

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY PLANNING COMMISSION
Commissioner's Room / Government Services Building
Thursday, November 3, 2022 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 7:10p.m.

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

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

Commissioners present: Jeff Docken.

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

B. Motion by Charlie Peters, seconded by Michael Streiff, Reading of the Notice.

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

C. Motion by Michael Streiff, seconded by Julia Hogan, Approval of the Agenda.

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

AA - There has been a change from the Notice. There were two solar items that withdrew after the notices were mailed out.

MS - I make a motion to approve with the revised agenda of 4 items.

JH - I will second.

D. Motion by Jill Ellingson, seconded by Charlie Peters, to approve the minutes of October 6, 2022.

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

II. New Business

1. Waiver of Plat/Sorgatz - Section 13, Morristown Township

Kathy Taylor, on behalf of landowner David Sorgatz, has applied for approval of a Waiver of Plat to create one new building site though 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, Morristown Township, Rice County, Minnesota. PID#: 13.13.3.00.003. The property is Zoned A, Agricultural.

Motion by Charlie Peters, seconded by Jill Ellingson, to recommend approval of the Waiver of Plat with the following conditions and findings for Kathy Taylor, on behalf of landowner David Sorgatz. The property is located in Section 13 of Morristown Township.

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

CONDITIONS OF APPROVAL – Tayler (Sorgatz) – Waiver of Plat

1. The 2.5-acre Transfer Development Right (TDR) receiving parcel shall contain one primary single-family dwelling.
2. Any new construction on the parcels is to adhere to all Rice County codes and ordinances.
3. The remaining parcels 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 parcel is recorded.

5. In-lieu park dedication fee of \$500 shall be paid prior to recording of the new parcel.
6. The applicant shall record a deed to create the parcel split for the new parcel 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, Kathy Taylor (KT), to come forward to add comments or answer questions regarding the request.

KT - TM did a fabulous job of explaining it.

PB - Are you aware of the 6 conditions?

KT - Yes.

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

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

Discussion:

CP - It is straight forward. The building right is coming off agricultural land and being moved to non-ag land. I will motion to refer this item for approval with the 6 conditions.

JE - I will second.

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

2. **Waiver of Plat/Nugent- Section 22, Forest Township**

Ryan Nugent has applied for approval of a Waiver of Plat to add land to an existing parcel. The property is described as: Part of Government Lot 3 in Section 22, Forest Township, Rice County Minnesota.

PID#s: 06.22.1.50.001 & part of 06.22.1.00.006. The property address is: 3200 124th St W., Faribault, MN 55021. The property is Zoned RDS, Recreational Development Shoreland.

Motion by Michael Streiff, seconded by Julia Hogan, to recommend approval of the Waiver of Plat with the following conditions and findings for Ryan Nugent. The property is located in Section 22 of Forest Township.

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

CONDITIONS OF APPROVAL – Nugent – Waiver of Plat

1. The new 2.5-acre combined parcel shall be recorded onto a single deed within one year of approval and prior to any onsite construction.
2. Any new construction on the parcels is to adhere to all Rice County codes and ordinances.
3. The remaining/resulting parcel(s) shall not be further subdivided unless approved under the Rice County subdivision regulations.

Hearing Minutes:

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

TM - The smaller parcel is having land added to it. It is currently 1.4-acres and is being brought up to 2.5-acres.

The PC asked the applicant, Ryan Nugent (RN), to come forward to add comments or answer questions regarding the request.

RN - *owner* - I have nothing to add.

PB - Are you aware of the 3 conditions?

RN - 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:

MS - I will make a motion to refer this for approval with the 3 conditions.

JH - I will second.

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

3. **Waiver of Plat/Krogh - Section 26, Shieldsville Township**

Mark Erickson, on behalf of landowner Kenneth Krough, has applied for a Waiver of Plat to allow for an after the fact lot split. The property is described as: Part of Government Lot 4 and Part of the NE1/4 of the NW1/4 in Section 26, Shieldsville Township, Rice County, Minnesota. PID#s: 09.26.2.00.003 & 09.26.2.75.001. The property is Zoned GDS, General Development Shoreland.

Motion by Charlie Peters, seconded by Michael Streiff, to recommend approval of the Waiver of Plat with the following conditions and findings for Mark Erickson, on behalf of landowner Kenneth Krough. The property is located in Section 26 of Shieldsville Township.

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

CONDITIONS OF APPROVAL – Erickson (Krogh) – Waiver of Plat

1. The new 6.285-acre parcel shall be recorded onto a single deed within one year of approval and prior to any onsite construction.
2. Any new construction on the parcels is to adhere to all Rice County codes and ordinances.
3. The remaining/resulting parcel(s) shall not be further subdivided unless approved under the Rice County subdivision regulations.

Hearing Minutes:

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

TM - There were wetland concerns and they did submit a wetland delineation.

JD - What triggered this? A building permit?

TM - Yes, we were approached about building on this parcel and when we did a file review, we did not have record of the approval for the lot split. Without it, the lot is not buildable.

CP - Is that typically an issue with the title company?

TM - It usually only comes up when somebody inquires about whether a piece is buildable or not. Most of the time, a title company would not be involved. You can record a property split without receiving the approval for it. That creates confusion.

PB - Previous zoning to do this split, allowed for this building site if we grant this tonight? To make this buildable, do they need this approval?

TM - Yes, the approval is needed for this to be a buildable parcel. Until then, technically, it is an illegal parcel.

The PC asked the applicant, Mark Erickson (ME), to come forward to add comments or answer questions regarding the request.

ME - *representing landowner* - I have nothing further to add.

PB - Are you familiar with the 3 conditions?

ME - I am.

CP - Is Kenneth the original owner with this split?

ME - Yes he is.

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 - This is an interesting one.

CP - It is a fairly big lot. I don't know how the property was purchased. Back then, maybe he didn't live in the area or know. It does look like a good buildable site other than the wetland areas which they had delineated.

JD - He could have done this back when he split the lots, correct? It's the only way to get his building permit and I know it is after the fact, but if he would have done it back then, there would be no difference. It's not something he would not have been able to do if he had received approval to split the lots back then.

CP - I will motion to refer this for approval.

MS - I will second.

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

4. Interim Use Permit/DeGroot - Section 24, Forest Township

Doug Ims, on behalf of landowner Robert DeGroot, has applied for an Interim Use Permit (IUP) to allow for a grading and filling of approximately 34,000-cubic yards on the subject property. The property is described as: Part of the S1/2 of the NE1/4 of Section 24, Forest Township, Rice County, Minnesota. PID#: 06.24.4.00.002. The property is Zoned A, Agricultural.

Motion by Charlie Peters, seconded by Michael Streiff, to recommend approval of the Interim Use Permit with the following conditions and findings for Doug Ims, on behalf of landowner Robert DeGroot. The property is located in Section 24 of Forest Township.

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

CONDITIONS OF APPROVAL – Ims (DeGroot) – Interim 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 Interim Use Permit (IUP) is for a grading and filling operation.
3. The applicant or operator shall furnish a three (3) 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 Interim Use Permit shall be valid for a period of two (2) years from its issuance and the site completely restored to the approved plans prior to that time. Failure to follow the approved plans 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. Prior to the end of the permit and release of financial surety the applicant is to submit to Rice County Environmental Services a signed survey showing that the reclamation plan elevations have been met. Information is also required to be submitted showing that all restoration measures have been completed.
6. The grading and fill placement shall be restricted to the area on the applicant's submitted site plan. Deviation from the approved boundaries is not allowed.
7. Boundaries and required setbacks shall be marked onsite prior to additional grading and markings shall be maintained throughout the operation.
8. 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.
9. During operations the banks of any graded areas shall be sloped at a maximum grade of 4:1 and the operator shall be required to keep the area in such conditions as not to be in danger of caving or sliding banks, to ensure stability.

10. 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.
11. The applicant is to follow the approved reclamation plan. Reclamation shall be ongoing so that previously graded areas are reclaimed as new areas are opened. The site is to be completely restored to a condition suitable for the growing of agricultural crops or a permanent vegetative cover upon completion of the permit.
12. 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 operation ceases.
13. 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 access drives, from leaving the property during times of grading or hauling activities on the property.
14. All road access to and from the operation shall be off of County Road 76.
15. Solid waste shall not be placed in the pit; any illegally dumped material shall be immediately removed by the applicant.
16. The site is to be cleaned of all debris and equipment after completion of the grading.
17. "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.
18. The site shall be secured at access points.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Planning Commission (PC). *TM clarified the difference between Conditional Use Permits (CUPs) and Interim Use Permits (IUPs). IUPs have time frames assigned to them.*

CP - The concrete was onsite originally and not brought in?

TM - That is my understanding. It was from an old building that was buried.

PB - Where did all the fill material come from?

TM - This borders a County road construction project, so it is material from there. The plan was that a fair amount of sand was supposed to come from this site, and it sounds like they did not get as much sand as they had planned. They ended up with more to bring in and not as much to take out, which led to some of the issues, according to the applicant.

JD - The boundary that you showed, is that where the original CUP boundary was?

TM - No, this is the boundary for the current request. The original boundary would have ended more closely aligned with the neighboring property. From that point to the south and it went further South, then the current boundary shown.

JD - So everything was moved further South?

TM - The previous CUP was further South and East. This request is further North and to the West.

CP - Were there some MPCA infractions found on this?

TM - MPCA was informed during the erosion event and I believe they have been out to the site. We did contact them but they will not provide us with comments regarding any actions they take.

PB - Do you have any pictures of the erosion event?

TM - I do not have any included in the packet. When the erosion happened, there were not adequate erosion controls in place and then we had a fairly large rain that washed sediment into the neighbor's yard and into the County drainage ditch.

PB - That has all been abated?

TM - I'm not sure of the status of the neighbor's yard. I have mainly dealt with it on this property.

MS - The erosion event is what triggered all of this and the County figuring out what was going on?

TM - Yes, the trigger was the call reporting issues out there, then several County Staff members met out there with the applicant and one of the neighboring landowners.

PB - Looking at conditions #3 and #4, we have blanks to fill.

TM - With normal mining operations, those are typically five and six year time periods. I know this project was not intended to be that long. I didn't have that information from the applicant of how long they were proposing, so I left those open for you to discuss with the applicant.

PB - With IUPs, those time frames are not fixed?

TM - No, it can be whatever it needs to be.

The PC asked the applicant, Doug Ims (DI), to come forward to add comments or answer questions regarding the request.

DI - I drilled this property 3 years ago and hit sand, but we couldn't find it now. We ended up not having enough room, so we started filling to the North. We had everything filled up to the cornstalk pile and did black dirt berms, but then we got 3.5 inches of rain as we were starting to put things back and washed onto the Sexton property. We have been going back and forth working to correct that. With the County's direction, we moved everything back to the original area. Our plan now is to soften the slopes of the two knoll areas to the southwest. That is why this request is further to the south and further west. Everything will flow to the southwest. The engineer did the calculations and they showed no additional runoff. With the concrete, there is a grove of trees to the west. We did not do any excavation there but Bob asked us to remove a couple groves of trees and to dig the concrete out, then bury the hole so he can farm it. We put the concrete up on top and we have material from the road project stocked up there too. Once everything is done, I plan to come back and get a Temporary Equipment Placement Permit (TEPP) to bring a crusher in there and crush all of it on site to use next spring when we pave the road. Now that the corn is off, once everything is done and over, we will strip the top soil, fill that in and restore everything so he can farm it all next year.

PB - Do you have a timeline for this project?

DI - It will take 5 days once we get approval to strip everything and put everything back.

PB - You are working with the neighbor?

DI - We just got stuff back from him last week, so we went out there last week and sent a response. The process has taken longer because attorneys were involved.

PB - This request is an IUP for grading and filling of the stated cubic yards (cy).

DI - The whole project was 34,000cy. There is only 8-10,000cy that we need to re-spread. Everything else is done and seeded over.

PB - You currently have a bond in place with the CUP you already have?

DI - Yes.

PB - What was the amount of that bond?

DI - \$100,000

PB - For how many years?

DI - I think the CUP was for 2 years and the bond is for 3 years to have that additional year. The project goes until next year, so we did the original CUP for 2 years and the bond had to extend a year past that.

CP - Did you have a subcontractor do this or did you do this yourself?

DI - My sub did this and got a little out of hand.

CP - We only had that one rain event this summer. If we would have had our normal rainfall, it would have been a lot worse. I live in this township and got a few calls. They had a lot of issues in the County ditch.

DI - The big steep ditch had runoff and a little bit of discharge into the creek. With a rainfall like that, it is hard to stop. We took 15-ft and it was 40,000cy on that big hill. That hill was taken down a lot. We had all the BPMs with a couple extra and it blew through everything.

MS - There will be better management of the subcontractor on this if we approve this?

DI - I am doing all the corrections on this.

PB - You indicated 5 days to complete the grading and filling. What are you estimating for the timeline?

DI - If I can't do this until the 22nd of November, it will really depend on the frost in the field.

CP - The overall project runs until next year, correct?

DI - Yes.

JR - You also want to put extra time to make sure the seeding holds.

DI - Bob's plan is to farm it next year. But weather permitting, the plan is to complete this by the end of the year.

JD - We definitely want to go longer than 5 days to make sure it is corrected, goes beyond the completion of the overall project next year, and that the seeding takes. What is the setback on the property lines for any construction, for the swale that is there right now? I believe that swale is right on the property line.

TM - We do not normally have setbacks for mining operations. We enforce building setbacks and it would be a 20-ft requirement for that.

JD - Has there been a survey done out there? I think there are some discrepancies on where the property line is. There is an old fence line there and if you pull up the aerial picture, you will see it jogs out. There were some property line corrections done. That swale is already on the property line. Was anything ever surveyed as far as where the property line is? There is a stake out there that says "PL" but it is on the old existing fence line. Did you have to update the MPCA permit? With regards to the water, who did the stormwater calculations?

DI - On the NPDS permit there is an email from Steve at MPCA. They only update a general mining pit, which I have for my 4 or 5 pits. They only update it once a year. Stormwater calculations done by engineer.

JD - That permit covers everything?

DI - Correct.

JD - That was one concern, to make sure that permit is in place, but another concern is with creating that new swale, it will funnel the water into one particular part of the ditch. The County board is the ditch authority, and we have plenty of ditch issues without creating more. The concern there is with funneling water into a narrow area of the ditch. I believe that is what is going to happen with the way the plan is and the way the swale is. More of the dirt will go to the south?

DI - Yes, the natural waterflow of the area goes to the southwest. The two original contours, the big knolls, we plan to fill them in. It will push the water to the southwest.

JR - The stormwater calculations in front of you are based on this plan and were done by a licensed engineer and they say it will not increase the water runoff.

PB - Do you have a current survey out there to know where the property lines are?

DI - We are outside of that tree line with everything. We are 15-20ft from there. We are nowhere near that fence line.

PB - There are some natural tributaries that feed into this County drainage ditch?

DI - The neighboring property, the house is the high point. Everything goes to the east and west. Bob's land is the high land, so everything drains through the Sexton property then to the ditch.

PB - There are 18 conditions. Are you aware of them?

CP - I think it should be at least 2 and 2 for conditions #3 and #4.

AA - The bond should extend past the CUP.

CP - So 2 and 3 years.

DI - Is this a new bond or will the current bond we have work?

JR - We will have to review it and see if it needs to be amended.

TM - The June CUP was valid for 2 years with a 3 year bond requirement which would be the same as you have been discussing at this point.

PB - So #3 would be 3 years and #4 would be 2 years.

CP - Make sure to adhere to all the erosion control measures. A lot of people in this township get worked up when a County ditch fills up and they have to pay for it to be cleaned up. Not only does the County hear about it but so does the Township.

PB - No questions on the 18 conditions?

DI - No.

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 - I think if he follows the conditions and the erosion control measures, does the work himself, and works with the neighbors. Hopefully, this will work out better and there are no further erosion issues.

MS - I agree.

CP - I will motion to refer this for approval with the 18 conditions; #3 being 3 years and #4 being 2 years.

MS - I will second.

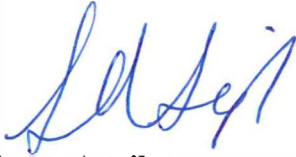
Motion to recommend approval with stated conditions and findings made by Peters, seconded by Streiff, and approved unanimously.

III.

Adjournment

Hearing no other items before the PC, a motion was made by Ellingson, second by Hogan, to adjourn the meeting at 7:58pm. Motion carried 5-0.

Respectfully Submitted



Anna Aguilar
Administrative Coordinator

Planning Commission



Preston Bauer, Chair