

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY PLANNING COMMISSION
Commissioner's Room / Government Services Building
Thursday, July 29, 2021 at 6:30 PM**

I. Call to Order

A. Roll Call

The meeting was called to order both in-person and electronically by Chair Preston Bauer at 6:52 p.m.

Members present were: Preston Bauer, Charlie Peters, Jill Ellingson.

Members absent were: Michael Streiff, John McCarthy

Staff present were: Director Julie Runkel, Zoning Administrator Trent McCorkell, Environmental Planner Julia Hogan, Administrative Coordinator Anna Aguilar.

Commissioners present: Steve Underdahl.

Others present: see Sign-in sheet & Registrant list.

B. Motion by Jill Ellingson, seconded by Charlie Peters, Reading of the Notice.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Jill Ellingson, NAYS: None

C. Motion by Jill Ellingson, seconded by Charlie Peters, Approval of the Agenda.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Jill Ellingson, NAYS: None

D. Motion by Charlie Peters, seconded by Jill Ellingson, to approve the minutes of July 1, 2021.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Jill Ellingson, NAYS: None

II. Old Business

1. Conditional Use Permit/Langdon - Section 5, Erin Township

James Langdon has applied for a Conditional Use Permit (CUP) for a home occupation therapy business. The property is described as: Part of the SW1/4 of the SE1/4 of Section 5, Erin Township, Rice County, Minnesota. The property address is: 9733 Kent Ave, Montgomery, MN 56069. PID#: 05.05.4.50.003. The property is Zoned A, Agricultural.

Motion by Charlie Peters, seconded by Ellingson, to recommend approval for the Conditional Use Permit request with the following conditions and findings for James Langdon. The property is located in Section 5 of Erin Township.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Jill Ellingson, NAYS: None

CONDITIONS OF APPROVAL – Langdon – Conditional Use Permit

1. The Conditional Use Permit is for a home occupation equine assisted therapy business that provides services for up to 15 persons on site per week. Changes to the business are not permitted without approval of a new/amended permit.
2. There shall be no more than one employee of the business that does not reside in the onsite home.
3. The site shall not be used to host riding events or to board horses unless a separate Conditional Use Permit is acquired.
4. All buildings shall meet building code for the intended use.
5. The applicant is to follow all Federal, State, County and Local rules and regulations
6. Failure to comply with conditions may result in revocation of the conditional use permit.

Hearing Minutes:

Environmental Planner Julia Hogan (JH) presented the request to the Planning Commission (PC).

The PC asked the applicant, James Langdon (JL), to come forward to add comments or answer questions regarding the request.

JL - We were just approved a variance to build a barn with an indoor arena and office section in order for my wife, who is a licensed social worker, to use it to for equine therapy. Which is why we need the Conditional Use Permit (CUP). The size of the barn exceeds 2,000-sqft.

PB - Are you aware of the 6 conditions?

JL - Yes.

PB - Condition #1 states no more than 15 person on site per week, is that sufficient?

JL - Yes, she will see approximately 15 clients each week.

PB - What are the hours of operation?

JL - It varies. Right now it is mostly Monday, Wednesday, and Thursday. It varies depending on the clients' schedules.

JE - Condition #3 states "*the site shall not be used to host riding events or to board horses unless a separate CUP is acquired*". If your business model changes, you will have to come back for an amendment.

JL - Absolutely.

Chair Bauer opened the public testimony portion of the item to the public and no one spoke.

Chair Bauer closed the public testimony portion of the item to the public.

Discussion:

CP - Erin Township is really positive about it and have no issues with this. I will motion to move this onto the Commissioners.

JE - I have no further comments and will second.

Motion to recommend approval with stated conditions and findings made by Peters, seconded by Ellingson, and approved unanimously.

III. New Business

1. Conditional Use Permit/Carver Garden LLC - Sections 28 & 33, Cannon City Township

Carver Garden LLC, on behalf of landowner Rita Carver, has applied for a Conditional Use Permit (CUP) for a 1MW solar energy production facility. The property is described as: Part of the SW1/4 of the SW1/4 of Section 28 and Part of the NW1/4 of the NW1/4 of Section 33 of Cannon City Township, Rice County, Minnesota. The property address is: 3119 197th St E, Faribault, MN 55021. PID#s: 11.28.3.50.005 & 11.33.2.25.001. The properties are Zoned UR, Urban Reserve.

Motion by Charlie Peters, seconded by Jill Ellingson, to recommend approval for the Conditional Use Permit request with the following conditions and findings for Carver Garden LLC, on behalf of landowner Rita Carver. The properties are located in Sections 28 & 33 of Cannon City Township.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Jill Ellingson, NAYS: None

CONDITIONS OF APPROVAL – Carver Garden LLC – Conditional Use Permit

1. The landowner and operators shall comply with all rules, regulations, requirements, or standards of the Minnesota Public Utilities Commission, Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, Army Corps of Engineers, and other applicable federal, state or local agencies.
2. The Conditional Use Permit (CUP) is for a 1-MW solar energy production site as shown on the approved site plan, subject to meeting all setback and access requirements.
3. Security fence shall consist of fencing meeting state and federal electrical code requirements.
4. All required permits shall be obtained prior to onsite construction.
5. Verification of compliance with wetland regulations shall be submitted to Rice County Environmental Services prior to issuance of any building permits.

6. As soon as onsite construction is completed all areas of the site, excluding the access roads and electrical equipment pads, are to be established and maintained in Agricultural crop production or a perennial vegetative cover.
7. All electrical lines internal to the site shall be buried underground.
8. The applicant or operator shall furnish Rice County with a \$50,000 bond or other approved financial surety to ensure proper site decommissioning/restoration and to ensure road repair or other off-site damages caused by construction or operation of the facility. Financial surety shall be reviewed and approved by the Rice County Attorney's office prior to any work on-site.
9. The entire site shall be restored to a condition suitable for agricultural crop production within 18-months after the cessation of onsite electrical production.
10. Failure to comply with conditions may result in revocation of the conditional use permit.
11. This Conditional Use Permit shall expire and be considered null and void if no construction has begun within one year from the County Board approval date.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Planning Commission (PC).

JE - When did the first array go up?

TM - I do not know off hand but it was a couple of years ago.

The PC asked the applicant, Blake Johnson (BJ), to come forward to add comments or answer questions regarding the request.

BJ - *representing Nokomis Energy who is the manager of the Carver Garden LLC* - It is the third and final 1MW community solar array on this parcel. It will sit just to the south of the previous two and has a lower elevation, so will sit slightly lower. We plan to use the existing access and will then branch the new access road around the west side of the property. There will be a drainage basin at the southeastern portion of the array.

CP - You will own and operate all 3 of these arrays? Nokomis Energy will?

BJ - We are just the developer of the projects. We have agreements in place to sell these at the end of construction. I do not believe Nokomis Energy actually owns the other two arrays on the property. That's just how our business model works.

CP - The structure and service lines are sufficient or will there be more constructed?

JL - Everything should be in place. It will be snug up against the other arrays. We are using the existing fencing on the Northern portion and will create new fencing for the remainder of the boundary.

PB - When you say third and final array, is that for the property or the substation?

BJ - For this property. When you look at the aerial, there isn't a whole lot of more room there and you need about 7 or so acres for a 1MW tracker system. This project will fill up the remaining area of this property.

PB - I did notice a fair amount of water on that property so I am glad you mentioned a water basin.

Another question related to maximizing space, do you plan to take the existing fencing out along the southern border of the exiting arrays?

BJ - There is a fence between the two existing arrays and we plan to keep the southern fence between those and the new one.

PB - But they will be different owners?

BJ - I am not sure if it will be different owners, I just know that Nokomis Energy will not be the owner after construction.

JE - Will it be a 10 year lease?

BJ - No, Xcel Community Solar program runs for 25 years. It is a 25 year lease with Xcel. Then there are two 5 year extensions for the back end available for wiggle room. I am not sure how the program is going to end up shaping out as. It is a 25 year base.

JE - Do you know when the other two arrays were permitted?

BJ - I am not sure, I believe one was permitted in 2018 and I think it was the first array but I was not part of those projects.

PB - When do you plan on completing this projects?

BJ - If everything goes according to plan, we plan on the start building early in the summer of 2022. So

it should be done by end of summer 2022.
PB - Are you familiar with the 11 conditions?
BJ - Yes.

Chair Bauer opened the public testimony portion of the item to the public and no one spoke.

Chair Bauer closed the public testimony portion of the item to the public.

Discussion:

CP - There have not been any previous complaints with the previous two arrays on the site. I do not have an issue with it and it seems well planned out again. I will motion with the 11 conditions.

PB - I am familiar with the site and it is a good location with a south fencing slope and no one back there. Even the arrays close to the road, you don't notice any glare. This is a good site and a best use of the infrastructure that is already there.

JE - My question was more because it is in the Urban Reserve and you would want all the leases to end around the same time, but they seem to be within a year or two of each other. I will second.

Motion to recommend approval with stated conditions and findings made by Peters, seconded by Ellingson, and approved unanimously.

2. Conditional Use Permit/Tonjum (Witte) - Section 13, Morristown Township

Mary Tonjum, on behalf of landowner Witte Estate, has applied for a Conditional Use Permit (CUP) for a contractor's office and yard with outdoor storage for a transportation business. The property is described as: the NW1/4 of the NE1/4 of Section 13, Morristown Township, Rice County, Minnesota. PID#: 13.13.2.00.001. The property is Zoned A, Agricultural.

Motion by Charlie Peters, seconded by Jill Ellingson, to recommend approval for the Conditional Use Permit request with the following conditions and findings for Mary Tonjum, on behalf of landowner Witte Estate. The property is located in Section 13 of Morristown Township.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Jill Ellingson, NAYS: None

CONDITIONS OF APPROVAL – Tonjum (Witte) – Conditional Use Permit

1. The applicant is to follow all Federal, State, County and Local rules and regulations.
2. The conditional use permit (CUP) is for an office/storage building and a seasonal outdoor storage area for a trucking business. Changes to the business are not permitted without approval of a new/amended permit.
3. The submitted site plan shall be followed.
4. Outdoor storage of business trucks and trailers shall be as shown on the submitted site plan with up to 60 trucks and trailers onsite. There shall be no onsite storage of other equipment or products.
5. The existing topography and tree cover is to be maintained to provide for screening to neighboring properties and the roadway.
6. Only business equipment owned, leased or contracted by the onsite business shall be stored on the site.
7. Office area is to include at least a portable restroom facility.
8. Site shall have no unlicensed or inoperable equipment or vehicles stored or parked outside.
9. Prior to any onsite grading of filling applicant shall verify compliance with all wetland regulations.
10. A change in use driveway permit shall be obtained prior to onsite business use. Driveway changes must include a paved apron extending at least five feet into the site from the existing road pavement.
11. Between May 16th and October 14th not more than 15 trucks and/or trailers shall be utilizing the site.
12. Outdoor truck and trailer storage shall only be between October 15th and May 15th.

13. Trucks and trailers shall only be moved between the hours of 8am and 5pm.
14. All buildings shall meet building code for the intended use.
15. This Conditional Use Permit shall expire and be considered null and void if the office/shed construction has not begun within one year from the County Board approval date.
16. Failure to comply with conditions may result in revocation of the conditional use permit.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Planning Commission (PC).

CP - Who is the actual owner of the property?

TM - Witte Estate.

CP - It was a grandfathered pit?

TM - That is my understanding, but it was mostly restored. It could use more but as a grandfathered they are not required to do restoration.

The PC asked the applicant, Muhamad Ali (MA), Mary & Rick Tonjum (MT & RT), to come forward to add comments or answer questions regarding the request.

MA - I have a trucking business and would like to use this property to store my trucks in the winter time.

PB - Where is your business currently located?

MA - We have a small place in Shakopee, Minnesota. I do not have enough space there to store all the trucks.

PB - Will this property be your base location?

MA - Not currently, no.

MT - My husband and I are representing MA. We work with Edina Realty and he is the buyer of this potential property. MA is applying for the CUP so he can store his semis and trailers when they are not in use. He currently does several transportations of refrigerated foods (fruits, poultry, meats) and they run from May to November. He has a yard in Shakopee that they run out of but the CUP is to use this location to store those trucks/trailers when the trucks are not running. The trucks/trailers would not be going in and out like with a normal transportation company or gravel pit. The trucks/trailers would be stored at this location from November to April. They would not be going in and out if that helps clarify.

PB - In essence, you want to use the lower end of this abandoned pit to store trucks and trailers?

MT - Yes. He is planning on building a pole shed, 50-ft x 100-ft, the property will actually store at a minimum of 20 up to a maximum of 60 truck/trailers during the off season which is from November to April. Once they are brought here, they will not leave again until April. They will be stored there.

PB - What about servicing the trucks during the off season? Is that the intent of the pole shed?

MA - No, we service our trucks in Lakeville. We have a company there that does all the maintenance for us.

PB - So it will be a cold storage pole shed?

MT - Correct. It will have an office that will be a small portion of the shed with its own entrance. The actual storage portion of the pole shed will have a regular door and a sliding door to get the semis and trailers in and out.

PB - What is the plan for employees or max number of persons onsite?

MA - The plan is not to operate out of there. It is to store equipment that I don't want stored outside. It will just be the drivers who drop off and pick up the trucks.

PB - Will any products be stored in the trailers or on site?

MA - No, the trailers will be empty.

PB - What about security?

MA - I am hoping to install a fence and increase the screening.

PB - What numbers do you anticipate during your hauling season, for visits to this site to drop off or pick up? How does it work during the season for the equipment? Is it all out on the road?

MA - Once the season starts, the trucks/trailers go out and if they need to park, it will be up in Shakopee. Then once the season ends, the trucks/trailers would be brought back and parked here.

PB - Once the trucks are out and running, do the drivers keep them at their homes?

MA - They are kept up in Shakopee, but it is a small area and I cannot store all of the trucks there.

PB - Are you in a Commercial district in Shakopee as far as the zoning?

MA - Yes.

CP - Your intent is to buy the property, how many acres is it?

MT - 40-acres. The adjacent neighbors, Witte Brothers, are also using the driveway because the estate has allowed them to do that, but once it is sold, the neighbor will be creating their own access. Witte Brothers will not be using this access once this property is sold, they will create a new access into the adjacent 40-acre gravel pit.

PB - The operating season ends in November?

MT - Yes, they haul to up to Coldwell Brewing Company, a wholesale distributor in Illinois, Burnett Foods in Michigan, and Aldi's Distribution Center in Faribault. They are constantly out on the road from May to November.

PB - There are 13 conditions, are you familiar with them?

MT - Yes.

JE - With refrigerated trucking and food, what determines your off season?

MA - Most of my drivers are immigrants and many of them have their wives and families out of the country, so during the winter they are mostly traveling and I am left with a bunch of equipment with no place to park.

JE - It is not demand driven, it is culture or employee oriented.

MA - Yes.

RT - We are working closely with MA to help him through this process. There was a comment about a 5-ft entry slab off the highway and we are ok with that. He has talked about flooring the whole building and possibly adding water and septic down the road.

PB - Being a realtor, in your opinion, do you think this suits the Agricultural district?

RT - Does a gravel pit suit the Agricultural district? It will be a secured area and the pole shed will be in the back corner of the property. All done by design. We have not discussed secure systems but a gate as security. The neighboring gravel pit will see more activity then this site.

PB - During the operating season, what do you predict for traffic flow into the site?

MA - When the trucks/trailers come to this site, they will be empty so they will not be in and out. They will be brought in at the end of the season (November/December) and taken back out in April.

SU - Do you have any further intentions on mining that site or is it depleted?

RT - To my understanding it is depleted. There is some material there but they are not excavating it which is why the property is for sale. The neighboring property is a 40-acre active gravel pit owned by Witte Brothers.

MT - There is some product left in the pit, but MA has no intention of mining that area.

SU - If he did, he would have to come back for an additional CUP.

MT - Correct. PB you seem confused on that once the trucks get there, they will not be leaving. They will be stored there from November to April. The only time I can foresee them coming out is if they needed a repair after they got to this site such as they broke down on the way to being stored, but once the trucks leave this site, they will operate out of the yard in Shakopee where the business is ran out of from May to November.

Chair Bauer opened the public testimony portion of the item to the public and the following spoke:

Kim Halverson - I own the property across the road and to the east of the site. I have 100 acres there with a house that I rent out. there is a property right across the road that is building a house right now and there is a house next to this property. It seemed that when I read through the summary of this item, I wanted to know more about the trucking company. So I went out and did some research on MLQ which seems it has only been in business for 8 months. According to FMSCA which guides all trucking companies, they own 1 truck and no trailers. With that it had a couple of addresses, so I looked into the addresses. Their webpage says they are intentionally chosen not to have assets or trucks of their own. They are a freight brokerage company. With that I did more research and found the addressing that lists another company, Jalwo, is actually the trucking company that is located at 7800 County Road 101 west in Shakopee. Jalwo has been in business since 2011. They have 40 trucks and 20 trailers of their own and they primarily handle boxes or is considered a freight forwarder. Boxes are those containers that you see come off of ships. My concern, when you are looking at storage out there, what will actually be stored out there? You do have some conditions listed here. One of the things that stood out at me is do you remember when Ag Partners was permitted on County Road 15 by Morristown? They were required to put in turn lanes on both sides of the road even though it is a straight shot. This road is incredibly curvy. That is one of the things Ag Partners was required to do and I know that permitting likes to treat businesses the same. Also there is no passing lane or turning lane here which would be similar. If they are planning to have an office onsite, I think a requirement because it is tough to go back and open these

permits up, that a perc test needs to be done and a well and septic need to be included on site because of the office. An office means people, people mean they need to have access to those types of facilities and an outhouse or temporary facilities does not exactly meet that. On Condition #4, it might be a good idea to add empty trailers. Those are a few of the things that jumped out at me and I have some concerns on what is really happening.

Dan Morris - *chairman of Morristown Township* - When I got this, I received a number of phone calls right away because it is pretty vague. Kim did state some good points but our main concern is safety. She mentioned the road and there are no shoulders, or very minimal shoulders, on that road. Right to the west of his driveway there is a nasty hill. Anyone coming over that hill that has to stop and turn in there, it is nasty. I cannot understand why they wouldn't be required to put turn lanes in there if you are talking that kind of truck traffic. A semi is going to have to go into the other to turn into this site. Coming from the east, there is a hill there right where Kim's house is. Ag Partners, or at that time Genesis, was made to put in turning lanes and that area is totally flat. We made the Morristown Fire Department put in a turn lane and that's in City limits. A turning lane with possible 60 trucks coming in in the fall and leaving in the Spring, and that's if no one comes in all Summer long. Safety is our main concern there. We run land to the east of it and there is a lot of traffic on that road. It is hard for cars to pass in that area. Land use, of course gravel pits are included in the AG district because where else are you going to get gravel from? You can't get it from town. This board is to determine the best land use and storage for 60 trucks, we believe belongs next to I35 in the Highway Commercial district, not in the middle of Ag country where there are residents. One thing they don't talk about is lighting. If they are storing 60 containers there, there needs to be some type of light on it or you are going to have trouble especially if no one is there all winter long. Right to the north there is a house going in at the top of the hill. Kim's house is to the north a little ways. To the east there is a house and straight across to the west. Lighting is a concern to the neighboring homes.

Brandon Miller - I am building straight to the north of the entrance to this site. I have a few questions. I know they are talking about a storage site but what will stop it from becoming a trucking company? If this passes and they start storing stuff out there and all of a sudden there is a bunch of traffic in and out of the site, is there someone who regulates that? As far as regulations, I did not see anything mentioned for hours of operation? My concern is jakebraking and trucks coming in and out late at night. We have a two and a four year old so safety is a huge concern for us. You come out of their driveway and you can almost drive straight into our driveway.

Chair Bauer closed the public testimony portion of the item to the public.

Discussion:

CP - I also have received some phone calls today regarding this site.

PB called applicant back up.

MA - I just wanted to address the two companies concern. MLQ is a brokerage. That is true. They have ML Trucking and MLQ which is a brokerage.

RT - I would like to address the concern for the turn lanes and stress on the road. There are a number of trucking companies and gravel trucks out there that use those roads. I am not sure where the curvy road concerns are coming from, on County Road 71, it is pretty much a straight shot. I feel some of it is being exaggerated, but that is my personal opinion.

MT - The property has been used for a gravel pit for 50 years and none of these concerns were raised nor addressed when Witte Brother's applied for their CUP 5 years ago and they are currently using the same entrance.

CP - We get gravel complaints with every gravel pits but they are different. Where do we get our gravel from, we need to go where the gravel is. We have 4 in our township and of course you have the dust and trucks, but the next person will call complaining about there being no gravel on the road. I think this is a lot different than a gravel pit. In my mind it is a commercial storage use and I agree with a couple of the speakers that it should maybe be in a commercial zone. I do think we need to define hours of operation and number of trucks and months.

JE - I agree, I think the position based off other requests that have come forward, we were very specific in the conditions for hours of operation, number of vehicles, etc. Those pieces are missing and I think we need to tighten that up. I do wonder about the commercial and having worked in the food sector for several years, food safety standards are extremely tight and I think it is going to be really hard to control pests in this building even if the refrigerated trucks are stored empty they have to have pest control in them and I think the gravel pit is only going to add to that problem for your business model potentially. I

agree with CP that gravel pits have specific use and this does make sense in a commercial setting.

PB - The description and conditions here are vague and if there is going to be seasonal parking of a mass amount of trucks/trailers, we want to make sure it does not turn into a commercial outfit, just temporary storage.

SU - This does appear to be a commercial use. I do not see the tie to Agricultural. It concerns me that it is a very minimal use of the property in a way. You want to put a building up with no floor, no plumbing is a concern for me. The other two I have is how would we actually monitor and enforce the conditions? I do agree, hours of operation are important. One of the things I see with mining operations is that they are technically considered a temporary use even though they may run for 50 years like this one, but by definition they are temporary.

JR - As far as monitoring, we do have several contractor yards that operate on a seasonal type basis such as this. One type is construction equipment storage where they go out and do summer projects, then come back and store equipment for the winter. One example is Knish. We do have many contractor offices and yards that are not necessarily Ag based.

TM - We can definitely modify or reword the conditions, but you may want to have that discussion with the applicant to define those specifics.

CP - I would be OK with 60 trucks max during the storage season and hours of operation from 8a to 5p since they don't need to go in a fuel them or do pre-starts. I am not sure what to say regarding road safety. If the traffic is over a couple weeks and then they sit there for months, I am not sure I see the need for turn lanes. I do think we should specify months to narrow it down and up to 60 trucks/trailers on site and hours of operation. Anything that goes beyond that, then he will have to come back to have his conditions changed.

PB - I feel there are more questions to be asked and clarified with this one. I suggest we table this item to allow Staff to work with the applicant or we will be here all night trying to hash this out.

CP - I would like to see the addition of months and hours of operation, and clarification of no business out of the site/office.

PB - And more input regarding the road and turn lanes.

JR - The Highway Engineer submitted his review and comments, page 109 in your packet.

CP read comments as submitted by the Highway Engineer.

JE - I do think we have enough questions that we are not in a position to approve this item nor enough to deny. I would motion to table.

JR - Can staff get specifics on the questions you would like to be answered? We do have the months already stated by the applicant and the number of trucks and trailers. The only other thing I heard was hours which you can decide. A suggestion was made of 8a to 5p. If those are the only three things, TM can draft wording for those right now.

CP - With condition #4, we have up to 60 trucks and trailers. I would like to see one of the condition to state from the months of or the maximum number of working/Summer months. From November to April, we have a max of up to 60 trucks and trailers and during the working months, a max of up to 10 or 15 trucks and trailers.

TM - I believe the applicants proposal is not to have trucks and trailers coming and going outside of the specific beginning and end of moving season times. You could word a condition stating there are no semis or tractor trailers moved from the site outside of that storage time frame.

CP - So we could give him a little clearance on that.

JR - You may want to clarify the exact dates with the applicants or go from October 15th to May 15th just in case we have a bad Spring.

CP - I think day light hours of 8am-5pm for trucks coming and going is sufficient. I recommend for condition #4, we add from October 15th until May 15th they can have up to 60 trucks and trailers stored and hours of operation from 8am to 5pm.

PB - Should we specify the number of trucks/trailers during the off season? Are we able to enforce that?

PB called the applicant back up.

MA - The maximum number of trucks and trailers will be 60, I may have way less than that.

CP - During the running or summer season, you will not have any trucks there?

MA - 15 at most.

CP - Do we have any conditions written?

TM - I have questions on how to address the storage verses the movement part condition wise. I started two separate conditions, one being onsite outdoor storage shall only be between October 15th to May 15th, with another part of that one being the movement of trucks and trailers shall only be between the hours of 8am and 5pm. The third thought dealing with the summer part, not more than 10 semi-trucks and trailers shall be on site outside of those dates, reversing the previous dates.

PB - Was this pit ever restored with the CUP?

TM - This was a grandfathered pit so it was not operated under a Conditional Use Permit. It's certainly had some restoration done but they were not required to have restoration done.

CP - I don't see any issue with the off season, if there are 10 or 15 trucks if there are a couple that are broke down. I don't know how we would regulate, so I can see how it would be hard to write out in the conditions. We at least have the hours of operation during daylight hours.

PB - When is the next Planning Commission meeting?

AA - September 2, 2021.

TM - I did have a little bit better wording on that summer condition we were talking about. The condition would say: between May 16th and October 14 there not be more than 15 trucks/and or trailers shall be utilizing the site. That would allow them to come and go yet but keep it at that maximum number during the summer. The other would be October 15 to May 15th would be the storage of the larger number.

CP - I am ok with that and hours of operation of 8am to 5pm at all times.

PB - Is that still 13 conditions?

TM - There would be 3 new conditions.

PB - For a total of 16. I think we still need more time to hash this out.

SU - One thing that comes to mind is with this being a storage use, should we consider a condition stating no permanent employees on site with no well or septic being proposed.

JE - I think that is in line with previous CUPs we have and think that is a condition we should add.

TM - We do have sites with active CUPs that just have portable toilet type systems. We just permitted one last meeting I believe. There are some things that come in with building code depending on office usage and what's actually occurring onsite. This proposal for the office is mainly for when they are coming. If they would switch that they would have to have septic and water type conditions.

SU - That is my point, if you do not have a permanent employee onsite, I am fine with portable services. We need to consider health and welfare. I think the concern is that this does not turn into more than what is being proposed and I think that is one more triggering mechanism.

PB - Are we ok with the newly stated conditions?

CP - I am, but we are only a recommending authority. I will motion with the new conditions with a condition that states 15 maximum trucks during the running season.

JE - I think we did a good job at flushing out some of the issues and questions, I would second with the new conditions for a total of 16.

PB - I still think we need time to flush this out, but motion carries.

Motion to recommend approval with stated conditions and findings made by Peters, seconded by Ellingson, and approved unanimously by roll call.

3. Waiver of Plat/Johnson - Section 30, Walcott Township

Garett Johnson has applied for a Waiver of Plat to modify a 2.5-acre building parcel. The property is described as: Part of the NE1/4 of the SE1/4 of Section 30, Walcott Township, Rice County, Minnesota. PID#: 15.30.4.00.008. The property is Zoned A, Agricultural.

Motion by Jill Ellingson, seconded by Charlie Peters, to table the Waiver of Plat request for Garrett Johnson until the August 17, 2021 Planning Commission meeting. The property is located in Section 30 of Walcott Township.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Jill Ellingson, NAYS: None

Hearing Minutes:

Environmental Planner Julia Hogan (JH) presented the request to the Planning Commission (PC).

JE - With this item I am related to the applicant and there are only three of us board members here tonight, so by me abstaining I would make a motion that we table this item until the August 17th Planning Commission Meeting.

CP - I will second that motion.

Motion to recommend tabling made by Ellingson, seconded by Peters, and approved unanimously.

4. Waiver of Plat/Sirba - Sections 20 & 21, Webster Township

John and Sue Ann Sirba have applied for a Waiver of Plat to create a 2.5-acre building parcel through the use of a Transfer Development Right (TDR). The property is described as: Part of the SW1/4 of the NE1/4 of Section 20, Webster Township, Rice County, Minnesota. PID#s: 02.20.1.50.001 & 02.21.3.00.002. The property is Zoned A, Agricultural.

Motion by Charlie Peters, seconded by Jill Ellingson, to recommend approval for the Waiver of Plat request with the following conditions and findings for John and Sue Ann Sirba. The properties are located in Section 20 & 21 of Webster Township.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Jill Ellingson, NAYS: None

CONDITIONS OF APPROVAL – Sirba – Waiver of Plat

1. The new 2.5-acre Transfer Development Rights (TDR) receiving parcel shall contain one single family dwelling.
2. Any new construction on the parcels is to adhere to all Rice County codes and ordinances.
3. The remaining/resulting parcel(s) shall not be further subdivided unless approved under the Rice County subdivision regulations.
4. The conservation easement for the TDR sending area shall be recorded prior to recording of the new parcel.
5. In-lieu park dedication fee of \$500 shall be paid prior to recording of the new parcel.
6. A new deed for the 2.5-acre parcel shall be recorded prior to any construction and within one year of the approval.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Planning Commission (PC).

CP - With the two building sites they could share a driveway?

TM - That is the way this one is set up to do.

The PC asked the applicant, John & Sue Ann Sirba (JS & SS), to come forward to add comments or answer questions regarding the request.

JS - We are hoping to get the Waiver of Plat and are aware of the 6 conditions.

Chair Bauer opened the public testimony portion of the item to the public and no one spoke.

Chair Bauer closed the public testimony portion of the item to the public.

Discussion:

CP - It is pretty straight forward and it fits well. I will motion to refer this for approval.

JE - I will second. This is what this process is for.

Motion to recommend approval with stated conditions and findings made by Peters, seconded by Ellingson, and approved unanimously.

5. Final Plat/Olson - Section 15, Cannon City Township

Robert Olson has applied for a Final Plat to create Foster Hill Third Addition by combining two lots within the existing Foster Hill Addition and Foster Hill Second Addition plats. The properties are described as: Lot 2, Block 1, in Foster Hill Addition and Outlot A, Foster Hill 2nd Addition, Section 15, Cannon City Township, Rice County, Minnesota. The property address is: 17660 Cannon City Blvd, Faribault, MN 55021. PID#s: 11.15.3.01.001 & 11.15.4.26.002. The properties are Zoned NES, Natural Environment Shoreland.

Motion by Preston Bauer, seconded by Charlie Peters, to recommend approval for the Final Plat request with the following conditions and findings for Robert Olson. The properties are located in Section 15 of Cannon City Township.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Jill Ellingson, NAYS: None

CONDITIONS OF APPROVAL – Olson – Final Plat

1. Final Plat shall be recorded with the Rice County Recorder within 90-days from approval.

Hearing Minutes:

Environmental Planner Julia Hogan (JH) presented the request to the Planning Commission (PC).

CP - To build on it, they would need to split it again?

JH - I believe their plan is to put solar on the outlot. The applicant can expand on that.

The PC asked the applicant, Robert Olson (RO), to come forward to add comments or answer questions regarding the request.

RO - The one lot we have owned for 20 years and the new lot we bought, so another home does not go there and I need to combine them to put a solar home system on it.

PB - That proposed lot will be how big?

RO - How big? I'm not sure.

Staff report shows the proposed lot will be 235,224-sqft.

PB - Are you familiar with the 1 condition?

RO - Yes.

Chair Bauer opened the public testimony portion of the item to the public and no one spoke.

Chair Bauer closed the public testimony portion of the item to the public.

Discussion:

JE - It is straight forward.

PB - I will motion.

CP - I will second.

Motion to recommend approval with stated conditions and findings made by Bauer, seconded by Peters, and approved unanimously.

6. Zoning Ordinance Text Amendment/Bridgewater Township

Cindy Nash, on behalf of Bridgewater Township, has applied for a Zoning Ordinance Text Amendment to create a new Zoning District titled Rural Industrial and to amend Chapter 508, table 508-1 to include uses for the new Rural Industrial Zoning District.

Motion by Charlie Peters, seconded by Preston Bauer, to recommend approval for the Zoning Ordinance Text Amendment request with the findings for Cindy Nash, on behalf of Bridgewater Township.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Jill Ellingson, NAYS: None

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Planning Commission (PC).

PB - The recommendation would be to strike that 515.B.04?

TM - Not to strike it, but not to address it now, but in the near future.

The PC asked the applicant, Cindy Nash (CN), to come forward to add comments or answer questions regarding the request. *(via Zoom)*

Glenn Castner (in person) - Bridgewater supervisor - about 3 years ago we had a number of meetings regarding land use. We have had residents wanting us to move on this and we have a new zoning administrator, Cindy Nash who worked with the county staff to put this revised amendment together. We would like to rezone this as it would be an industrial area since we see an interchange coming in at Highway 9 and Interstate 35 within the next decade and we have already had interest in this area because

1/2-mile south of us is an industrial area from Faribault. We would like to step forward and take a little more control of this and this amendment would allow us to do this.

PB - What do you think is the potential?

GC - We have a number of property owners who are wanting to rezone, roughly 300-acres right along the rail road tracks. That would be the next step in the process. We have had two companies in the last 5 years that have approached the township, but we had to say we are not ready. We have a company currently that supplies beet juice to the state of Minnesota for ice control on roads and they would bring their product in by train and distribute it by truck. That is the attraction to this area is that it's right on the rail line. It is marginal farm land and we think this is a better use.

PB - Do you think this request is cohesive?

GC - I think we are planning along with the County's long term plans along 35. We are within a mile from it and if that area gets rezoned commercial/industrial in 10 years it will become industrial. So we are trying to get out in front of it and to have more control over it.

CP - We have had Bridgewater in our Township meetings, and he is correct, they are right there. We have talked and we would like to work with the County to get a long range plan in place.

PB - On the Cannon City Township board we have seen it from the southern end.

SU - I agree that the way things are occurring and it is the intersection of 4 townships, all eyeing the area there. It would be better if we can get it in the comp plan, but we are not there yet and I do not think it is fair to hold this up until we get through that.

CN - I want to thank county staff for working with us on this first step, the first of many steps. It is a long process and is going to take years, even once we get this framework in the ordinance, this is going to be a multi-year project. The goal with this amendment was to allow for some larger industrial scale companies to take advantages of the multi-transportation corridors and to allow for a higher maximum height in certain circumstances.

PB - The new RI zoning district, where can it be applied?

JR - Bridgewater is working on a rezone as well following this text change. It would be on properties to come apply for a rezone, so currently it does not apply anywhere without a rezone application.

CP - So if this goes through, Bridgewater still needs to come back for rezones?

JR - For the rezone yes, but not the CUPs, etc. that goes through Bridgewater.

TM - When they apply for a rezone they will come back in front of you.

PB - Is there a minimum size of a property for a rezone?

TM - No, but there are limits based on spot zoning.

JR - Spot Zoning is illegal, so if an applicant comes forward, you could deny it based on that.

Chair Bauer opened the public testimony portion of the item to the public and the following spoke:

Nancy Marth - I am sorry Bridgewater has a project in mind for this. This is a big deal to be introducing this type of activity in ag land. Back when we redid the Comp plan 15 years ago and then the survey went out for the new comp plan one of the common comments, even from 20 years ago, was that preservation of ag land was something that was important to the people that responded. I think at this point you need to look beyond one project, we are in the process of redoing our Comp Plan and sliding this in under the door is a mistake. I think this is something you need to consider that you are opening up the entire county to. I think there needs to be a bigger discussion with the Comp Plan on where the County wants to go. I think we need to get our ducks in a row with this prior to approving it. *(submitted a letter as part of the record)*

Sam Sunderlin - I represent the Forest Economic Development Association (FEDA) that supports orderly growth and diverse economy along 35. After listening to the discussion tonight, I feel there is more discussion that needs to happen regarding this proposal. I've decided that I need to discuss this with our board and do some more research. If this proposal proceeds to the Rice County Commissioners and then into a public hearing we will of course be submitting comments. I would like to say tonight that the county's plan for both sides of the highway is commercial/industrial and I don't think that's quite accurate yet. I want to point out that this has not yet been determined and it won't be until the comprehensive plan is completed. I do share Nancy Marth's views and I hope you give them some consideration.

Diane VanRudden - I support the previous speakers and I think this is bigger than Bridgewater Township and that the County needs to finish the current update to the Comp Plan.

Chair Bauer closed the public testimony portion of the item to the public.

Discussion:

CP - I wish we could give a date on the Comp Plan because we have concerns similar to Bridgewater. We want to have a say in it as a Township. There are a lot of companies out there that the cities cannot accommodate. I think that is where we need to get ahead of the game to get an infrastructure plan in place.

PB - It is definitely a big picture thing, but there needs to be some infrastructure in place or companies will move on. Maybe Rice County has the potential with the southern exit as well with County Road 18.

JE - If we need to move the comp plan forward, that is what needs to happen. I do also have some concerns in moving this forward not having a full picture of where the County is headed at this time. I think we need to take steps forward and commit to completing the Comp Plan.

PB - I can see where this would be beneficial.

CP - If we get the comp plan moving, I do not see an issue with this. I do not have a problem with Bridgewater doing it and the rest of the townships would have to come forward to rezone and get conditional use permits. I don't know what companies they got with that railhead, but they are right there and with Faribault moving north.

SU - I agree that the Comp Plan is where this belongs, but I hate to see this held up in the meantime. We will be hearing this again at the board level but I do hear the townships, with what they are looking for here.

CP - My recommendation is to move this on to the Commissioners, and then it would come back to us for a public hearing.

JR - This is the public hearing. At this first step if you are recommending approval then it goes to the County Board for Intent to Adopt. Meaning you are okay with the ordinance amendment as presented. There is a second public hearing with Intent to Adopt and only very minor technical changes should be done at that step. The first public hearing is where most discussion should take place.

TM clarified with the Staff recommended changes.

CP - That is my motion.

PB - I will second.

Motion to recommend approval with stated conditions and findings made by Peters, seconded by Bauer, and approved unanimously.

IV. Adjournment

Hearing no other items before the PC, a motion was made by Peters, second by Ellingson, to adjourn the meeting at 8:48 pm. Motion carried 3-0.

Respectfully Submitted



Anna Aguilar
Administrative Coordinator

Planning Commission



Preston Bauer, Chair