plans, terms and specifications submitted by the applicant and completed by Otto Associates with a revision date of 3/2/2022 Project #21-0475 and is subject to the following conditions: 1) Prior to recording the final plat checklist must be completed including but not limited to the following: a) Park dedication is paid along with the other fees noted on the plat checklist; b) Title opinion and developer's agreement for road improvements are submitted and accepted by the County Attorney; c) Documents establishing the homeowner's association and covenants shall be submitted to the County Attorney for review, and include provisions for the maintenance of common open areas; d) The letter of credit or other acceptable financial surety is established for the Township road improvements. This will need to be included in the required developer's agreement and approved by the County Attorney's office noting that prior to any building permit the Township will have approved the road improvements as required in developer's agreement. Driveway approaches onto Township road must be approved by the Township; 2) The Commission notes that there are wetland areas and drainage areas throughout the plat and that these areas are subject to regulations and control and cannot be altered without the proper permits through SWCD; Any work on Lots 1 and 4 near a wetland will need to be reviewed by SWCD prior to any permits being issued; Drainage easements will need to be established for maintenance on the noted drain tiles in the development; 3) Outlot A shall be common open space in accord with Section 155.059(I) of the Wright County Code of Ordinances, for the purpose of preserving the natural areas and no further development shall be permitted on Outlot A; 4) To preserve the integrity of a unified development, to protect the drainage, drain tile and sewage treatment facilities, homes shall be generally located as shown on the approved preliminary plat although minor changes may be allowed if all building requirements are met. Any building or development proposed for any lot must include plans to show the preservation of proper surface drainage and both a primary and secondary sewage treatment site. The Zoning Administrator may require that any significant change of the building location or land alteration on lots shall require review by the Planning Commission as an amendment to this Planned Unit Development approval; 5) The lots shall be regulated by the standards for R-2 zoning; and 6) Livestock are allowed as regulated by Section 152 of the Wright County Code of Ordinances, noting that Lot 1, block 2 would be limited to poultry only and no livestock. Motion sectioned by Greninger.

VOTE: CARRIED UNANIMOUSLY

**DISCUSSION ITEM**

Richard and Diane Stirling Kennel (PID #204-100-131403)

Marquardt – Staff wanted to inform the Commission a review was received from the Township which noted concerns. Some of the Commission members might remember when the CUP was approved, the site was visited and approved for 30 dogs with breeding. Most recent review, by the Township, mentioned concerns the site could possibly be out of compliance and the request was for the Commission to review. Staff sent the applicant a letter and will set up a site visit. This is just an informational update as to what might occur if Staff determines further review is needed by the Commission. If escalated this could move into the revocation process. Mol – spoke with the Township Clerk and confirmed two members visited the site and had some concerns. The Township thought it was best for Planning & Zoning Staff to look at the site before proceeding.

Meeting adjourned at 9:45 p.m.

Respectfully submitted,

Barry Rhineberger  
Planning & Zoning Administrator  
BR:sd  
cc: Planning Commission  
County Board of Commissioners  
Kryzer  
Twp. Clerks  
SWCD