

**OFFICIAL PROCEEDINGS OF THE  
RICE COUNTY PLANNING COMMISSION**  
*Commissioner's Room / Government Services Building  
Thursday, March 2, 2023 at 6:30 PM*

**I. Call to Order**

**A. Roll Call**

The meeting was called to order both in-person and electronically by Chair Charlie Peters at 7:01p.m.

Members present were: Charlie Peters, Michael Streiff, Garrett Johnson, Matt Purfeerst.

Members absent were: Julia Hogan

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

Commissioners present: Jeff Docken.

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

**B. Motion by Michael Streiff, seconded by Matt Purfeerst, Reading of the Notice**

RESULT: Approved, AYES: Charlie Peters, Michael Streiff, Garrett Johnson, Matt Purfeerst, NAYS: None

**C. Motion by Garrett Johnson, seconded by Matt Purfeerst, Approval of the Agenda**

RESULT: Approved, AYES: Charlie Peters, Michael Streiff, Garrett Johnson, Matt Purfeerst, NAYS: None

**D. Motion by Michael Streiff, seconded by Garrett Johnson, to approve the minutes of February 02, 2023.**

RESULT: Approved, AYES: Charlie Peters, Michael Streiff, Garrett Johnson, Matt Purfeerst, NAYS: None

**II. 7:00 PM Public Hearing**

Public Hearing on adoption of amendments to the Rice County Zoning Ordinance to allow for "compost facility, private" as an Interim Use with standards within the A, Agricultural and UR, Urban Reserve zoning districts.

**Motion by Michael Streiff, seconded by Garrett Johnson, to recommend adoption of the Zoning Ordinance Text Amendment to allow for "compost facility, private" as an Interim Use with standards within the A, Agricultural and UR, Urban Reserve zoning districts.**

RESULT: Approved, AYES: Charlie Peters, Michael Streiff, Garrett Johnson, Matt Purfeerst, NAYS: None

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**Hearing Minutes:**

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

MS - Was anything changed from what we recommended to the Board of Commissioners?

TM - No, the Board took the recommendations just as you sent forward. The cubic yards were filled in and Standard #7 was split into two, as you recommended at the February meeting.

CP - It looks like the setback was increased from 400 to 500 feet. Is the state standard 500 feet?

TM - Not sure of any state standard, 500 feet was what was discussed and what your recommendation had been on February 2nd.

MP - 500 feet is similar to a feedlot, is that right?

TM - That is what some of those designed were based on. It is similar to what a smaller livestock operation requires: 100 feet to the property line, 500 feet to a neighboring residence. That's specifically where that comes from.

CP - If this is approved, would it be an Interim Use?

TM - Yes, if it was approved and somebody wanted to proceed with starting an operation such as this, they would have to come before this board for approval of that Interim Use Permit. The Interim Use Permit is very similar to the Conditional Use Permit, but it has end times and end conditions. Those would be set with the Interim Use.

CP - We could set that time?

TM - What the times and conditions would be, yes.

JD - Is there a list of unauthorized compostable materials? What is unauthorized?

TM - MPCA specifies which materials can be compostable. Essentially, anything that is not listed, is what they consider as unauthorized.

JD - We do have one legitimate concern: What about animal carcasses?

TM - That is one of the items that specifically is not allowed for composting in a situation like this. There are different composting options for animals, but those are dealt with in livestock situations, so it is not something that is allowed under this provision.

JD - I understand. I just wanted to make sure that was clear because more than one person has a concern about that.

TM - That is directly within the MPCA rules of not being an option under this.

JD - Thank you for the clarification.

MS - Of the eight conditions in front of us, there's a lot to #8. It's a simple statement, but the regulation of this at the state and federal level is huge for this type of operation.

TM - There is quite a bit of oversight and permitting with the state. The application form itself is a checklist two pages long. It is quite involved, yes.

CP - I spoke with the MPCA, and 120 yards is what triggers a state permit with the MPCA, which is not a lot.

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

Nancy Marth (NM) - Erin Township - This request is for privately owned recycling or compost facilities and I just wanted to confirm that the compost is separated out and I think he mentioned that it's now a separate part of the Ordinance. At the board meeting on February 14th, it was stated that this would be an Interim Use Permit in the Ag or Urban Reserve Districts. Under the purposes of the Urban Reserve District, Goal 56 is to restrict development until incorporated into the municipal corporate limits. Goal 37 is to promote housing development in cities and unincorporated villages who can provide water and sewer services. Purpose E restricts land uses that have the potential to interfere with orderly urban expansion and subdivision and urban densities. A compost site is probably not what the city has in mind within its corporate limits. It's not a housing development, and it certainly has the potential to interfere with orderly urban expansion and subdivision and urban densities. I'm also not real crazy about taking up good farmland, either, with a compost site. We've got a lot of highway commercial acres that are not being used right now. But seriously, I'd like to hear some discussion about where a compost facility might be allowed. A 200 foot setback from a wetland seems kind of tight, depending on the slope, soil type and vegetation. As you contemplate allowing this use, keep in mind that neither the MPCA nor the County inspect these facilities. The owner would have to submit a yearly report, but nobody actually takes a look to match the report to what's actually going on. A red flag is raised, maybe, but it's not an organized inspection, and the neighbors are left holding the bag. Monitoring wells are not required because the state mandates a setback from existing wells. Is that really good enough? Then it is left to the neighbors to make a complaint. If this is such a good idea, I'd like to hear a discussion about the best location in the best districts and a plan to enforce neighbor- and environment-friendly regulations. Odor and water quality issues are or could be problematic at existing sites, so let's not make the same mistakes.

CP - It's been three minutes.

NM - Just one thing- I know what a Conditional Use is, but I'd like a refresher on what an Interim Use is.

CP - With the Interim Use, we set a time limit, and it has to be brought back and reviewed again to be renewed. Correct Trent?

TM - An Interim Use can have an end date, based on either a time limit, or a change in operation trigger, ownership. There are a number of different factors that would be discussed with an Interim Use.

Sam Sunderlin (SS) - Forest township -

This is kind of a big issue to cover in three minutes, so I'm going to do my best. I think like most people, my community out near Circle Lake is really pleased that Rice County, in keeping with its new Comprehensive Plan, is looking for a more sustainable way to deal with the large amount of waste created by its residents. We are really pleased you are looking at this. A composting facility to deal with unused organic matter will reduce the amount of waste headed to our landfill, while reducing greenhouse gasses that form when organic materials decompose. When large-scale composting is done

using the latest technology, environmental issues can be kept to a minimum. As Rice County rural residents who might end up with one of these facilities next door, we'd like to request that you consider the following additional requirements to help protect your constituents from some of the more serious environmental issues that have occurred at numerous composting facilities here in MN and in other states and in countries around the world. We'd like to require that the setback distance from compost facilities be 300 meters for a permanent residence, restaurant, school, hotel or public park. For some reason, other facilities were not included, only residences. I know where Jeff Docken's church is, and I know that he probably would rather not have a compost facility right next door to it, and maybe all of you have the same situation. In Canada, they base their distance setbacks on really extensive studies, and I've supplied where this information comes from and why they feel their setbacks are appropriate. A second large study from Metro Vancouver shows that in practice, even the 300 meter separation has proven to be inadequate in many cases. Their setback is almost twice what you're proposing. We'd also like to require that all the SSOM sites be required to use an Aerated Static Pile, an ASP. Cliff Martin, the proposer, did a great job in explaining those. I think it's the safest technology. I think that we are all hoping that he is able to build one because we think he would be a good neighbor. The next person coming to apply for a permit might do the old-fashioned composting which causes all the odor issues, and it would be a very simple thing to just require the ASP.

CP - Sam, it's been over three minutes.

SS - Sorry. I did a bit about the meat, too.

CP - We all received that letter and had a chance to read it.

SS - I appreciate it. You understand our concerns, but I do hope that he is able to build this site. He seems like a real upright guy.

Grace Brosnan (GB)

GB - I am one of the worker/owners for Northfield Curbside Compost. I stood here about a month ago, talking with you about this. I want to address two things that have been brought up. One is the point on trying to require all sites to use Aerated Static Pile technology. While that is what we want in our specific site, I don't think it's a good idea to limit the technology because there are going to be new things in the future. There is in-vessel, that is not necessarily considered ASP. I just think the point of trying to make sure the site is well-run can happen in better ways than just saying Aerated Stock Pile. In terms of the numbers of location restrictions on where SSOM sites can be, there are already a lot of restrictions in terms of proximity to waterways, wetlands, karst features, airports, different things like that. I think while we certainly are in favor of not being right next to schools and houses and places of worship, 300 meters is almost 1000 feet and can make placement challenging. I don't have a super firm number to give there, but there are already quite a few location restrictions on SSOM sites. Thank you so much.

Chair Peters closed the public testimony portion of the time to the public.

Discussion:

CP - I called the MPCA this morning and three people got back to me. The threshold for triggering an MPCA permit is 120 cubic yards. Aerobic is mostly what they see and 500-foot setbacks is what is suggested. Of all the compost sites that they monitor, the only complaints they've ever had is when the pile is turned on a day with the wrong wind direction. Dead carcasses require different permits, different everything - it's not allowed. Another MPCA official also mentioned windspeed and directions and said the 500-foot setback has seemed to work well. The state actually works with counties and if there are certain situations where they need to be closer or farther, they are all for it and they will make the permit according to that and that's why I like that it's an Interim Use Permit so we can dictate some of those distances. The people I spoke with at MPCA were glad to see that its going on here in Rice County. I was glad they seemed proactive, calling me back, and I can attest to one of the comments that they never check. We have a yard waste site in Lonsdale and they check it and required things such as quarterly statements and many other things.

GJ - I like the fact that it is an Interim Use Permit. I don't think there's a need to be more restrictive because that's something that can be site-specific.

JD - I would agree that the Interim Use is a good tool here, as it will be in several other places. 500-foot setbacks are significant. If it's 1000-foot setback, now you've got to remember that you have to locate it

1000 feet from every direction, so there are fewer possible sites. NM mentioned Urban Reserve, but where is most of the waste coming from? Another point I would like to make, as CP has stated, MPCA is going to have good control over it. The other ace-in-the-hole here is the Interim Use. I doubt many people will want to do this, but the fact of the matter is if it's an IUP, they're going to want to tow the mark because if they spent thousands of dollars on a facility to do it and the equipment to do it. I know odor could be an issue, but I know if we stirred the lagoon and the wind was the wrong way it caused heartburn in our neighborhood, too. But it doesn't last long. I think about it when I drive to Faribault on I35. Tonight was worse than ever, and I'm thinking that's coming from the city, so as a farmer I really don't want to live next to the city, either. All kidding aside, I think there are lots of catches in place to make sure it's complaint, and composting into a useable product is a great way to keep it out of our landfill. That's a huge deal - to extend the life of our landfill.

CP - I received calls from people who are really in favor of it. In one of my conversations with MPCA, they mentioned compost sites that existed for ten years undetected by the neighbors until outside trees were cut down. We could discuss shielding when we do IUPs.

MS - I agree with everything said. It has to be the right operator, it has to be first class, but I think it's going to come down to dialing in the Interim Use Permit and having a lot of good regulations in place so if something does fall through the cracks or doesn't work out, it's going to be caught and not be an ongoing issue. I think it's a good idea to cut down on the eyesores that landfills create.

### III. New Business

#### 1. Preliminary Plat/Johnson - Section 8, Wells Township

Colin Johnson has applied for approval of a preliminary plat to create three building lots. The property is described as: Part of Government Lot 3 in the NE1/4 of Section 8, Wells Township, Rice County, Minnesota. PID#: 10.08.1.50.002. The property is Zoned RDS, Recreational Development Shoreland.

**Motion by Garrett Johnson, seconded by Matt Purfeerst, to recommend approval of the Preliminary Plat with the following conditions and findings for Colin Johnson. The property is located in Section 8 of Wells Township.**

RESULT: Approved, AYES: Charlie Peters, Michael Streiff, Garrett Johnson, Matt Purfeerst, NAYS: None

#### CONDITIONS OF APPROVAL – Johnson – Preliminary Plat

1. Final plat shall be submitted for approval within six months of preliminary plat approval.

#### Hearing Minutes:

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

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

CJ - It was approved last fall but then we ran into problems getting access to the buildable portion of that middle lot, so we added a roadway. One comment that I have is that I don't think it's right to have to pay for a whole new permit just to make a few revisions on this. It's another \$800 and these permits just keep adding up and adding up, so it's something you might want to take look at. We have plenty of room to get the road in there, and we will have that designed by an engineer and we'll take care of it.

CP - You are aware of the DNR letter and the Soil and Water letter?

CJ - Yes. We will work around it. Real easy.

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

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

#### Discussion:

MP - Obviously he's jumped through a lot of hoops to get the DNR involved and going through us multiple times. It looks like it makes sense the way he has this laid out, so I would be in favor.

CP - As he stated, it was brought to us and we approved it last fall. We had some issues with some

wetlands, which were engineered around, so I don't see any issues.

2. **Preliminary Plat/Herrlich – Section 19, Cannon City Township**

Danielle Herrlich, on behalf of landowners, has applied for approval of a preliminary plat to modify boundaries of two existing home lots. The property is currently described as: Part of Lot 1 and all of Lots 6 & 7 of Boudreau's Subdivision in the NE1/4, Section 19, Cannon City Township, Rice County, Minnesota. PID#s: 11.19.1.26.009, 11.19.1.26.002 & 11.19.1.26.003. The addresses of the existing homes on the properties are: 18100 & 18210 Faribault Blvd., Faribault, MN 55021. The properties are zoned: RR, Rural Residential.

**Motion by Garrett Johnson, seconded by Matt Purfeerst, to recommend approval for the Preliminary Plat request with the following conditions and findings for Danielle Herrlich. The property is located in Section 19 of Cannon City Township.**

RESULT: Approved, AYES: Charlie Peters, Michael Streiff, Garrett Johnson, Matt Purfeerst, NAYS: None

**CONDITIONS OF APPROVAL – Herrlich – Preliminary Plat**

1. Final plat shall be submitted for approval within six months of preliminary plat approval.

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**Hearing Minutes:**

Zoning Administrator Trent McCorkell (TM) presented the request to the Planning Commission (PC).  
CP - Where is the city limit boundary?

*TM displayed maps in the packet showing the Faribault city limits in red.*

The PC asked the applicant, Danielle Herrlich (DH), to come forward to add comments or answer questions regarding the request.

DH - No additional comments.

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

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

Discussion:

CP - It looks pretty straightforward, trying to split it into two, more even lots.

3. **Interim Use Permit/Mariska – Section 21, Morristown Township**

Thomas Mariska has applied for approval of an Interim Use Permit for placement of a Temporary Equipment gravel crushing and washing operation. The property is described as: Part of the SE1/4, Section 21, Morristown Township, Rice County, Minnesota. PID#: 13.21.4.25.004. Property address is: 10355 Morristown Blvd., Morristown, MN 55052. The property is Zoned A, Agricultural.

**Motion by Matt Purfeerst, seconded by Garrett Johnson, to recommend approval of the Interim Use Permit request with the following conditions and findings for Thomas Mariska. The property is located in Section 21 of Morristown Township.**

RESULT: Approved, AYES: Charlie Peters, Michael Streiff, Garrett Johnson, Matt Purfeerst, NAYS: None

**CONDITIONS OF APPROVAL – Mariska - 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 Interim Use Permit, TEPP is to allow for an aggregate washing and crushing operation and shall be valid from July 1, 2023 until November 31, 2023 and again May 1, 2024 until July 31, 2024.

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. 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.
6. All access drives within the pit and to the paved area of State Highway 60 shall be treated with a dust control product (such as calcium chloride), or shall have water applied for dust control. The 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.
7. Applicant to strictly adhere to all Rice County codes and ordinances.
8. "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.

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**Hearing Minutes:**

Zoning Administrator Trent McCorkell (TM) presented the request to the Planning Commission (PC).  
 CP - Any previous concerns or calls on this site?

TM - Nothing that I recall.

MS - You said this was approved in 2021, but there was nothing in 2022?

TM - Correct. With the temporary permits, they only apply when they have a specific need or project going on.

MS - Do you recall if it was used in 2021?

TM - I believe it was. The applicant can probably add more to that.

The PC asked the applicant, Thomas Mariska (TomM), to come forward to add comments or answer questions regarding the request.

TomM - Trent covered it well. We are a small, low-volume operation. We don't own the crushing and washing equipment, so every two to three years we have to get somebody in to do it, and that's where we are right now. We stockpile some and whenever we run out, we are back to get another permit.

CP - You are aware of the eight conditions?

TomM - They look acceptable, yes.

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

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

Discussion:

CP - It's a small operation.

MS - There are no prior complaints, it seems like a pretty good operation.

4. **Conditional Use Permit/Gillen - Section 6, Webster Township**

Bradley Gillen, on behalf of landowner Jon Gillen, has applied for approval of a Conditional Use Permit for a contractor's office and yard for a trucking and excavating business. The property is described as: Part of the NW1/4, Section 6, Webster Township, Rice County, Minnesota. PID#: 02.06.2.25.001. Property address is: 6874 30th St W., Elko, MN 55020. The property is Zoned A, Agricultural.

**Motion by Matt Purfeerst, seconded by Garrett Johnson, to recommend approval of the Conditional Use Permit request with the following conditions and findings for Bradley Gillen. The property is located in Section 6 of Webster Township.**

RESULT: Approved, AYES: Charlie Peters, Michael Streiff, Garrett Johnson, Matt Purfeerst, NAYS: None

**CONDITIONS OF APPROVAL – Gillen - Conditional Use Permit**

1. The applicant is to follow all Federal, State, County and Local rules and regulations.

2. The conditional use permit (CUP) is for an office yard and buildings for a roll-off dumpster, excavating and trucking business. Changes to the business are not permitted without approval of a new/amended permit.
3. The submitted site plan shall be followed.
4. Outdoor storage of excavating and trucking equipment and roll-off dumpsters shall be as shown on the submitted site plan with up to 10 trucks and trailers and 10 dumpsters onsite.
5. No vehicles shall be parked or stored on the east side of the driveway.
6. Only business equipment owned, leased or contracted by the onsite business shall be stored on the site.
7. Office area is to include at least a portable restroom facility.
8. Site shall have no unlicensed or inoperable equipment or vehicles stored or parked outside.
9. A change in use driveway permit shall be obtained prior to onsite business use.
10. All buildings shall meet building code for the intended use.
11. Failure to comply with conditions may result in revocation of the conditional use permit.

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**Hearing Minutes:**

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

The PC asked the applicant, Bradley Gillen (BG), to come forward to add comments or answer questions regarding the request.

Jon Gillen (JG) came forward to speak.

JG - I have the residence out there and the plan is to have a few dumpsters. My son has a roll-off business and also the trucking and excavating. We originally got a Conditional Use Permit for dirt work and that's what initiated questions about the dumpsters and equipment that was on site. We actually do a little bit of business work out of there, so want to get the right permit.

CP - You are aware of the 11 conditions?

JG - Yes. We have quite a few of them already taken care of. We don't have the final inspection on some of it yet, but it's still in the works.

CP - Condition #2 has some blanks yet. The condition of the use is for "office/storage/repair building and outdoor repair and storage areas". What specifically is it?

JG - The office is mostly to use the address for the business. As far as an office, not really. We do some work out there for some of the neighbors, farm equipment and tractors, so that's probably about the extent of it.

CP - Storage and repair?

JG - Correct, yes. Some of the idle equipment sits there until we need it.

CP - Is it a huge amount of dumpsters?

JG - No, I think there's about six out there at this point. Of course as people use them, if we need we would maybe get a few more but no, it's not a huge amount at this time.

CP - Regarding Condition #4, Outdoor storage of excavating and trucking equipment, and you plan for up to it says, "blank number of trucks and trailers on site". What would it be?

JG - I don't think that we would ever exceed 10 pieces of equipment.

CP - That's a total of trucks and equipment?

JG - I think so, yes. That's probably what it would end up being.

CP - Condition #5 is a screening condition. Where do you screen to?

JG - The buildings are all on the right side of the driveway but there is land on the east side where we have a couple trailers and a dumpster parked. I don't know if that's something you'd like, for us to keep them all consolidated on one side?

CP - We will keep it in mind when we get to that condition. Is it mainly trucking or excavating?

JG - They go hand-in-hand, but more excavating than trucking at this point. As the excavating grows there might be a bigger dump truck or two in the future.

MP - Is there enough room on the east side of the driveway to store equipment?

*Map displayed on screen. JE indicates with cursor the east property line and driveway.*

JG - Some equipment and trailers are already on the east side. If that's a question, we surely could put it all on the west side of the driveway where the buildings are, but that area is already congested. The reason we got the Conditional Use Permit for the dirt was to try to expand some of the parking area because there was a deep edge there originally. Over almost three years, we are definitely gaining more building and parking area.

TM - How many roll-off dumpsters do you anticipate?

JG - I said around ten, but it would never be more than 20. There are six there now. The vehicles that were out there before are all gone now, but the dumpsters don't need to be registered. Is that part of the contractor's equipment? How do you classify those?

CP - I think we're just wanting a number, like 10 instead of 100.

JG - Well, it wouldn't be 100, but 10 might be on the small side, as I count up the trailers we have there in my head. I will say no more than 20. If we get to that point, we would have to look at more land and expand it elsewhere.

CP - So 20 is trucks, trailers and dumpsters. Everything?

JG - Correct. We have a dozer, a couple skid loaders, that's everything as I think we have out there. It's me and two kids, so what I've got and what they've got adds up.

MS - Specifically dumpsters: You think no more than 10?

JG - If we get bigger than that we'll have to get a bigger area.

TM - These are roll-off dumpsters, correct?

JG - Correct.

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

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

Discussion:

JD - I want it to be clear, is it 10 dumpsters and 10 trucks and trailers? Is that how it's being written?

MP - That's what it sounded like.

GJ - Does a roll-off count as a trailer, in that category?

JD - The roll-off dumpster counts as a dumpster.

MS - So there would be no more than 20 pieces of everything, total.

CP - That's the way I took it, too.

JR - I think it needs to be specific about the type of business you are granting this for. It sounds like there are about three businesses here and also the type of equipment. Roll-offs are very different than excavating.

JD - I see your point, JR. How do you encompass it all?

MP - Can you label it construction?

CP - The way I see it, you do some excavating, and your son does some roll-off business, I agree with Matt that it could be bundled under 'construction' business. A lot of contractors have everything. Last summer the silt fence went up with the Grade & Fill permit, and it looked good. If we can fill in those blanks in the conditions, I think #2 would be "Construction" but also "Repair". It looks like they do some repair in that shed. Item #4 we had 10 trucks and trailers outside and 10 dumpsters, maximum. Item #5 Screening the outdoor parking. It's hard with the field to the east, looks like the residence to the west is shielded well with the oaks.

TM - I have two comments: With #2, you do want to be specific and say that it's for a trucking, excavating and roll-off business, instead of saying it's for a construction business. You do want to be that specific. In Condition #4, you would actually add the roll-off dumpsters where it says, 'Excavating and trucking equipment'. Then the numbers as stated: 10 trucks and trailers and 10 roll-off dumpsters. In Condition #5, the applicant mentioned not storing equipment on the east side of the driveway. That's certainly the most visible area out there. If everything is kept on the west side, there's probably not nearly as much need for screening.

CP - I would agree with the screening comment.

MS - I like the idea of it all being on the one side.

CP - To sum it up, JG, Condition #2 of the Conditional Use Permit is for a "Trucking, Excavating and Roll-off Dumpster" business.

JG - Yes.

CP - Condition #4 states up to 10 trucks and trailers on site at one time, and 10 additional roll-off



dumpsters at one time. Condition #5, would not need screening if you move all your equipment to the west side of the road. That would be one of the conditions. If we do that, it looks okay?

JD - I think it would be pretty hard to screen, especially toward the county road. It's a swamp that must be 50-60 feet lower than the buildings, and if they are continuing to bring in fill, where are they going to put their screen? They might get sick of transplanting evergreens. It must be encroaching wetland already.

JG - We had Soil & Water come out to mark out the wetlands. I got the approval to bring the fill out there. There was a red flag thrown up, so then we had to get a Conditional Use Permit for the fill we were generating, and since then have a fair share of fill put out there, but we still have four months' worth of generating fill. Now we have applied for a pond permit to convert that to a pond and that fill would be used to give more parking space. There is room on the opposite side of the shed, too, that won't encroach on the pond.

CP - So you are okay with the 11 conditions?

JG - Absolutely, if that's what it takes to abide.

TM - I want to make sure the conditions and details are right. Condition #2 would actually say the Conditional Use Permit is for an office yard and buildings for a roll-off dumpster, excavating and trucking business. Changes not permitted without approval of a new permit. Condition #4 Outdoor storage of excavating and trucking equipment and roll-off dumpsters shall be as shown on the submitted site plan with up to 10 trucks and trailers and 10 dumpsters on site. Condition #5 was dealing with screening, and that would be replaced with a condition saying no vehicles shall be parked or stored on the east side of the driveway. The rest of the conditions would stay the same.

CP - Correct.

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

Kevin Theis has applied for approval of a Conditional Use Permit to add a building to the existing onsite Agricultural Tourism Business. The property is described as: Part of the S1/2, Section 20, Wells Township, Rice County, Minnesota. PID#: 10.20.3.00.001. Property address is: 5524 185th St W., Faribault, MN 55021. The property is Zoned A, Agricultural.

**Motion by Michael Streiff, seconded by Garrett Johnson, to recommend approval of the Conditional Use Permit request with the following conditions and findings for Kevin Thies. The property is located in Section 20 of Wells Township.**

RESULT: Approved, AYES: Charlie Peters, Michael Streiff, Garrett Johnson, Matt Purfeerst, NAYS: None

**CONDITIONS OF APPROVAL – Theis - 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 or asphalt parking area shall be established and maintained as shown in the applicants submitted parking plan.
6. No parking shall be allowed on public roadways.
7. Parking shall be screened to 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 1, 2023
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.

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**Hearing Minutes:**

Zoning Administrator Trent McCorkell (TM) presented the request to the Planning Commission (PC).  
 CP - With the new conditions, all we're changing is the parking?

TM - Yes, the parking condition has changed and the condition on the septic has changed. The other thing that would be changing is the overall site plan, incorporating the new building, along with the other existing operations there.

CP - Numbers, events - that's all the same?

TM - Those were as approved previously.

MS - When did we approve this last?

TM - The previous Conditional Use Permit was attached in the packet. It was May of 2022.

MS - So they have operated since May of 2022?

TM - They've had that time under the permit to do whatever they were doing on site with that.

MS - Have there been any compliance issues or concerns?

TM - I haven't received any calls or concerns, no.

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

KT - If you have any questions, I have nothing to add.

CP - From what I read of the state building codes, it was more feasible to build this structure, correct?

KT - By the time we redid everything, it cost more than it was worth so we might as well start over. As far as the septic, we are going to do biffies for now because if you meter your water for four years, you can go off water usage. We haven't owned it for four years. What they came up with, with the formulas you have to use, it came to be that we'd use 9,000 gallons per day, and we don't even use 200 gallons per day. The estimate to put the septic in was \$400,000.

TT - That's why everything was changed.

KT - So we will meter it for the next four years and come back in and put the bathrooms in at that time.

TT - So the building is actually a pavilion.

KT - The Inspector wants us to add some walls in so the wind doesn't come and blow it away.

TT - So it's kind of a hybrid.

KT - We are just doing whatever he wants us to do.

CP - You are aware of the 18 conditions? And the septic?

KT - Yes.

TT - We heard from Marilee today, and she is pleased. We can move forward. I got that email today.

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

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

Discussion:

CP - I read through the packet and I see there were issues with the State Building code and the pole shed, restroom issue and septic, I can see where that would turn into problems.

GJ - Do we need to re-write where it says it needs to be in compliance by August 1st?

KT - The septic? It will be done before then.

TT - We would have done it last year, but we were waiting to be cleared by the county, and then we ran into winter. Charlie Bohn out of Jordan is our installer. We've been waiting to be cleared by the county so we can get on his schedule. It's something we plan to do immediately.

KT - That will be done right away in the spring.

TT - Our season starts in August and I don't want any of this happening in August. I want it all done by then.

CP - So the current septic is not in compliance?

TT - It was failed when we bought it in August of 2021. We knew that. We had planned all along to put a new system in, but with the plans that we had for the property, that's when that other system was proposed to us and that was just too much for us to handle. So then it was just back and forth and compromising and getting everybody on the same page, which I feel we are today. Like I said, I heard from Marilee this morning. So as soon as we get that stamp. She has talked to Charlie herself.

KT - There's enough room, too, because we'll probably have to add on to the septic, hopefully we do, because that means we're busy. There's enough room if we have to add on to the septic because all the tanks are going to be put in, it's just the mound isn't going to be as big as what that monster one was going to be.

JD - Did you have any events?

KT - We had one wedding, and tons of field trips.

TT - Yes, We do a lot of field trips in September and October. We had a very casual wedding with a barbecue food truck. It was after hours on a Friday, and actually a very sweet wedding, nice and easy and small.

KT - And I did do the screening like you guys wanted but the deer ate it all. As far as the neighboring property setbacks are concerned, we will probably be buying that property.

TT - The guy we bought the orchard from kept back ten acres from the 100 acre parcel and it's in our contract that we have first dibs when he's ready to sell that 10.

#### **IV. Adjournment**

Hearing no other items before the PC, a motion was made by MP, second by GJ, to adjourn the meeting at 8:20 pm. Motion carried 4-0.

**Respectfully Submitted**

**Planning Commission**



**Laurie Johnson**  
**Office Support Specialist**



**Charlie Peters, Chair**