

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY PLANNING COMMISSION
Commissioner's Room / Government Services Building
Thursday, November 4, 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 7:06 p.m.

Members present were: Preston Bauer, Michael Streiff, Charlie Peters, Jill Ellingson, John McCarthy.

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

Commissioners present: Jeff Docken.

Others present: see Sign-in Sheet and Registrant List.

B. Motion by Jill Ellingson, seconded by Michael Streiff, Reading of the Notice.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Michael Streiff, Jill Ellingson, John McCarthy, NAYS: None

C. Motion by Michael Streiff, seconded by John McCarthy, Approval of the Agenda.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Michael Streiff, Jill Ellingson, John McCarthy, NAYS: None

D. Motion by Charlie Peters, seconded by Jill Ellingson, to approve the minutes of October 7, 2021.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Michael Streiff, Jill Ellingson, John McCarthy, NAYS: None

II. Old Business

1. Conditional Use Permit/Peters (Sherwin) - Section 26, Northfield Township

Andrew Peters, on behalf of landowner Kenneth Sherwin Trust, has applied for a Conditional Use Permit (CUP) to operate a sand and gravel mining and aggregate crushing operation. The property is described as: Part of the SW1/4 of the NW1/4 of Section 26, Northfield Township, Rice County, Minnesota. The property address is: 13265 Kane Ave, Dennison, MN 55018. PID#: 08.26.2.50.001. The property is Zoned A, Agricultural.
recording time - 42:48

Motion by Michael Streiff, seconded by John McCarthy, to recommend denial with findings of the Conditional Use Permit for Andrew Peters, on behalf of landowner Kenneth Sherwin Trust. The property is located in Section 26 of Northfield Township.

RESULT: Motion to Deny passed, AYES: Michael Streiff, Jill Ellingson, John McCarthy, NAYS: Preston Bauer, Charlie Peters

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Planning Commission (PC).
TM - Some of the previous concerns were the waste that was dumped on site but when I revisited the site, it had been removed.

MS - Are those earlier hours for equipment start-up?

TM - I believe that is some of it but the applicant can speak to that.

CP - I have a question about the eagle's nest? They're able to just cut the tree down and be done with it?

TM - It is a possibility. I have had discussions with the applicant's environmental compliance person, and the DNR regarding it. An eagle's nest can be removed under certain conditions and timing. It can be done but it is quite limited because of the timing of when it can be done. The applicant said they would rather leave it and go around it.

PB - Going back to the 6am start, the nearest residence is a former Sherwin's residence, correct?

TM showed where nearby homes are located. The closest is probably the landowner to the South that owns the adjacent hay field.

The PC asked the applicant, Wayne Gieseke (WG), to come forward to add comments or answer questions regarding the request.

Wayne Gieseke - *with Milestone Material, speaking on behalf of Andrew Peters* - We have reviewed the existing permit and would like to address the following items. We are aware of the Eagle's nest and feel that it does need to remain in place and we will respect its location and setbacks. Regarding the solid waste that was placed onsite by the landowner, we addressed that with the landowner and he has cleaned that up. That was done on October 8th and was properly disposed of at the Rice County Landfill. Moving to the conditions, we pulled this application from the October meeting to address the neighbors' concerns and to address the solid waste issue. We did meet with the neighbors. We heard their concerns. We reviewed the 18 conditions and feel the 18 conditions should help with the neighbor relationship. We would like to call attention to Condition #6, listing the hours of operation. We would like to strike the last sentence "*Preparation of equipment allowed starting at 5:30 am Monday through Saturdays*". We would like to just stick with the 6a.m. to 7p.m. timeframe. The dust control, Condition #12, was added and should not be a problem because we are obligated by the MPCA with our stormwater permit. Condition #13 regarding the solid waste, we addressed it with the landowner since it was his solid waste that he needed to dispose of properly. As far as the mining operation goes (*WG showed on the aerial photo where solid waste was*), the waste was within the 300-ft setback that we are not allowed to be in. On top of, that location is within 100-ft of the eagle's nest. We will not be mining up there. Condition #18 as far as the proposed driveway access, we have met with MnDOT and looked at the driveway with them. MnDOT approved and we have the permit to rebuild that driveway entrance point. We are going to straighten the driveway out and bring it up to elevation so that the trucks are level for the turn onto Highway 246. That permit was approved on 9/16/2021. In conclusion, the reason Milestone Material is seeking this approval is because it is an important location. We are in the process of closing-up our resource to the North in Webster Township. We have maintained this lease for a number of years knowing it would be a viable resource for our commercial facility here in town. Another reason for this operation at this location is that it is an existing mine that was open at one time. This operation would be cost effective to maintain and restore once we are done.

JE - You said you wanted to strike the 5:30a.m. start time. Is that just for the weekend?

WG - That is Monday through Saturday.

JE - So you would be starting at 6a.m.?

WG - 6a.m. to 7p.m. Monday-Friday and 6a.m. to 3p.m. on Saturday.

JE - Can you further explain your request for the earlier start time from the standard 7a.m.? What is driving that?

WG - You have longer hours with construction in the summer. The reason for the 6a.m. is by the time we get equipment warmed up, we are able to physically start by 6:30a.m. We like that warm-up time more and more with the type of contracts that we are getting with the State, the County, and the municipalities. We need those hours based on how those contracts are now written.

PB - With the 6 a.m. start time, in the summer it gets light really early and the earlier start gives you the potential of having less days of operation.

WG - Correct, less days and heat.

JM - For stormwater management, it looks like there is a drainage to the north of the pond ? Or is that a pathway?

WG - It is hard to tell. With the elevations, you could tell but it could be the way it was mined previously. It doesn't even show up on the elevations.

PB - What feeds the source pond or old excavation area? Drainage tile?

WG - There is drainage tile located on this site to the West.

JM - Is there an outlet?

WG - There is an approved pipe/culvert location on the northern east side of the pond. Any part of the mining or the operation, we are obligated to follow our MPCA stormwater permit requirements.

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

William Schmitz - *speaking for my mother, Emily Schmitz, who is 79 years old* – *Kvanbeck Trail* - When you look at the overhead, my mom lives in the home on top of the hill. Her property goes down to and adjoins with the Sherwin property. We object to this Condition Use Permit (CUP), especially when we

start talking about starting at 6a.m. and the noise factor that is associated with a mining operation like this, especially if it also includes a crushing operation. The crushing is new and would distinctly affect my mom's enjoyment and use of her property, her ability to sell that property, and the value that is attached to it. In addition, the entrance from this property onto Highway 246, trucks coming on and off that road all day long, presents a severe hazard to the people who use that road for residential use to get to and from their properties. I believe it presents a danger. We generally object to this request but at the very least there should be significant conditions put on it regarding hours of operation and the amount they are mining and any additional asphalt crushing operations.

Sue Peterson – *Karow Trail* - TM can you go back to the view that best shows the tractor path? *TM went to photo*. The hay field you see to the South is ours. The mining area that is shown uses a tractor path and Highway 246 right there is a large hill. They are going to be moving those big trucks out of there, at least 20 trucks a day, and they are going to be pulling out onto Highway 246 where there is a hill. It is horribly dangerous. I am worried sick that someone will not survive an accident with this. There has to be a safer way if they have to do it. If you go back to the fact that this was grandfathered in and they mined it before, so therefore they should do it now, that was 1952. We didn't live there then. We have spent a lot of money on our properties here. This is going to have a significant impact on the value of our properties. This is also going to continue, he says, 5-acres at a time. This temporary permit is going to last at least 20 years and he will tell you that. This permit will outlive me. This is my retirement and there is a lot of people here who have all of their money in their retirement. The reason there is a dump ground there is because this landowner is disrespectful and not a good steward of the property. For 40 years he has been dumping chemicals and fertilizer and anything else he can that doesn't burn has gone in that hole. There have not been any soil samples taken. I know there are chemicals in there. This is Prairie Creek. It's a waterway that is considered a public waterway. It is significantly close to all of this. There is no way that this will not have a significant impact on the environment and the animals. One of the words I heard you say on one of the other items you were approving is that it does not appear to have a significant impact on health and safety. Well this does have a significant impact. It is a gravel pit. It is right next to us and our house is right there as well. The noise is another thing. We talked about the back-up beepers when he came to my home to visit with us about this and he is going to use some other sound thing, but he is not changing this. At 5:30 in the morning, we are going to be hearing this noise and they are going to start crushing asphalt. That is exactly what this is going to do. They didn't do that in 1952. It is a different place now than it was then. We also talked about the dust and the dirt. I know they say they have some sort of way to handle the dust and the dirt, but that is hay. My husband farms hay all around the creek because that is the healthiest crop to put by the creek.

Candy Taylor – *Kyanbeck Trail* - I live further up on the hill. I am less impacted by this directly as I cannot see it. I am concerned about the traffic. It is not 20 trucks a day. We were told it could be as many as 18 trucks an hour, that is over 1200 trucks a week. What is that going to do to our road? I worry about somebody getting killed on that road. You will have all those slow trucks pulling out, people will pass, there are a lot of curves and hills along Highway 246 and that will not be good. We have done research and when they put one of these gravel pits up close, within a one mile radius, it impacts property values between 25 and 30%. If this goes through, we will be going to the county asking for our taxes to be reduced by that amount. We want to see some changes. For the other variance, you talked about does it change the look or character of the locality. We all moved out to the country for peace and quiet and to enjoy nature. I love nothing more than to sit on my front porch and listen to the birds. Instead we are going to be hearing "beep, beep, beep" and hearing trucks. I know they only operate in the summer, but this is Minnesota and that is the only time we can be outside and really enjoy our properties. This is owned by a company that is based out of state. They have people that work and live here, but the owners do not. Why can one property owner so adversely impact everyone else? It just doesn't seem fair.

Bill Sonnega – *Lamb Ave* - We are a couple miles from the site of this mine. We have lived out there for 23 years and it is well-connected. A great little part of Rice County. Awesome people. It is zoned Agricultural (AG) and most people farm but there are a lot of people who don't. A couple of questions for you. One, we have to consent that a new sand, gravel and aggregate crushing operation is a pretty big deal and of potential value to the County. For the record, have any of you had any discussion of that potential value to the county? In other words, such as maintaining our roads, resurfacing them, or other publicly funded county projects? Is this going to be a go-to source for sand and gravel? Have you talked

about that amongst yourselves and/or if the location of this is advantageous to the county's interest in maintaining Highway 246? I would appreciate an answer if you have. The applicant spoke about the value in the private sector of contracts with the public, including the county. I am just wondering if you have talked about that?

JD - Every road you drive on is a public road, so there is the value.

BS - I am talking about doing business with the applicant and this CUP.

JD - Is there value doing business with the applicant?

BS - Yeah. Have you talked specifically about the advantages to the county, of which we are all a part of, of having this sand/gravel mining operation and aggregate crushing, located right here with this vendor?

CP - I work with the City of Lonsdale and can attest that this vendor has done every asphalt project for the City since I have worked there, and they have come in considerably lower than other out-of-county vendors with mines in other counties. We have 2 gravel pits in our Township within 2 miles of my private residence and even though they are active and they mine there, it is maybe 3 weeks a year that they are active with trucks coming and going. They use the pit when they have a project that is close to it. They move their equipment in and move it out. I think it is an advantage to have pits spread throughout the county for that reason.

BS - That is good to hear that they are coming in cheaper than the competition. So is it fair to say that you have had some conversations about it? I am not trying to pin you to the mat here or anything, we just want to get this out in the open. This is a real asset to Rice County, would you agree?

CP - I agree with it.

JD - Yes.

BS - We like nice roads and they have to be maintained.

PB - I am on the Cannon City Township and a contractor there brings its crushed rock all the way from Goodhue County. Yes, it is advantageous as far as having available aggregate within the county.

BS - The less you have to truck it the better. I don't think there is an ethical question here, I just want this to be transparent. We are talking about a private sector entity that is quite frankly likely to do business with the public. I have not had access to the 18 conditions for the CUP but I trust that there is some provision for restoring this pit at the end of its natural lifespan. Apparently, the CUP can be renewed another three times? I am unclear about that. 5-acres per increase?

PB - We are past the 3 minutes. You can get a copy of the conditions from Staff.

BS - By the way, all around, everyone is opposed to this. There is no one that is going to come in and speak on behalf of this mine being out here. I would like to believe that you and the Commission, who are charged with overseeing the long-term interests of the county, are not going to go backwards and just leave that pit open like this 10 to 15 years down the road. I think that is how you get the big hit to property values. You bank into this right now with a provision that at the end of the line you turn it into something, for instance, a lake.

Cliff Taylor – *Kvanbeck Trail* - I am looking for clarification on whether or not this operation will be permitted to haul in materials for crushing?

TM - Yes, these are generally allowed to haul materials in for crushing. We have had sites where we have limited that if the main plan is for stock piling, but generally that is allowed.

CT - This is a mining operation, correct? How is hauling in material from offsite mining?

TM - That is the crushing portion of the request and that has been considered as part of those operations as far as bringing in aggregate and concrete material.

CT - Is there language that supports that?

TM - Within the permit, the aggregate portion of that. In the past, some sites have had limits on that which is specifically spelled out, but it was not in the applicant's proposal to have a stockpile site. Certainly, that applicant can address that.

CT - Can we have that clarified so it does not allow it? Once you open that door, this is no longer a mining operation. It becomes a processing operation. It becomes more of an industrial site and that is not the character that I think you are looking for.

John Larson – *Kvanbeck Trail* - I am opposed to this for a number of reasons. Safety is a big one. My wife travels to Northfield and has to take that road pretty much every day to visit her mother, who is 90. I think of this area as a part of Big Woods National Forest. It connects right to it. It makes it something that is really special. It would change the character. It would change it into an industrial site, which is what we are talking about here. I understand mining, but when you are bringing in and crushing, and the

noise and pollution it is going to cause. Especially with it being so close to Prairie Creek, it is a big deal. I have real concerns with this landowner and the fact that it took him this process to clean up debris that has been there for years and years and years. I think we have a bad actor there. What will prevent that from happening as this goes forward? The fact that this is based on such an old precedence of mining is also a big concern. That was done a long time ago, so to just tag this on and say its no big deal is false in my mind.

Geno Peterson– *Karow Trail* - I am opposed to everything based on everything that has previously been said. I do have a question for the board. I want to see a raise of hands. Who wants to live next to this mining operation? I know JD doesn't because I deliver his mail and he lives in a peaceful part of Rice County. I don't know where the rest of you live but I bet you don't live within a quarter mile of a gravel pit and crushing operation, do you?

CP - Yeah, I do.

GP - No, I heard 2 miles of you.

CP - I have one that is a quarter mile away and one that is about 2 miles away.

GP - Do you like living there?

CP - Yes, I do.

GP - Do you like hearing them at 6 o'clock in the morning?

CP - It happens.

GP - You are telling me bunch of crap. You don't like it.

CP - We have to put gravel on our roads.

GP - I understand it is an advantage to the Township, but it is not an advantage to us that live out there. There is no advantage to this.

PB - As a board, we are supposed to be objective to this, no matter how we feel personally or not.

GP - I am not attacking you. I am just saying that you want us to accept this but maybe it's not right for everybody else.

Dane McKittrick - *via zoom - Northfield Clean River Partners* - I would like to echo the concerns previously voiced related to the potential threat to Prairie Creek and to the water table and other factors, the soil, around the site. I would like to ask in the operators' mind, can they promise that the site will be reclaimed and that the environment around the site will not be harmed? What insurance do we have for that as the public?

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

Discussion:

PB - Applicant do you have anything else to add?

Applicant had nothing to add.

PB - The first question I have is that I recall this pit being before us, at least once, in 2016 and nothing has happened with it since. I was not at the last meeting and I am not sure why the additional conditions were added.

CP - It was tabled last month at the request of the applicant.

PB - There are 18 conditions. They have that there will be 5-acres of mining area open at a time. Do you have concrete plans for this pit? You requested the previous CUP too, correct?

Called the applicant back up.

WG - I did the application in 2011 and in 2016. Part of the application process is to submit a reclamation plan which was done. It is going to be a pond and part of doing the 5-acres at a time is progressively reclaiming it and mining at the same time, that way they go hand-in-hand. It is only cost effective as an operation to restore behind us.

PB - Do you have concrete plans to mine this site?

WG - We submitted the 2016 information along with this application.

TM - There are copies of the 2016 CUP in the board packet.

PB - I know this is the end of the session as far as mining and aggregate processing goes, but is there a plan for spring to actually use this site?

WG - Yes.

PB - Since you are operating by water, there are stipulations you have to follow which are addressed in the conditions.

WG - Correct.

CP - Are you planning on bringing in material to crush and bring back out?

WG - Right now the primary focus is to utilize this resource at our commercial facility here in Faribault. There is not a project in the area for that right now. If there was something close by, to where it would be cost effective or advantageous, say Highway 246 went out for bid, that would be a cost savings for potentially bidding that work with that option out there. We need this resource for our commercial facility here in Faribault just because we are in the process of restoring the exhausted pit to the north. We are going to finish restoring that one. It will be buttoned up, seeded, grassed, done. We need another source to supply our plant here in town.

PB - So primarily the material would be brought to the Faribault plant?

WG - Yes via Highway 19 or Nerstrand Blvd. One thing to keep in mind is that this site is for our use only. We are not opening up some big commercial facility that will be open 7 days a week and supplying the public. Yes, there is going to be the local township or county need that may be close by, of course, but it is for our use for the asphalt itself for local projects.

MS - So regarding the 18 trucks an hour, is that hearsay?

WG - That is pretty common depending on the work and the work load. At the time of the meeting with the neighbors, they asked how many trucks an hour were going to be there and we aren't going to sugar coat it.

MS - Has there been talk about the road and how the intersection is going to support 18 trucks an hour, especially on Saturdays with activity at Big Woods?

WG - We went out there with MnDOT and that is the location that MnDOT had pointed us to. That was the best site visibility, in both directions. With that permit approval and leveling out that entrance/exit. One of the concern with the neighbors was alleviating some of the need for the trucks to back up and to turn around within the pit as far as back-up alarms go. We are going to maintain the south approach as well, so depending on the projects we have, we may be able to bring trucks in one entrance and out the other if that is a huge concern.

MS - I am hearing two things. You say there is no plan right now to do a huge commercial, 7-day a week operation but with the CUP if work did come along, it could go that route where it does get to that level.

WG - With a portable situation, where it is typically a 30,000 ton job, that is a 3 week set.

PB - Do you have an estimate for the amount of potential material that is there? It's not that big of an area.

WG - I do not have the potential reserve numbers with me. I want to say there is 300,000-360,000 tons.
Applicant returned to seat.

JD - Mr. Gieseke and this company are great to work with. They took over the gravel pit that is close to me and have done a fantastic job. That is the pit they are working on closing and reclaiming that is right next to a pit that is grandfathered-in with no requirements of reclamation and I have a hunch that will end up looking quite different than what they are doing here. We do need gravel throughout the county and to spread the pits out is advantageous for local projects. We had a gravel pit for 15 years, so we know what it is like. We have the Kielmeyer pit that has been there for 100 years. It is an important asset to the County. Are there times that it gets frustrating? Yes. There can be a lot of trucks coming in and out. It adds traffic. You are hauling it from within the County for most of the County and Township projects. I think it is very important. I cannot say enough for this company or the applicant himself. I am not sure if it did him any good, or if it made the neighbors feel good, but I don't think we have many companies that would have went around and met with the neighbors to address their concerns.

PB - In regards to the haul roads, they are fortunately paved roads. One of the conditions does address dust control within the pit. To play devil's advocate, the business of agriculture creates a lot of dust as well. My farm creates plenty of dust in the fall and spring between the tillage, harvesting, and equipment running. It is all part of the process of maintaining the municipal roads. This CUP is good for 5 years, it is not an ongoing thing. We have 18 conditions and they have to meet State and DNR requirements as well. It's not just us and I can't think of any other conditions.

JM - In the past there have been limits placed on when the crushing could occur. I would have originally been opposed to this because of the addition of the crushing. The CUPs for this area have been maintained. People come in and purchase property to live on. If they go to the zoning map and see that it is zoned with an industrial area right next to them, they can make their decision to purchase or not but in this case with a CUP, it is not normally available to someone doing their due-diligence on a property. I understand the plight of both. I can understand the landowner wanted to develop their property but it would not have been identifiable that the property has a CUP that has been maintained. I think that is a benefit to the proposer. I do have concerns about the crushing operation specifically and think we should

limit the crushing operation to a period of time or maybe two periods of time throughout the year could be a way to address both sides. And possibly limiting the crushing to fewer hours and not on Saturday. That is my suggestion on a way to alleviate some concerns.

CP - I don't know if that would help. I know the plant that this company supplies is in Faribault, which is surrounded by residential which was industrial/commercial for years. If they cannot crush there, that is an issue. This would be less intrusive to crush out there than in town. What I am saying is, how do you limit it to certain days or certain periods throughout the year? I can see Monday through Friday.

PB - JM you are proposing limiting crushing on Saturdays?

JM - I think no crushing on Saturdays and with reduced hours during the week like not starting until 8a.m.. If there is a crushing project, it would take about 3 weeks, maybe two. Maybe two 3-week periods during the year. If there is a crushing operation, I will be voting against this. I think if the CUP was as it previously was, I am very happy to see a reclamation plan. I think people purchased in this area not knowing that this is an industrial site.

PB - How long have CUPS been maintained on this site?

TM - The first one I have is from 2011 and then again in 2016 because they are issued on a 5 year cycle. There was previously mining done on the site. It was done many years ago as a grandfathered site but that has nothing contingent with the current CUP. Mining is allowed as a conditional use throughout the AG district.

MS - Just a technicality about the CUP to clarify, The proposed mining area is roughly 14-acres. The max area that can be open at a time is 10-acres. They are talking about mining 5-acres at a time. With the 10-acre max requirement, they have to close 5 to open 5. Is that right? They can never have more than 10-acres open at one time or does the initial 10 have to be opened, mined, closed and then another 5 opened?

TM - The ordinance allows for up to 10-acres to be open for any mining operation. Their proposal is to do 5-acre increments.

MS - So they can never have more than 10 opened, being mined, at one time.

TM - Per the ordinance. Their proposal is to do 5-acres.

MS - So he is proposing to mine at half of what the ordinance would allow.

JE - The County Highway department had no comment?

TM - Since it is accessing a State Highway, generally, the County Engineer will not comment.

MS - I live out this way. I have some concerns for this one. Is the infrastructure in place to support a 7-day type operation? I worry that the infrastructure is there going north, not as much to the south. It states there is no plan for dewatering activity but the water table is high out there. Most people are on wells. I am really concerned about the water and contamination and what that looks like. Even though the DNR is involved, I have a hard time with this one.

JD - It is a need and I understand, no one wants it here, but where? You want road improvement. I understand the thought behind limiting it to a 3-week period, but how do you know which 3 weeks work for crushing? What happens when you get started on a project? It goes a week and then you have weather impacts and it is shut down for the next two weeks. That makes it tough to run a business. In my opinion, we need them.

PB - JM what are your concerns with the crushing?

JM - The noise of crushing is more significant than with the mining. That would be the big concern and the impact on a rural area.

MS - There is also a very popular State Park that is close by that draws a lot of people on the weekends. I don't know what this looks like on a Saturday in July with traffic for the park and 18 trucks possibly hauling. I think there needs to be study around traffic in support of this. Unfortunately it is a State road and our highway department won't chime in because they do a really nice job of providing a solid opinion around what the impact might be. I think we are underestimating this from an infrastructure standpoint.

CP - I will make a motion. I realize all the concerns but with the City of Lonsdale we let people mill the roads at 7 a.m. Contractors start at 7 in the morning. Business is business. It has to get done. We need the product and it is a very reputable company. I motion we approve this and move this forward to the Commissioners with the 18 conditions and with the change to #6, the start time from 5:30a.m to 6a.m. *No one seconded.*

PB - Motion fails without a second.

PB - JM would you like to propose a motion with a change to the wording of condition #6?

JM - I won't make a motion to approve but would consider it with condition #6, I would add...

MS - I will make a motion for denial based on lack of information related to traffic studies, support of

infrastructure, and understanding of impact to waterways.

JM - I will second that motion.

JR - Can you repeat your reasons into the microphone to ensure we have it on the recording.

MS - I make a motion for denial based upon inadequate information around the impact to infrastructure, traffic both north and south of the subject site, as well as lack of understanding of impact to waterways from proposed mining as well as future mining of the entire site.

Motion to recommend denial was made by Streiff, seconded by McCarthy, and approved 3-2 (CP - nay, JE - yay, JM - yay, MS - yay, PB - nay).

recording time - 1:50:00

III. New Business

1. Conditional Use Permit/Johnson (Reisinger) - Section 1, Webster Township

Nick Johnson, on behalf of landowner Jim Reisinger, has applied for a Conditional Use Permit (CUP) for a contractor's office and yard for a driveway asphalt contractor business. The property is described as: Part of the E1/2 of the NE1/4 of the NE1/4 of Section 1, Webster Township, Rice County, Minnesota. PID#: 02.01.1.00.006.

The property is Zoned A, Agricultural.

Motion by Jill Ellingson, seconded by Charlie Peters, to recommend approval for the Conditional Use Permit request with the following conditions and findings for Nick Johnson, on behalf of landowner Jim Reisinger. The property is located in Section 1 of Webster Township.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Michael Streiff, Jill Ellingson, John McCarthy, NAYS: None

CONDITIONS OF APPROVAL – Johnson (Reisinger) – Conditional Use Permit

1. The applicant is to follow all Federal, State, County and Local rules and regulations.
2. The conditional use permit is for a contractor's office and yard for a driveway asphalt business. Changes to the business are not permitted without approval of a new/amended permit.
3. All outside storage and parking shall be screened to public roads. Screening shall be provided by storing materials and equipment behind an area with a solid 6-ft high fence or 2 offset rows of 6-ft high evergreen trees with the trees being no more than 20-ft apart in each row.
4. All vehicles and trailers stored/parked outside shall be operable and have a current license.
5. There shall be no outside storage of inoperable equipment or waste materials.
6. Bathroom facilities shall be provided for employees.
7. A stormwater plan shall be created and implemented to control runoff from the parking and building areas. This plan must be approved by Rice County Environmental Services prior to work starting on this site.
8. All buildings shall meet building code for the intended use.
9. A change in use driveway permit shall be obtained and any required road improvements required by the Rice County Highway Department, relating to the driveway/ business shall be paid for by the business.
10. Failure to comply with conditions shall result in immediate revocation of the conditional use permit.

Hearing Minutes:

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

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

NJ - I run a small driveway asphalt business. Its family owned. We have 6 employees and we work

during the summer months from 7a until 5 or 6 at night.

PB - Where do you currently operate out of?

NJ - We are renting from Safety Signs in Lakeville.

PB - Are you aware of the 10 conditions?

NJ - Yes.

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

Caroline Fott (CF) - We purchased our property decades ago and placed a house on it. The presentation did not show the houses in that locality. In your planning process, you have permitted businesses in this agricultural area under conditional. What has happened with business is they evolve, they change hands, the mission changes. Some of the missions not being what was originally applied for. You are trying to develop that area. You might as well make the corridor business-commercial. I can site examples such as at the corner of Highway 19 & 46, we all know the evolution of Gramps Corner. It went from this to this to this. The tax base decreased because that is what you want as a business. You have not built the infrastructure for this. You have promised that the road would be updated and that has been pushed out again, another 2 years. It is crumbling. It has semis going down it. It has heavy duty equipment businesses that use it. I remember a weight restriction on that road in the spring, and I do not recall any structural improvements to the road when that restriction was removed. How far do they have to be from the roundabout? That location is close to the roundabout and I think that would be a problem. I do not know what kind of noise will be produced. Or the type of smell. I don't know if that has been addressed. There is an effect to those of us that live in that rural area and to the environment.

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

Discussion:

PB - TM can you go back to the aerial view?

TM brought up the wider aerial view.

JM - Was there any comment from the Highway department?

TM - There was discussion between the Highway department and the applicant that is included in your packet. There is a condition in the Staff report that addresses that they obtain a change-in-use driveway permit and pay for any improvements deemed necessary by the County Highway Engineer. It didn't sound like there would be anything extra needed but that is part of that permitting processes. In my discussions with the Highway department, they were comfortable with the way that condition was worded.

JD - You may want to ask the applicant if this is going to be where he is going to be making the asphalt.

PB asked the applicant to come back up.

NJ - No, this is going to be a storage shed and a place to keep our equipment. We will not be making anything onsite. We go to the aggregate pit to get our blacktop and rock. It will be empty dump trucks leaving in the morning and coming back in the evening.

MS - How many employees did you say were a part of the business?

NJ - 6. My father and I run this business.

MS - Everything will be kept inside?

NJ - No, there will be trucks outside. You can only have 5000 sqft to be under the sprinkler system requirement. So that limits us.

JD - To answer CF's question, I do not know if there is a specific setback for the driveway from the roundabout, but the Highway department did reply stating that the applicant needed to apply for change-in-use for the driveway. Mr. Luebke said, "It is noted that the applicant's north boundary line is close to the splitter isle at the Highway 46/86 roundabout". He also did not make any note that it was an issue. I would make the assumption that the County Highway Engineer would know if there was a setback and would comment if the driveway was an issue.

CF - The road should be improved before adding more businesses that will use the road.

JE - I will motion to refer this to the Commissioners with the 10 conditions.

CP - I will second that motion.

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

2. **Conditional Use Permit/Whispers of Hope (Metcalf-Filzen) - Section 25, Walcott Township**
Tammy Metcalf-Filzen, on behalf of landowner Whispers of Hope, has applied for an amendment to an existing Conditional Use Permit (CUP) to add a supervised residential building to accommodate additional residents at a supervised residential program facility. The property is described as: Part of the NW1/4 of the SW1/4 of Section 25, Walcott Township, Rice County, Minnesota. The property address is: 25665 Falk Ave, Faribault, MN 55021. PID#: 15.25.3.25.002. The property is Zoned A, Agricultural.
Motion by Charlie Peters, seconded by Michael Streiff, to recommend approval for the Conditional Use Permit request with the following conditions and findings for Tammy Metcalf-Filzen, on behalf of landowner Whispers of Hope. The property is located in Section 25 of Walcott Township.
RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Michael Streiff, Jill Ellingson, John McCarthy, NAYS: None

CONDITIONS OF APPROVAL – Whispers of Hope – Conditional Use Permit

1. The applicant is to follow all Federal, State, County and Local rules and regulations.
2. The conditional use permit is for a supervised residential program facility for up to 16 residents. Changes are not permitted without approval of a new/amended permit.
3. The onsite homes together shall house no more than 18 persons.
4. All buildings shall meet building code for the intended use.
5. No building other than the homes onsite shall be used for living quarters.
6. The facility shall meet all state and federal license requirements.
7. 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).
TM - Condition #5 needs to be amended to state "homes" on site instead of "home" because the Conditional Use Permit (CUP) will cover both sites.

CP - Is that 16 residents per home or split between the two locations?

TM - 16 total.

JM - Does that include staff?

TM - The CUP is for 2 Staff and up to 16 residents.

JM - Is there an office onsite?

TM - They utilize other areas onsite but these structures are mainly for residence.

The PC asked the applicant, Tammy Metcalf-Filzen (TMF), to come forward to add comments or answer questions regarding the request.

TMF - We are in our 8th year of running this business. We used to house 2 residents per room but we are changing that to allow for single rooms. We are a voluntary organization and allow volunteers to come in a do projects and stay onsite. We also do extensive counseling and would like to be able to do seminars once a month instead of just 1-on-1 counseling where the licensed counselor will be able to stay overnight. This would happen about once a month, so we will not be at capacity all the time.

PB - Can you explain more about the facility?

TMF - We are a ministry, non-profit organization that provides intensive counseling and works with women who are in difficult life situations.

Chair Bauer opened the public testimony portion of the item to the public and the following spoke:
Michael Bath - I am the resident just South of the Whispers of Hope location. We share a well. How will it impact the well with the change in capacity? I'm understanding 16 total. I am also wondering if this changes my building site with the addition of the new residence?

TM - This site is being created through our TDR process so will not affect any of your building rights.

MB - My last question is what is the max number allowed onsite at one time?

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

Discussion:

CP - I do not know what to say about the well. That is something that may need to be worked out between the two neighbors as we do not regulate wells. This is a great facility and have not heard any complaints. I will motion to move this forward with the 7 conditions.

MS - I agree and will second.

JD - Thank you for doing this. It is a tough calling and appreciate we have someone in the County that is willing to do this type of work.

JM - I have concerns regarding the well usage too, but am not sure what can be done with that.

TMF - We currently have a 50/50 agreement on the well and are willing to re-negotiate the amount and increase what we are responsible for.

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

3. **Waiver of Plat/Whispers of Hope (Metcalf-Filzen) - Section 25, Walcott Township**

Tammy Metcalf-Filzen, on behalf of landowner Whispers of Hope, has applied for a Waiver of Plat to create a 1.6-acre building parcel through the use of a Transfer Development Right (TDR). The property is described as: Part of the NW1/4 of the SW1/4 of Section 25, Walcott Township, Rice County, Minnesota. The property address is: 25665 Falk Ave, Faribault, MN 55021. PID#: 15.25.3.25.002. The property is Zoned A, Agricultural.

Motion by John McCarthy, seconded by Jill Ellingson, to recommend approval for the Waiver of Plat request with the following conditions and findings for Tammy Metcalf-Filzen, on behalf of landowner Whispers of Hope. The property is located in Section 25, Walcott Township.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Michael Streiff, Jill Ellingson, John McCarthy, NAYS: None

CONDITIONS OF APPROVAL – Whispers of Hope – Waiver of Plat

1. The new 1.6-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 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 at the same time or before the new parcels are recorded.
5. In-lieu park dedication fee of \$500 shall be paid prior to recording of the new parcels.
6. Recording of the new parcel shall be done within one year of the approval.

Hearing Minutes:

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

The PC asked the applicant, Tammy Metcalf-Filzen (TMF), to come forward to add comments or answer questions regarding the request.

TMF - The TDR is coming from Jake Gillen and we have a foundation that has offered to build the home for us, all expenses paid.

PB - Are you familiar with the 6 conditions?

TMF - 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:

JM - I will motion to refer this to the Commissioners with the 6 conditions.

JE - I will second.

Motion to recommend approval with stated conditions and findings made by McCarthy, seconded by Ellingson, 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 8:45 pm. Motion carried 5-0.

Respectfully Submitted



Anna Aguilar
Administrative Coordinator

Planning Commission



Preston Bauer, Chair