

**WRIGHT COUNTY PLANNING COMMISSION**

**Meeting of: May 12, 2022**

**MINUTES – (Informational)**

The Wright County Planning Commission met April 21, 2022, in the County Commissioners Board Room at the Wright County Government Center, Buffalo, Minnesota. Commission members in attendance were: Dan Mol, Ken Felger, Dan Bravinder, Sandy Greninger, Pat Mahlberg, Mark Daleiden, and Jan Thompson. Barry Rhineberger, Planning & Zoning Administrator; Greg Kryzer, Assistant County Attorney, legal counsel.

**ACTION ON APRIL 21, 2022, MINUTES**

On a motion by Daleiden seconded by Bravinder, all voted to approve the minutes for the April 21, 2022, meeting as printed.

**PUBLIC HEARINGS:**

1. **JACKIDOTY** – Continued from 2/17/2022 & 4/21/2022

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 #215-100-04440  
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: Aaron Hess, representative of KO Storage

- A. Rhineberger displayed the site plan and reviewed the request. The applicant is looking to add a 44' x 80' sq. ft. building to the existing mini storage facility. Initially the request was for a shop; however, the applicant has decided to use the proposed building for an actual cold mini storage unit. The site is 4.87 acres on the north side of US Highway 55. The property is zoned B-2 General Business, the Land Use Plan indicates Commercial. The Soil Water Conservation District commented they have no concerns. MNDOT replied they do not have concerns since the frontage is on Chamberlain Ave., not on Hwy 55. Approval was received from the Township.
- B. Hess – no comment
- C. Daleiden moved to approve amending the original Conditional Use Permit to allow expansion of the existing storage facility with a 44' x 80' mini-storage building in accord with the site plan provided subject to obtaining building permits and meeting all setbacks. Motion Seconded by Felger.

*DISCUSSION: Daleiden stated prior to this meeting the request had been seen a few times, so there wasn't a rush on the decision, it was just a matter of waiting for the Township response.*

VOTE: CARRIED UNANIMOUSLY

2. **KYLE ASHWILL** – Cont. from 4/21/2022

LOCATION: XXXX QUIMBY Ave SW - Approx. 47 acres being described as Part of N 1/2 of the NW ¼ lying south of the railroad, Section 33, Township 119, Range 28, Wright County, Minnesota. (Cokato Twp.) Tax #205-000-331200 & -331204 Property Owner: APP Properties, LLC

Petitions to rezone from AG General Agricultural to I-1 General Industry District as regulated in 155.027, 155.028 & 155.055 Chapter 155, of Title XV Land Usage of the Wright County Code of Ordinances.

Present: Applicant not present

- A. Rhineberger explained the applicant is still working with the Township and City of Cokato regarding potential annexation. The next City Council meeting is May 23<sup>rd</sup>. The applicant did sign the MN Statue 15.99 waiver. Staff would suggest a motion to continue the matter to the June 9<sup>th</sup> meeting.
- B. Motion made by Thompson to continue the matter to June 9<sup>th</sup> at the applicant's request. Seconded by Daleiden.

VOTE: CARRIED UNANIMOUSLY

3. **KYLE ASHWILL** - New

LOCATION: 13124 17<sup>th</sup> St SW – SE NE & NE SE excepted that described in Book 250-262, Section 11, Township 119, Range 28, Wright County, Minnesota. (Cokato Twp.) Tax #205-000-111400 Property Owner: Hicks Company LLC.

Petitions for a Conditional Use Permit to mine an estimated 250,000 yards of sand and gravel on 23 acres of the property. Operation to include crushing, screening, and washing. Applicant estimates the lifespan of the pit to be approximately 20 years, depending on market conditions. 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.

Present: Jason Ver Steeg, engineer for Duininck

- A. Rhineberger reviewed the property location; the zoning map indicates the land is zoned AG General Agricultural and the Land Use Plan is for AG. The property is 39 acres in Cokato Township. The property is on a dead end township road. There are 2 dwellings on the road and the north fork of the Crow River is the boundary to the north and east. The property has a history of mining operations done without permits. Those issues were addressed and taken care of. This request is a step where an operator is applying for the proper permit. The Township did approve, indicating the designated haul route shall be 17<sup>th</sup> Street to Oliver to 20<sup>th</sup> Street to County Road 3. They would also request dust control in front of the residences along the haul route.
- B. Ver Steeg – Duininck has owned the property with the Hicks Corporation for many years. Mr. Ashwill has agreed to purchase the property, pending this process. The Duininck team assisted in preparing the application materials. Basically, Mr. Ashwill will be starting a pretty straightforward and typical mining operation. Duininck has not mined out of the location for years. Anticipate a fairly standard operation from Mr. Ashwill.
- C. Bravinder – regarding the dust coating comment from the Township. There are only 3 residences that are within a distance to the road that would need to be dust coated, the rest of them have a ¼ mile long driveway. There are 2 homes near the intersection of County Road 3 that would need dust coating. In the motion, if approved, would like it noted that the Township would request the dust coating.
- D. Mahlberg – addressed member Bravinder, as a member of the Cokato Township Board, for confirmation that it is the intent of the Township to not provide dust coating to the homes that site back a ¼ of a mile from the road. Bravinder confirmed.
- E. Daleiden – with only a few homes it would be more economical to use Magnesium Chloride for the dust coating versus water, as stated. Bravinder – clarified dust coating is Mag. Chloride. Rhineberger questioned if the water comment is related to the pit itself, not the road. Bravinder – in the Township response form says dust coating. In the past, the Township requested water for hauling during the construction of County Road 3. Mr. Ashwill will be using the pit for his own personal company and not selling to the public or contractors. There will be a screening operation.
- F. Greninger questioned if the comment on the application stating 3-5 trucks a day is accurate. Ver Steeg – the specific language asks for the daily number of trucks coming and going from the pit, on average and during peak time. At peak times trucks will come and go every 5-10 minutes. Greninger – is familiar with the trucking business practices. Trucks can be lined up 20 trucks deep. Ver Steeg – agrees. Believes the average listed is for the life of the pit. Difficult question to answer, but on an average day could have 20 trucks an hour on a high hauling day but another day with no hauling.

- G. Mahlberg – statement is 250,000 cubic yard total over the 20 years. What is the average truck size with a full load? Ver Steeg – depends on the truck, roughly 10-20 tons. Mahlberg – is the operator a large road contractor? Bravinder – he is an excavator. Not sure if he is licensed for septic systems. Does a lot of excavating for private properties, driveways, or small roads. Not sure if he has been or would be involved in major road projects. Mahlberg – not the size of Duininck? Ver Steeg – confirmed. Mahlberg – addressed Ver Steeg for confirmation that the relationship to the request is the purchase agreement contingency. Ver Steeg – confirmed.
- H. Mol – How does this permit transfer with ownership changes? Why isn't the property sold and then Mr. Ashwill before the Commission as the owner or Duininck before the Commission now as the owner and applicant? Rhineberger – Mr. Ashwill is the applicant with Duininck as the representative. In general, we see this in a number of ways. Normally the operator is here with the property owner just signing the application. In this case, the property owner is present representing the actual operator. A Conditional Use Permit goes with the property not the applicant. If Mr. Ashwill does not buy the property and Duininck chooses to keep the property, they would be allowed to operate under the guidance of this permit. Kryzer – confirmed.
- I. Mahlberg questioned the Staff suggested condition for a personal guarantee for the reclamation. Does not recall seeing other mining operations with a personal guarantee versus a reclamation bond. Who is putting up the guarantee? Kryzer – his knowledge is that the Commission generally requires a bond. Commission should require some type of security on file or letter of credit. Mahlberg – wanted to make sure there was not a unique reason the personal guarantee was part of the discussion. Kryzer – prefer to see that a bond is required.
- J. Daleiden – Staff noted that in the past there were issues with Mr. Hicks not wanting gravel hauled out. Yet, there was gravel hauled without permits. Ver Steeg stated he has been with the company for 27 years, does not remember hauling out of this pit. Not sure now long Duininck has co-owned the property with Mr. Hicks or the full history on the property. Daleiden questioned if Mr. Ashwill will fully own the property or will it be a partnership. Ver Steeg – purchase is contingent on the CUP being issued. If approved and the purchase moves forward, Mr. Ashwill will own the property outright. Duininck and Mr. Hicks will have nothing to do with the property. Daleiden – will Duininck pull out sand or gravel? Ver Steeg – if purchased, no. Daleiden – with how big of an operation Mr. Ashwill has, will he have 20 trucks out there at a time? Ver Steeg – a Duininck assistant helped fill out the application and probably provided answers as more of a typical Duininck type operation. More of a worse case was described in the application. Likely the operation will be less intense then described.
- K. Kryzer – Staff is suggesting the Commission continue for a site inspection. This matter and the next are relatively close to each other and a site inspection is also recommended. Given questions here today and error on the proposed motion for a personal guarantee, a site inspection would be advisable.
- L. Felger questioned if the Township addressed parking on the public road. Bravinder – there is no approach to the pit, the road goes into the pit and dead ends. There is not concern of parking on the roadway. The only vehicles that have been on the site in the last few years have been four-wheelers.
- M. Thompson – agrees with a site inspection. Would like to know how much gravel has come out of the pit. Ver Steeg – could not provide an answer at this point, there are records but not currently with him. Thompson questioned if any permits had been issued prior to this request. Ver Steeg – believes mining that occurred predated that mining requires a CUP.
- N. Mahlberg –18 years ago the 1<sup>st</sup> letter was sent to Duininck Brothers, stating mining needed to cease. Eight years later a letter was sent to Greg Hicks addressing mining, again with no permit. The record after that just

goes quiet. Questioned whether the Commission cares about the past violations and whether it matters to the Township that there were violations. A little bit concerned with the past history. Duinick is a normal operator that knows what they want to do and knows the answers to the questions. The Commission could be approving a permit that probably ends up being used by Mr. Ashwill, but no guarantee. If the sale falls through then Duinick could use the permit and they are usually a bigger operation. Concern is that the use could become far more intense than what was intended by Mr. Ashwill. Maybe Cokato Township doesn't care about how intense the use is and who is the operator. Bravinder – the Township doesn't care. It would be no different than how it functioned in the past. When County Road 3 was being done it was the Township that requested a specific haul route. Mr. Ashwill is not going to be involved in the big hauling operations that Duinick does. Commissioner Bravinder stated that he does work with Mr. Ashwill personally and has his cell number on speed dial and is comfortable calling to address issues. Mahlberg – provided the sale goes through to Mr. Ashwill and not just a valuable mining CUP sitting out there for another operator to use. Bravinder – this is the 1<sup>st</sup> time this pit has gone through the proper process for a mining CUP. Mahlberg – wonders if Cokato Township have a different perspective on the request if this wasn't a new applicant coming in before doing the operation versus whoever was operating without a permit in the past. It would be strange for Duinick to be pulling material without a permit. Bravinder – in the past the Township didn't get involved with any of the permitting, that was all on Wright County. All the Township wanted to know is what would happen in the pit, what was happening to the residences and how many trucks a day would be on the haul route. During the County Road 3 project the Township did request replacement of gravel on the road, grading and dust managed. In the Township this is the only gravel pit, so it is fairly easy to keep track of. Mahlberg – clarified the only pit in the Township is one that is non-permitted. Bravinder – confirmed this is the only one he is aware of. The Township gets zero on gravel taxes. Mahlberg – should be easy to figure out how many cubic yards have been pulled out.

- O. Mahlberg – the 2012 letter to Mr. Hicks says according to Woodland Townships aggregate removal tax form there was 560 cubic yards. Isn't this in Cokato Township? Rhineberger – yes, further down Cokato Township is mentioned. Can clarify with Staff but certain that it was a clerical error. Likely that the letter was part of a clean sweep mailing that occurred once access to the gravel tax records were obtained. Mahlberg – if the item is continued for a site inspection, would like to know the amount of activity that has occurred at the pit. Even if it is not a lot of cubic yards feels that if there has continuously been non permitted use, he would want to have a conversation with Mr. Ashwill at the next meeting. Greninger stated she would like to see the applicant here as well.
- P. Mol – concern would be what Ver Steeg brought up, until the closing occurs Mr. Ashwill does not own the pit. If approved, would like to see conditioned contingent on closing. If approved and the closing doesn't occur the CUP is there for the current owner or another owner, that the Township might not be comfortable with. Kryzer – the problem with a contingent condition is that the CUP runs with the land. Mr. Ashwill could close on the property turn around and sell the next day and technically the CUP is in compliance. The Commission cannot force someone to maintain ownership of the property. Mahlberg – Commission can limit the operations to the application on file. Kryzer – correct. Can easily see an operation like you tend to see with real-estate developments where an LLC is created specifically for the pit.
- Q. Greninger – is there concern with the ground water and the depth of the pit? Daleiden – comment is that mining would not be below the rivers water table.
- R. Thompson moved to continue the petition to the June 9, 2022, meeting for a site inspection. Felger seconded the motion. VOTE: CARRIED UNANIMOUSLY

4. MN CSG 2019-64 LLC - New

LOCATION: XXXX US Hwy 12 SW - Roughly 25 acres of part of NE 1/4 of the NW 1/4, Section 05, Township 118, Range 27, Wright County, Minnesota. (Victor Twp.) Tax #219-000-051205  
Property Owners: Munson, Philip & Munson Jodi R.

Petitions for a Conditional Use Permit to allow construction of a 1 MW solar farm as regulated in 155.029, 155.048 & 155.108 Chapter 155, of Title XV Land Usage of the Wright County Code of Ordinances.

Present: Philip and Jodi Munson, Evan Carlson, and Jake Hay with ISP Solar

- A. Rhineberger the property is a 25-acre site along US Highway 12 in Victor Township. The proposal is for a 1 MW solar farm that would encompass roughly 9 acres. Property was viewed along with a zoning and land use map that designate the property as AG General Agricultural. The site is kitty corner to a large industrial site that is in Middleville Township, Litfin Lumber. The applicant has been working with Staff for quite some time navigating through the recently adopted solar ordinances and newly required documentation. Shortly after submittal of the application information was received from Victor Township that they had enacted a moratorium on new solar projects. This moratorium was not known at the time Staff accepted and deemed the application as complete. Now in a situation where the application has to continue through the process because of the MN Statue 15.99 rule and the County does not have an active solar moratorium. The Township moratorium did expire on May 10<sup>th</sup>, have not heard if the moratorium was extended or an ordinance was adopted. The Township recommend disapproval of the request with discussion points and proposed conditions. No other comments were received. The length of time for the request would be for a 25 year contract.
- B. Carlson – previously applied as the last application before the County moratorium went into effect and actively involved with the committee discussing the new solar ordinance. This is the same project satisfies the old ordinance as well as the new ordinance rules. The new ordinance striped away a lot of the decision making the developer would do when creating an application. Vegetative management plan is done, security is addressed, screening is decided by the Planning Commission, and the access permission has already been approved. A lot of time, effort and money has been invested in the process of ensuring the application is complete. Pleased the application came out on the other side of the County moratorium and is still feasible. As far as the Township goes, the moratorium expired and was not renewed. Attended the Township meeting and there was no public discussion related to conditions. Willing to hear and know what the conditions are. The new ordinance is quite robust, and the application does satisfy all requirements.
- C. Philip Munson – have been working with IPS for a long time now. Would like to see the request approved.
- D. Bravinder – when reading through the Township response, a 300 ft. setback is mentioned as part of their suggested conditions. What is the current setback? Carlson – the project is screened by existing conditions. Very small usable piece that is not great farmland and is surrounded by trees and wetland. A 300 ft. setback would not be appropriate in this location, and it is not required by ordinance. A 300 ft. setback in this location would interfere with the project to the point of destroying it. Bravinder – driving by the property one can see it is already screened by trees. The screening runs along a ravine.
- E. Mahlberg – have the Xcel Energy poles shown on the proposed plan been approved by Xcel? Carlson – there is a combination of poles on site. The Xcel Energy poles shown are ones that bring power to the site, there is no approval process. Mahlberg – that is the point. There is a proposed plan that has Xcel poles shown in the road right of way. There have been issues for Utilities and Counties related to where utility poles are placed for solar farms. Understanding is that the applicant is not seeking approval for anyone else’s infrastructure in any particular location of the proposed plan. If Xcel is going to be in the road right of way, they will need to get

permission from the County. If not in a road right of way than they need to possibly go through a variance process for the location of the pole and set back from the right of way line. Kryzer – correct, utility poles are permitted in the ROW. When they get out of the ROW there is an ordinance that regulates location. Mahlberg – there is significant tension that exists between Counties and Utilities related to where poles are placed. Consequences can be significant. Questioned if Xcel has or has not evaluated the site. Carlson – Xcel has evaluated the site. Mahlberg – is it known where they plan to put poles? Carlson – NW corner to the road. IPS is like any other Xcel customer and asking for power for a site. In essence they are simply the utility bringing in the power to the site. The feasibility study with Xcel has been completed and agreed upon, with the interconnection fee paid. Kryzer – directed Commission to Ordinance Section 155.098(D)(3). The County permits lateral lines, cables, wires, pipes, etc. that are used for a single family residence or other lawfully permitted structure. By this body approving the CUP the solar farm would be considered a lawfully permitted structure and allowed to run a lateral. Mahlberg – the permit to put the pole in the ROW versus outside the ROW is the problem. It is when the utility wants to be just outside the ROW when issues come up. Issue is not if Xcel would be allowed to be in the ROW, history has shown they would be allowed.

- F. Daleiden – this is a State Highway not a County Road, therefore a State issue. Kryzer – correct. Mahlberg – the State has a utility accommodation policy, but if the State were to not allow this pole to be in the ROW then would that move the matter to the plans being reviewed or approved. We should be clear on what is being approved. Kryzer – generally have not regulated how Xcel gets their lines to the solar farms. What is regulated is the number of poles on the parcel that are non Xcel. When first adopted there would be roughly 15 poles, for a 5 MW site, that are sitting within 15 feet of each other. The purpose of the limit, within the area of the solar farm, is 1 pole per MW plus 1 additional for the site. Daleiden – questioned if some of the site is already installed. Rhineberger – all will be going in at the same time.
- G. Rhineberger addressed the 300 ft. setback question that was previously asked. The principal setback requirement to the closest portion of the project, which includes fencing. In this case that would be 30 ft. to the property line.
- H. Daleiden – likes to back the Townships, because it is in their area, but this is on Highway 12. Concern voiced regarding the farmland. In today’s world if the owner could make money off of crops that would be their choice over a solar farm. Guess is this parcel doesn’t benefit owner with crops.
- I. Kryzer – Staff would recommend continuing for a site inspection. Daleiden – questioned the reason. Kryzer – in the past these matters have needed to be reviewed. Past practice has been continuation for a site visit and allow time for Staff to get the opinion of the Board for drafting the motion. Bravinder – agrees with Commissioner Daleiden. Knows the site and also in the past when farmers want this type of operation on their land, he has expressed they should be allowed to do so, as long as no harm is caused to neighbors. Mahlberg – unless Commissioner Daleiden or Commissioner Bravinder are prepared to make a motion, with all typical conditions, it will not happen without a recess to draft up a motion. Daleiden – agree, thought there was a full motion and forgot about the suggested site inspection. Bravinder – does not change his view.
- J. Motion by Daleiden to continue the petition to the June 9, 2022, meeting for a site inspection. Greninger seconded the motion.

VOTE: CARRIED

ABSTAINED: Mahlberg

**DISCUSSION ITEM**

Mike P. Paschke Outdoor Storage CUP (Tax# 215-062-003040)

- A. Rhineberger – recall at the last meeting the Conditional Use Permit violation was discussed. The CUP is in violation of the 50% impervious surface coverage requirement for the Whispering Winds Development and the applicants specific CUP. Commission directed Staff to reach out to the application and determine status. Since than a letter with requirements has been sent as well as a conversation had with the applicant. Aerial photo of the site was displayed. The site is nearly 100% covered by imperious coverage, which includes gravel and is specifically referenced in the CUP. Call this morning from applicant indicated some impervious area had been removed. A Building Inspector was in the area and stopped by the site. He was not able to access the property, due to locked gate, but did a visual inspection the best he could. Referencing the aerial photo Rhineberger reviewed the areas where gravel and parking have been removed and replaced with black dirt, straw, and mulch. A call was made to the applicant and asked for his honest opinion on how much area was addressed. He stated 11,000 sq. ft. of fabric was used. A quick calculation would leave roughly 6-7,000 sq. ft. short of meeting the 50% coverage. The applicant acknowledged that number and is aware he still has work to do. With there being movement, the recommendation would be continuing to work with Staff and if obstacles arise the revocation discussion can occur at a later date.
- B. Mol – no motion is needed as this is just a discussion.
- C. Mahlberg – feels this is a good explanation. Would want to make a decision before winter. If a follow-up inspection can be done intime to address any issues and prevent another 6 months of being non-compliant.
- D. Rhineberger – the applicants’ goal is to get all property owner signatures and amend the condition of the plat and his specific permit. He can apply to amend the 50 % but because it is a condition of the entire plat then all property owners need to sign the application and agree with the change of the condition. Apparently, there are some property owners that are not currently cooperating. He is still working on this, and it might eventually come before the Commission as an amendment request.

**SITE INSPECTION**

Commission scheduled a site inspection date for Monday, June 6, Commission to meet at 8 a.m. at the Government Center.

Meeting adjourned at 8:40 p.m.

Respectfully submitted,

Barry Rhineberger  
Planning & Zoning Administrator

BR:sd

cc: Planning Commission  
Applicants/Property Owners  
Twp. Clerks