

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY PLANNING COMMISSION
Commissioner's Room / Government Services Building
Thursday, May 5, 2022 at 6:00 PM**

I. Call to Order

A. Roll Call

The meeting was called to order both in-person and electronically by Vice Chair Charlie Peters at 7:28p.m.

Members present were: Michael Streiff, Charlie Peters, Jill Ellingson, Julia Hogan.

Members absent were: Preston Bauer

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

Commissioners present: Jeff Docken.

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

B. Motion by Michael Streiff, seconded by Julia Hogan, Reading of the Notice.

RESULT: Approved, AYES: Charlie Peters, Michael Streiff, Jill Ellingson, Julia Hogan, NAYS: None

C. Motion by Jill Ellingson, seconded by Michael Streiff, Approval of the Agenda.

RESULT: Approved, AYES: Charlie Peters, Michael Streiff, Jill Ellingson, Julia Hogan, NAYS: None

AA - The Bauer rezone was removed after the notice was sent out as the property was rezoned in the past.

TM - Item #5 is scheduled to be heard by the BOC on May 10th.

JE - I will motion with the two adjustments.

MS - I will second.

D. Motion by Michael Streiff, seconded by Jill Ellingson, to approve the minutes of April 7, 2022.

RESULT: Approved, AYES: Charlie Peters, Michael Streiff, Jill Ellingson, Julia Hogan, NAYS: None

II. Old Business

1. Temporary Equipment Placement Permit/Kiellmeyer - Section 34, Webster Township

Corey Kiellmeyer has applied for a Conditional Use Permit (CUP) for a temporary equipment placement aggregate crushing operation from April to December of 2022. The property is described as: Part of the NW1/4 of the NE1/4 of Section 34, Webster Township, Rice County, Minnesota. The property address is: 8127 Chester Ave, Northfield, MN 55057. PID#: 02.34.1.25.001. The property is Zoned A, Agricultural.

Motion by Michael Streiff, seconded by Jill Ellingson, to recommend approval of the Temporary Equipment Placement Permit for Corey Kiellmeyer. The property is located in Section 34 of Webster Township.

RESULT: Approved, AYES: Charlie Peters, Michael Streiff, Jill Ellingson, Julia Hogan, NAYS: None

CONDITIONS OF APPROVAL – Kiellmeyer – Temporary Equipment Placement Permit

1. The permittee shall comply with all rules, regulations, requirements, or standards of the Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, Army Corps. Of Engineers and other applicable federal, state or local agencies.
2. The applicant or operator shall furnish a one-year \$50,000 bond or other financial surety for haul road and site restoration. All financial surety shall be reviewed and approved by the Rice County Attorney's office.
3. This TEPP is to allow for an aggregate crushing operation and shall be valid from approval of the CUP and financial surety until December 19, 2022.

4. The hours of operation shall be limited to between the hours of 6 a.m. and 7 p.m., Monday through Friday, and 6 a.m. to 3 p.m. on Saturdays.
5. Areas mined near the road right of way must be stabilized to prevent erosion of the road right of ways. Applicant is to ensure that road right of way maintenance can be safely preformed along the mining parcel boundaries and is to be responsible for repair and to any road or right of way damage due to the mining/crushing operations.
6. Applicant to be responsible for repair of county, state and township roads adjacent to the site due to damage hauling from the site. Roads to be restored to their original condition after the aggregate crushing operation ceases.
7. All access drives within the pit and to the paved area of Chester Ave shall be treated with a dust control product (such as calcium chloride), or shall have water applied. Treatments or applications for dust control shall be applied and maintained in a condition to prevent airborne dust, originating from the pit access drives, from leaving the property during times of mining or processing activities on the property.
8. Applicant to strictly adhere to all Rice County codes and ordinances.
9. "Trucks Hauling" signs with red flags are to be posted in locations to be determined by the County Highway Engineer when hauling from the site and to be removed when hauling is not taking place.

Hearing Minutes:

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

MS - Were they able to operate there last year with the complaint?

TM - I don't recall there being an issue with this site last year. Two years ago there was a stabilization issue where the roadway that runs along the north boundary was closed for some time so they could fill that area back in.

JE - Do you know the longevity of the pit?

TM - That would be a question for the applicant as it is a Grandfathered pit for the mining and is not regulated by a Conditional Use Permit or a standard renewal timeframe.

The PC asked the applicant, Corey Kielmeyer (CK), to come forward to add comments or answer questions regarding the request.

CK - The pit has been going for about 70 years. We acquired it in the 1950's. As far as the roadway goes, there were some power poles that were on our property without an easement from the power company. We asked the power company last spring to move the power poles out into the right-of-way and they didn't respond until the area eroded back, they showed up and moved the poles. We addressed the area this spring and filled it back in. We put in a berm. I understand the concern and we are not trying to create a safety concern out there. We use the pit to do local work. We are in good standing with all the neighbors along Chester Avenue. We talk with them. The road is in fairly good condition. We and the neighboring property share a driveway off of Chester Avenue and by working together, we have helped fix the road over the years.

CP - Are you aware of the 9 conditions?

CK - Yes.

MS - You feel that you are actively working with the neighbors to fix the concerns?

CK - Yes, there was a time period from last fall to this spring where some people were unhappy, but the last few weeks has been the only time we have been able to get out there due to the weather. I tabled it last month to make sure those concerns were warranted and addressed. We feel that we have fixed them. I reached out to the Township and sent them an email letting them know why we tabled the item and what our plan was. I also reached out this week to let them know that it was finished. The pit is grandfathered in so it is not under the same set of rules as other pits in the County. We are not trying to abuse those rules. We are just trying to take as much gravel out as we can. Not everyone likes gravel pits up there. The pit has been there a long time. Long before a lot of the houses in that area. 20 years ago there were probably more complaints than there is today. That's from working with the neighbors and being respectful. We are doing our best and not everyone is going to agree with what we are doing.

MS - Any idea how much is left in the pit?

CK - There is a lot of gravel left. There is roughly 10-12 acres that haven't been touched. We pick away at it. Nothing too big but we have done a number of Rice County gravel roads in that area. Work from the City of Lonsdale comes in and out of there. This year we have picked up a job on the Rice-Dakota County line for a project they have going on County Road 96. That is what this permit will encapsulate for us.

Chair Bauer opened the public testimony portion of the item to the public and the following spoke:
Chuck Rud - *Webster Township* - It's our roads that we are concerned about. It seems that there is always a reason to put off dealing with concerns that we have. 80th Street is right on the edge. It is measuring roughly 30-ft, but 33-ft is the right-of-way but without being a surveyor, it might be right there now. It seems like it is a constant problem. The poles had to be moved because they mined up against them. The poles are now on the right-of-way. The big problem we have is that there is always something and always a reason why it doesn't get fixed right away. 80th Street is still dangerous. Someone could easily go off of it and it is probably 80-ft just about straight down.

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

Discussion:

JD - I drove by it today because I got a call from someone who was questioning what they were doing out there. He is trying, but 80th Street is still a concern. I think it is going to fall in. I know we need gravel, but I get concerned just because you can do something, should you do it? I am worried going forward as to what the long-term plan is. Yes, it is a grandfathered pit but how will that area ever be restored? That site will never meet the slopes there for reclamation. My bigger fear is the Township losing part of their road and the other fear is someone driving off the road there. The berm is there to try to prevent that but the way it sits right now, you can drive right off the corner there. There are further concerns that need to be looked at there. Yes, some of the neighbors are concerned more about esthetics, but there are real concerns about the road there. I don't know what can or should be done there, but something has to be done on 80th Street. It will be a challenge with the way it is eroding away. I would like to know what the Township would like to see?

CR - Our biggest concern is that road washing away where there is no guard rail there and with Chester Avenue with the fresh gravel. With a good rain, it will all wash away. It is dangerous, we are going to lose the road or someone is going to fall in. Both Chester Avenue and 80th Street are eroding away. Somehow it needs to be built up or use sod so it is not bare gravel.

CP - I was in the pit last year and it looks like they have improved some of it.

CR - It is steep and they have put in a berm but with a heavy rain, that loose gravel is going to wash away back into the pit. It is loose gravel with nothing to hold it there. It is really close to the right-of-way right now on Chester Avenue and on 80th Street it is in the right-of-way.

CP - What do you think can be done to improve it?

CR - It would take a lot. It is probably 70-ft down and a very steep slope. I don't know, maybe matting or sod would help keep it from eroding away.

MS - It is difficult because you can't just put up a guardrail with the erosion.

JD - CK has made attempts to push material back up there and worked with MnDOT but the slope is so drastic there, I am not sure what the solution is.

CP - There is a lot of good material in the pit yet.

JD - I don't think there is material left to mine near the road. It has already been mined out which is probably the problem, it was mined out too much. I think he is mining to the South. The question is what we do with the situation we have right now. My concern is public safety and the Township losing their roads.

CP - I am not sure if we have an engineer look at it.

MS - I know a berm is there but can more be pushed up there?

CK - When we fixed the roadway along Chester and up 80th Street, we had the Board look at it and everyone was ok with it. I understand that towards the end of our property where it meets up with the other pit along 80th, it has started to sluff off. In the last couple of years it has probably slid a little too far. We are working with Mathy and Nelson because they are in the middle of reclaiming that pit because it is pretty much mined out on the other side. There is a substantial amount of dirt on their side that is coming back. It takes the three of us working together to fix this but we are going to address this area. Every year we bring more dirt in. With the Dakota County job we have this year, there is 90,000 yard of dirt coming off that job. How much is coming our way, we are not sure until we get into the job

further. It is an active gravel pit. I understand that there are opinions that think the dirt and gravel that is there could sluff off but my dozer operator has 40 years of experience and I take his input more seriously than a random person looking at the road. The issues were created over time and it will take time to fix them. We have been in the pit for 70 years and the last two years we have had issues. I tabled last month to fix a concern and now another spot is being brought up. It is to the point that I don't know what we do to keep the Board happy. There are no neighbors here complaining. I am not trying to create a public safety risk but there are ditches in the County that people could go down and get hurt. As soon as we took the trees out along the road, people were able to see into the pit and I think that has a lot to do with the issues that are being raised. We are willing to do whatever the Board wants us to do. There is a condition that basically makes sure we do what we are supposed to, but who enforces that? Is that at the Township's discretion? The County Engineer's? Who makes the final call? I am not sure on that but this is an active pit and things are always changing within the pit. It seems that now that it is open to the public eye, everyone has a complaint about it. I do not see any local residents here, so I think we are working respectfully with the neighbors. It is just the road concern.

CP - It does look like he has done some to try to rectify the issue. I don't know if we can recommend that they continue mining South instead of down in the middle?

JD - We do have people here raising concerns. The Township is here raising concerns about their roads. Yes, CK has made attempts to rectify the situation but he also created the issue by mining that close to the road. How do we hold him accountable for doing that? Who is going to enforce this? I don't know. Who decides if that area is stabilized? The reality is that it is hard to enforce that condition.

TM - Just a reminder that this permit request is for a crushing operation. Some of the conditions touch on and a lot of the discussion has been focused on the mining that has happened there. The permit we have is to deal with the crushing within the pit. Say this permit was not approved, there is nothing that prohibits the mining. The conditions are not worded for the mining operation but to allow crushing onsite. If this permit was for a mining Conditional Use Permit (CUP), the conditions could be worded directly to relate to the mining activity.

JD - I understand that. I guess we are relying on CK's good faith that he is going to correct the issue. If you deny this permit for crushing, he can still continue on mining. We are caught between a rock and a hard spot.

MS - The pit is grandfathered in. There is no CUP for us to monitor or enforce that.

CP - He could continue to mine, but would have to haul out and crush it elsewhere if we denied this. I think we have to go with what JD said and rely on good faith that CK will do what is right and that the Township will keep an eye on it. 80th Street is the gravel road to the North?

JD - Yes.

CP - Is that the only way out some residents have?

JD - No, they can go the other way too.

CP - That area was actually shut down for a while a couple of years ago, right?

JD - Yes, we did shut it down for a period of time to address a safety issue with the road.

MS - I make a motion to approve. Other sites he has have been good for the County to work with. I think we need to go on good faith that the applicant and Township will work together on correcting the road concern.

JE - I will second with the comment to do more. Continue to show progress.

CP - Please work with the Township.

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

III. New Business

1. Conditional Use Permit/Witte - Section 13, Morristown Township

John Witte, on behalf of landowner Witte Warsaw Pit LLC, has applied for a Conditional Use Permit (CUP) for an aggregate mining operation. The property is described as: the NW1/4 of the NE1/4 of Section 13, Morristown Township, Rice County, Minnesota. PID#: 13.13.1.25.001. The property is Zoned A, Agricultural.

Motion by Michael Streiff, seconded by Jill Ellingson, to recommend approval of the Conditional Use Permit with the following conditions and findings for John Witte, on behalf of landowner Witte Warsaw Pit LLC. The property is located in Section 13 of Morristown Township.

RESULT: Approved, AYES: Charlie Peters, Michael Streiff, Jill Ellingson, Julia Hogan, NAYS: None

CONDITIONS OF APPROVAL – Witte (Witte Warsaw Pit LLC) – Conditional Use Permit

1. The permittee shall comply with all rules, regulations, requirements, or standards of the 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 sand and gravel mining operation and an aggregate crushing operation.
3. The applicant or operator shall furnish a six (6) year \$100,000 bond or other financial surety for haul road repair and for site restoration. All financial surety shall be reviewed and approved by the Rice County Attorney's office prior to any work on site.
4. This conditional use permit shall be valid for a period of five (5) years from its issuance and must be renewed prior to that time or the site completely restored. Failure to renew the permit or to restore the site shall result in the county exercising the bond and using the proceeds to restore and properly close the site.
5. The mineral extraction mining operation shall be restricted to the area on the applicant's submitted site plan, subject to compliance with minimum setback requirements. 100-ft to County Road Right of Way (ROW), 70-ft to Township Road ROW and 20-ft to other property lines. If mining is approved on the neighboring property to the west mining to the property line may be allowed to connect to the neighboring mining operation if an agreement between landowners is submitted to the Rice County Environmental Services department. Any other deviation from these boundaries will require application for a new conditional use permit.
6. Mining boundaries and required setbacks shall be marked onsite prior to mining and markings shall be maintained throughout the operation. No more than 10-acres of the proposed mining area shall be open to mining at any one time.
7. The hours of operation shall be limited to between the hours of 6:00 a.m. and 7:00 p.m. Monday through Friday and 6:00 a.m. to 3 p.m. on Saturdays.
8. The banks shall be sloped at a minimum 4:1 and the operator shall be required to keep the pit or excavation in such conditions as not to be in danger of caving or sliding banks, to ensure stability.
9. Topsoil from the excavation site is to be stockpiled on the premises for use in restoration of the site. No topsoil is to be removed from the site.
10. The applicant is to follow the approved reclamation plan. Reclamation shall be ongoing so that previously mined land is reclaimed as new areas are opened to mineral extraction. The site is to be completely restored to a condition suitable for wildlife habitat or farmland upon completion of permit. Restoration shall include final seeding/cover of the area.
11. The applicant is to be responsible for repair of county, state and township roads adjacent to the site due to damage hauling from the site. The roads are to be restored to their original condition after the gravel mining operation ceases.
12. Within the pit property all access drives shall be treated with a dust control product (such as calcium chloride), or shall have water applied. Treatments or applications for dust control shall be applied and maintained in a condition to prevent airborne dust, originating from the pit access drives, from leaving the property during times of mining or processing activities on the property.
13. All road access to and from the operation shall be off of 230th Street West.
14. Solid waste shall not be placed in the gravel pit; illegally dumped material shall be immediately removed by the applicant.
15. The site is to be cleaned of all debris and equipment after closure of the pit.
16. "Trucks Hauling" signs with red flags are to be posted in locations to be determined by the County Highway Engineer when hauling from the site and to be removed when hauling is not taking place.
17. The site shall be secured at access points.

Hearing Minutes:

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

CP - Will that be a new access to the North?

TM - Yes.

CP - Is that an asphalt road?

TM - Yes, that is a County road.

MS - Any previous complaints?

TM - Not with this one.

The PC asked the applicant, John Witte (JW), to come forward to add comments or answer questions regarding the request.

JW - My wife Sherryl and I own this. The 40 acres to the West was all a part of this at one time. We bought it from my Uncle's estate. We are still using the access on the other 40 acres. The County approved our driveway permit on December 30, 2021. I just touched base with the County last week about getting the pipe for it and starting the construction of the driveway. That will be on the West side of the property, going straight out to the blacktop.

CP - Are you aware of the 17 conditions?

JW - Yes. I know that I said we were opening up 10-acres but we ran into a large vein of clay, so we had to open up more to get enough gravel to finish a County project, but now we have clay and black dirt onsite to reclaim the area.

Chair Bauer opened the public testimony portion of the item to the public and the following spoke:
Mahummad Ali - I purchased the land next to this and I support this request.

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

Discussion:

MS - There are 17 conditions and it seems straight forward.

CP - He is planning to access it to the North which is the best road to go to.

MS - I will make a motion to move this to the Commissioners for approval with the 17 conditions.

JE - I will second.

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

2. Conditional Use Permit/Apple Creek Orchard - Section 20, Wells Township

Kevin Theis, on behalf of landowner Apple Creek Orchard LLC, has applied for a Conditional Use Permit (CUP) for an Agricultural Tourism business. The property is described as: Part of the N1/2 of the S1/2 of Section 20, Wells Township, Rice County, Minnesota. Property address: 5524 185th St W, Faribault, MN 55021. PID#: 10.20.3.00.001. The property is Zoned A, Agricultural.

Motion by Jill Ellingson, seconded by Julia Hogan, to recommend approval of the Conditional Use Permit with the following conditions and findings for Kevin Theis, on behalf of landowner Apple Creek Orchard LLC. The property is located in Section 20 of Wells Township.

RESULT: Approved, AYES: Charlie Peters, Michael Streiff, Jill Ellingson, Julia Hogan, NAYS: None

CONDITIONS OF APPROVAL – Theis (Apple Creek Orchard LLC) – Conditional Use Permit

1. The conditional use permit is for an Agricultural Tourism Business. Changes to the business are not permitted without approval of a new/amended permit.
2. The site shall not be open to the public for Agricultural Tourism Business Events more than 5 days per week (Sunday through Saturday), and only within the hours of 10 am and 12 am (midnight) on those days.
3. There shall be no more than 25 non-agricultural onsite events per calendar year. With those events not exceeding 300 persons onsite. Events shall not exceed two consecutive days and are limited to the following types: wedding ceremonies, receptions, non-profit benefits and fundraisers, reunions, retirement celebrations, graduations, birthdays, barn dances, harvest

festivals and food/product/produce tasting and sales events, and craft/vintage/secondhand item sales events.

4. There shall be no more than 50 agricultural onsite events per calendar year. With those events not exceeding 200 persons onsite. Events shall not exceed two consecutive days and are limited agricultural related recreation, education or active involvement in the agricultural operation.
5. A gravel parking area shall be established and maintained in the field area east of the existing buildings. It shall be designed meeting county parking standards and to accommodate at least 100 vehicles.
6. No parking shall be allowed on public roadways.
7. Parking shall be screened to the roadway by planting two offset rows of trees, with an initial planting height of 4-ft. Trees in the rows shall not be more than 20-ft apart.
8. At no time shall there be more than 120 vehicles on-site. This includes site staff and visitors.
9. Indoor and outdoor music shall not be allowed before 10 am and not later than 12 am (midnight).
10. All onsite structures shall meet building and all other applicable codes for their intended uses.
11. Site owner shall maintain proof of compliance with state health regulations. Proof of compliance shall be submitted to Rice County Environmental Services upon request.
12. Adequate and compliant restroom facilities shall be provided for onsite visitors.
13. If alcohol is allowed onsite it shall be consistent with a consumption and display permit. All required permits shall be obtained prior to allowing onsite alcohol use.
14. All onsite septic systems shall be shown to be in compliance with County and State standards prior to August 16, 2022.
15. Site owner shall maintain proof of compliance with state health regulations, building codes, Fire code regulations, septic regulations, and food and alcohol regulations. Proof of compliance shall be submitted to Rice County Environmental Services upon request.
16. There shall be no onsite camping allowed.
17. The applicant is to follow all Federal, State, County and Local rules and regulations.
18. 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 - These conditions are modeled after other Ag Tourism Conditional Use Permits (CUP) we have had.

JH - A parking plan was not submitted with this?

TM - Correct, a general area was designated.

CP - Is it big enough to hold 120 vehicles?

TM - It is a good sized area and is larger than a number of parking areas we have had in the past. There is a condition that states they need to detail out the parking plan.

JH - With a max of 300 people, 120 vehicles would be the minimum? Were those numbers pulled from the zoning ordinance?

TM - No, there are some numbers in the ordinance based on seating and capacity but we pulled these numbers from the last Ag Tourism CUP we had.

MS - The current parking area is a field area?

TM - Yes, currently it is a field. They will need to resurface that area with at least gravel and if it is gravel, then there are larger standards for the parking spaces. The condition only states that they need to be able to accommodate that amount of vehicles.

MS - So they can't leave it as grass, it has to be gravel?

TM - That is something you may want to discuss with the applicant. Currently, that is what condition #5 states. The conditions also state that the parking area must be designed for 100 vehicles for onsite

visitors. The other 20 vehicles would be for Staff type vehicles that can be accommodated in other areas onsite. Conditions #3, #4, and #7 have blanks that need to be discussed.

The PC asked the applicant, Kevin & Tamira Theis (KT & TT), to come forward to add comments or answer questions regarding the request.

TT - The office and store already exist. We bought the orchard last summer and those were already there. Those two areas are not be a part of the construction project. We would like to remodel the section of the shed that is behind that store. My commercial kitchen will be a part of that and I am already working with the MBA on that.

KT - The plan for the parking lot is for it to be gravel, but we do own a concrete company too, so we can pave handicap areas or need curbs, we can pour all of that.

TT - The parking lot is going where the old corn maze was. There is about 10-acres that we have to play with there. We are moving the corn maze further back in the orchard to try and move traffic back and stop it from all being upfront.

CP - The access and exit would be to the County road, correct?

KT - There are two driveways there but we are planning on close the one off because it is on the crest of the hill and is kind of dangerous with people going in and out both ways; at least for the public.

TM asked for clarification on the site plan.

JH - There is an existing house onsite. Do you live there?

TT - We will. The prior owner has not move out yet.

KT - We also have to get a monster septic put in, so based off where the septic guy says it needs to go, we will adjust from there. It finally dried up enough to where the Septic company was able to come out and look at it today.

JE - What are your recommendations or request to fill in the blanks? Starting with Condition #3.

TT - My original vision for that building, on the other side of where my commercial kitchen will be, would be a space that the community can rent for graduation parties, anniversary parties, that sort of thing. I know it can hold 300 people, but I never plan on having that many. I don't want that. I do not know how many times a year. May and June may be a little busy with graduation parties. December might get a little busy with holiday parties, but I don't see it getting booked out fulltime.

KT - Maybe 25 times a year?

CP - Does that include weddings too?

KT - For now, yes. If it gets bigger, we will just have to come back in and request an amendment.

TT - I don't know if we will honestly have any weddings in there, but just in case.

MS - So you want to start small and see where it goes?

TT - Yes. My plan was to keep coming back to you as we are more successful and able to add, we will come back.

JE - So for condition #3, there will be no more than (blank) non-agricultural events?

KT - I would say 25 is more than enough.

TT - Yeah, I am comfortable with that number.

KT - We were kind of vague because we wanted to see what the Board wanted before we went and spent a bunch of money getting everything designed.

TT - We have already spent a lot of money on the commercial kitchen, so we were waiting to see what you wanted or needed from us.

JE - For condition #4, there will be no more than (blank) agricultural events?

KT - It is really only busy for 6 weekends each year.

TT - September and October is busy and then it dies down.

KT - And as far as cars for those events, a lot of people only come for 10 minutes, grab some stuff and then leave. We don't really need a lot of parking for those events.

TT - Like with the store, a majority of the community comes in to buy their weekly bag of apples and then leaves. We will have some events going on a little earlier than the apple season to generate more revenue. Like planting strawberries and bringing people in. Winjum's is right down the road and we would like to have things available for the campers to come in. We are trying to get more creative to make more money out there, but it is still a very seasonal operation.

JE - Do you think 15 is enough?

KT - I think it will be more than that. What are you considering an Agricultural event?

CP - Apple sales, Corn Maze, etc. Each event would be two days or the weekend.

KT - We already have a CUP for the apple sales and that is every day.

TT - We actually already have a CUP for the apple sales, field trips, and the corn maze. When we bought

the property, those three things were already approved on a CUP. Wagon rides are only on weekends because that is when we have a tractor driver. That is also seasonal because when it gets colder out, no one wants to go on it.

KT - I would say 50 day but I don't know if we need that many,

CP - How many people do you think will be onsite at one time?

KT - I don't think we would have more than a couple hundred people. I would say 200.

TT - We just want to be a mom & pop operation.

CP - For the A- related events, I think the number should be less than 200.

KT - With the field trips though, they bring busloads of kids.

TT - We can have 90 kids with a field trip. It is a 90-acre farm with space to spread out.

CP - It seems that some of these events have the potential of getting rather large.

TT - But they are mainly compacted in the Fall. It is very seasonal. The fields trips are in September when the 2nd graders are learning about how trees grow. Apple picking is a season. No one wants to come until it is colder and no one wants to come when it gets cold either.

CP - So the main access and exit, there will not be people going out the backway to the Township road?

TT - No, they would have to drive through the orchard and we have a gate back there that we keep locked.

MS - You said fields trips would be every day in the Fall?

TT - No, last Fall we had 7 total. One was the same school that had to come three times because they had so many kids. The Deaf & Blind school came twice.

KT - Disabled people and Veterans get to come do everything for free.

MS - For condition #4, you are asking for 50 and 200?

KT - Yes, if we can. If there is a problem, please call us and we will not skimp to fix it, but we promise it won't be a problem.

TT - Another reason for our vagueness is that we are new and are just not sure what to expect. We are already more the Mr. Abelman was and we are hoping to be more than we were last year. We just don't know.

JE - For condition #7, regarding screening of the parking area. What are your plans for the site?

KT - We own a concrete and landscape company. We have no problems planting whatever you want us to plant.

CP - Compared to the roadway, the parking lot is in a low area right?

KT - Yeah, we would never be able to screen that. We could maybe try to berm the area and make it look nice but we won't be able to screen that high.

CP - Could you back it up to the south a bit, next to the parking area and do screening with the trees?

KT - We can but it is so far down that even with 60-ft trees, you would still be able to see the parking area. If you want us to plant trees every 20-ft, we will. We want to make it look nice anyways.

CP - If possible, along that roadway would be nice.

TT - As he said, we own a landscape company and our name is on that too, so we want it to look nice to advertise that business as well.

KT - We could do some tamaracks or something. They lose their needles in the winter but could handle the wetness down in that area.

TT - Can we have those with the apple trees?

KT - Yes. There are some restrictions to what we can plant near the apple trees as to not contaminate them.

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 - Let's narrow down these numbers. I think for #7 with the two rows of trees along the roadway to the north.

MS - With the 4-ft initial height.

TM read wording for condition #7 - Parking shall be screened to the roadway by planting two offset rows of trees, with an initial planting height of 4-ft. Trees in the rows shall not be more than 20-ft apart.

CP - For condition #3, we are at 25 events with 300 people? They are two-day events, so 25 weekends. Does that seem suitable for weddings?

JH - It doesn't mean that they will host all 25 either.

CP - For condition #4, we are doing 50 and 200? That seems like a lot of coming and going. The County Highway department didn't have any issues with this?

KT - We called them before we bought the place.

CP - They don't want turn lanes or anything?

KT - If we get that busy to where we are making all kinds of money, I can put in turn lanes. I don't see it getting that big.

CP - We will still need a parking plan that accommodates 100 vehicles.

KT - For the screening, if we keep it closer to the parking lot, it will be higher and provide better screening then if it were closer to the road.

JE - I will motion to recommend this for approval with the updated conditions.

JH - I will second.

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

3. **Conditional Use Permit/Borchert (Butenhoff) - Section 33, Walcott Township**

Mike Borchert, on behalf of landowner Scott Butenhoff, has applied for a Conditional Use Permit (CUP) for grading and filling exceeding 400-cubic yards. The property is described as: Part of the NW1/4 of the NE1/4, Section 33, Walcott Township, Rice County, Minnesota. PID#: 15.33.1.25.001. The property is Zoned A, Agricultural.

Motion by Michael Streiff, seconded by Charlie Peters, to recommend approval of the Conditional Use Permit with the following conditions and findings for Mike Borchert, on behalf of landowner Scott Butenhoff. The property is located in Section 33 of Walcott Township.

RESULT: Approved, AYES: Charlie Peters, Michael Streiff, Jill Ellingson, Julia Hogan, NAYS: None

CONDITIONS OF APPROVAL – Borchert (Butenhoff) – Conditional Use Permit

1. Grading and Filling is limited to the amounts and in the areas described in the submitted site plans and floodplain evaluations.
2. All land disturbance shall be the minimum time and area needed to complete the project. Alterations must be designed and conducted in a manner that ensures that only the smallest amount of bare ground is exposed for the shortest time possible.
3. Appropriate erosion control structures (Silt fence or hay bale) shall be placed down gradient from disturbed areas to prevent sediment from reaching neighboring properties, wetlands, streams and road ditches.
4. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as weather conditions allow. All exposed soil shall be restored by seeding and mulching within 72 hours of project completion.
5. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Natural Resources Conservation Service (NRCS).
6. Fill or excavated material must not be placed in a manner that creates an unstable slope.
7. Alterations of topography shall not adversely affect adjacent or nearby properties.
8. This grading and filling conditional use permit shall remain in effect for one (1) year from the date of approval, provided that all conditions of the permit are adhered to.
9. Applicant is to consult with the Minnesota Department of Natural Resources and is to follow all recommendations/best management practices for protection of area turtle species.
10. Failure to comply with these conditions may result in revocation of this permit.

Hearing Minutes:

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

MS - What is the angle here?

TM - They want to get a driveway back there to build a home. Normally, when you are grading a

driveway, as long as the house permit is issued, the grading work is permitted as part of that, but they want to do the grading before the house permit, which you can do up to 400 cubic yards under a Grade & Fill permit. They do have one of those issued to get started but the overall project is grading much more than 400 cubic yards so it requires a CUP.

MS - So the intent is to build and live back there?

TM - The landowner is proposing to build a home back there, yes. The applicant is the contractor on this one. Also, condition #9 is unique to this site and an area protected by the County for turtles.

The PC asked the applicant, Mike Borchert (MB), to come forward to add comments or answer questions regarding the request.

MB - I work for Faribault Plumbing & Heating and Jandro Excavating. We do have complete engineered plans for the driveway from the road all the way back to the proposed home. Everything will be completed with culverts and the whole works.

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:

JH - It seems like they did their due-diligence on this.

CP - I agree and it seems like a good plan. It looks like it will be a nice building site.

MS - I will motion to recommend this for approval with the conditions as stated.

CP - I will second.

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

4. **Waiver of Plat/Roehl - Section 13, Forest Township**

Peter and Kelly Roehl have applied for a Waiver of Plat to create one 2.5-acre building lot 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 13, Forest Township, Rice County, Minnesota. PID#: 06.13.3.25.002. The property is Zoned A, Agricultural.

Motion by Michael Streiff, seconded by Jill Ellingson, to recommend approval of the Waiver of Plat with the following conditions and findings for Peter and Kelly Roehl. The property is located in Section 13 of Forest Township.

RESULT: Approved, AYES: Charlie Peters, Michael Streiff, Jill Ellingson, Julia Hogan, NAYS: None

CONDITIONS OF APPROVAL – Roehl – Waiver of Plat

1. The new 2.49-acre Transfer Development Right (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 and TDR receiving parcel shall not be further subdivided or combined with other land(s) 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 parcel is recorded.
5. Within one year of this approval the applicant shall record a new deed, at the Rice County Recorder's Office, containing just the TDR receiving parcel.
6. In-lieu park dedication fee of \$500 shall be paid prior to recording of the new parcel.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Planning Commission (PC).
TM - I received a concern today regarding the stock pile. When I took the photos, it looked to me like regular gravel and sand, but the concern raised was that it was from street sweeping and it being contaminated. I have not had time to look into it.

The PC asked the applicant, Peter & Kelly Roehl (PR & KR), to come forward to add comments or answer questions regarding the request.

PR - That pile is sand from a basement we dug in Faribault previously. I put it there with the plan to use it here in the future.

CP - With the new comp plan, do you know that whole area could be zoned Highway Commercial someday? I don't think this area will be an issue, but wanted to make sure you are aware.

PR - Yeah, we heard.

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:

MS - I motion we recommend this for approval.

JE - I appreciate you addressing the concern about the stock pile and will second.

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

5. **Waiver of Plat/Docken - Section 10, Webster Township**

Jeff Docken has applied for a Waiver of Plat to create one 2.5-acre building lot through the use of a Transfer Development Right (TDR). The property is described as: Part of the NE1/4 of the SW1/4 of Section 10, Webster Township, Rice County, Minnesota. PID#: 02.10.3.00.001. The property is Zoned A, Agricultural.

Motion by Michael Streiff, seconded by Jill Ellingson, to recommend approval of the Waiver of Plat with the following conditions and findings for Jeff Docken. The property is located in Section 10 of Webster Township.

RESULT: Approved, AYES: Charlie Peters, Michael Streiff, Jill Ellingson, Julia Hogan, NAYS: None

CONDITIONS OF APPROVAL – Docken – Waiver of Plat

1. The new 2.5-acre Transfer Development Right (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 and TDR receiving parcel shall not be further subdivided or combined with other land(s) 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 parcel is recorded.
5. Within one year of this approval the applicant shall record a new deed, at the Rice County Records Office, containing just the TDR receiving parcel.
6. In-lieu park dedication fee of \$500 shall be paid prior to recording of the new parcel.

Hearing Minutes:

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

The PC asked the applicant, Jeff Docken (JD), to come forward to add comments or answer questions regarding the request.

JD - This is actually the remainder of the home site I grew up on that I purchased from my dad. Chester Avenue is a dead end at the point where the driveway would come off. My Dad sold it on contract for deed that later came back to him. The contract for deed owner started a driveway there and just piled rocks there. We have now brought it back into shape and are at the point where we would like to sell it. The building right is coming from my property. It is the only portion you would want to build on where the soils are lighter.

CP - Are you aware of the 6 conditions?

JD - I do have question on #1. What happens if we change the ordinance to allow for ADUs?
TM - It is standard wording that we use for all TDRs and something that will have to be addressed by the commissioners once ADU language is adopted.

Chair Bauer opened the public testimony portion of the item to the public and the following spoke:
Chuck Rud - With Webster Twp Board, have looked at the site and they have a nice turn around back there. This site should not be an issue.

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

Discussion:

CP - Its a typical TDR.

JE - It is straight forward

MS - I will motion to recommend this for approval.

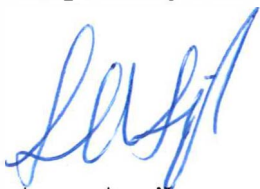
JE - I will second.

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

IV. Adjournment

Hearing no other items before the PC, a motion was made by Ellingson, second by Hogan, to adjourn the meeting at 8:50 pm. Motion carried 4-0.

Respectfully Submitted



Anna Aguilar
Administrative Coordinator

Planning Commission



Charlie Peters, Vice Chair