

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY PLANNING COMMISSION
Commissioner's Room / Government Services Building
Thursday, April 6, 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 6:58 p.m.

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

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

Commissioners absent: 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, Julia Hogan, 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, Julia Hogan, Garrett Johnson, Matt Purfeerst, NAYS: None

D. Motion by Garrett Johnson, seconded by Matt Purfeerst, to approve the minutes of March 2, 2023.

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

II. New Business

1. Preliminary Plat/Kluzak - Section 22, Forest Township

Keith Kluzak 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 22, Forest Township, Rice County, Minnesota. PID#: 06.22.1.75.002. The property is Zoned RDS, Recreational Development Shoreland.

Motion by Julia Hogan, seconded by Matt Purfeerst, to recommend approval of the Preliminary Plat with the following conditions and findings for Keith Kluzak. The property is located in Section 22 of Forest Township.

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

CONDITIONS OF APPROVAL - Kluzak - 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, Keith Kluzak (KK), to come forward to add comments or answer questions regarding the request.

KK - The request is fairly simple, a 10.7-acre parcel being split into 3 buildable lots. Last fall I worked with the County to get where we are. I did a soil boring for septic, did a wetland delineation. The health of Circle Lake is important to me. For the proposed building sites, water will flow to 125th St and not towards the lake. There is a settling pond on Lot 3 that I put in years ago. Should there be any run off, it

would go in that direction.

CP - Looks like you had all the wetland delineation and alternate septic locations in place.

Chair Peters opened the public testimony portion of the item to the public and the following spoke:
Dean Sunderland - *Chair of the Circle Lake Improvement District - See public comment #1.*

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

Discussion:

CP - This is preliminary, so there would be more conditions following?

TM - This is a preliminary plat. The next step after this would be to come through with a final plat and implement any of the requirements that were made at this stage. Typically, most of the conditions would be at this stage where the final plat is just coming back with the finished project. With this plat there is not any proposed construction, there is no road proposed at this time. Any construction onsite would happen later on when people propose to build homes on these sites.

CP - So any sediment fences or anything would be under the construction process, right?

TM - Yes! Any woodland clearing or digging onsite would all happen during the construction of homes on site.

CP - Ok!

MP - It sounds like he has a good plan layout, and with the erosion, he has a pond in the back for run off and directing the water, I think he has a good plan in place.

JH - They have a lot of material submitted, they have two septic sites and a proposed driveway area. He talked with the Township and everything appears from what they have submitted.

CP - There have been a few on Circle Lake, probably better than those in my opinion.

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

2. **Interim Use Permit/Kiellmeyer - Section 34, Webster Township**

Corey Kiellmeyer, on behalf of Kiellmeyer Construction, has applied for approval of an Interim Use Permit for placement of a Temporary Equipment aggregate crushing operation. The property is described as: The NW1/4 of the NE1/4, Section 34, Webster Township, Rice County, Minnesota. PID#: 02.34.1.25.001. Property address is: 8127 Chester Ave, Northfield, MN 55057. The property is Zoned A, Agricultural.

Motion by Michael Streiff, seconded by Matt Purfeerst, to recommend approval of the Temporary Equipment Placement Permit with the following conditions and findings for Corey Kiellmeyer, on behalf of Kiellmeyer Construction. The property is located in Section 34 of Webster Township.

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

CONDITIONS OF APPROVAL - Kiellmeyer - 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 applicant or operator shall furnish a one-year \$50,000 bond or other financial surety for haul road and site restoration.
3. All financial surety shall be reviewed and approved by the Rice County Attorney's office prior to onsite operations.
4. This Interim Use Permit is to allow for an aggregate crushing operation between May 1, 2023 and December 31, 2023.
5. 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.
6. Areas mined near the road right of way must be stabilized to prevent erosion of the road right of way. 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 to any road or right of way damage due to the mining/crushing operations.

7. 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.
8. 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.
9. Applicant to strictly adhere to all Rice County codes and ordinances.
10. "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).
 TM - We received a comment letter from the Township. They want to be sure the applicant is working with the Township on this.

JH - This has been an issue in the past with the Township.

TM - Yes, they had concerns with the road. Because the site is one that does not require a Conditional Use Permit for mining and had mined fairly close to the right-of-way where there were some stability issues and some concerns. The applicant has been working with the Township on getting that filled in to make that a safer situation.

MS - No other complaints or issues?

TM - I have not received other ones, just concerns about mining and the effects.

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

CK - She had brought up the issues in the past, we have basically reclaimed down the road and continue too, other than that it is still same old, same old.

CP - You are aware of the 10 conditions?

CK - Correct.

CP - I know the Township is not here, last time they were. I have hauled out of that pit before and it looks like you did quite a bit of work, just keep an eye on it.

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 - Like JH said, it was a big concern and that road was really an issue.

JH - It seems like the applicant and Township are working together. There is no issue if they are not here, just so they remember to maintain the road like the Township has submitted.

CP - I agree.

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

3. Interim Use Permit/Kielmeyer (Donkers) - Section 12, Walcott Township

Corey Kielmeyer, on behalf of Paul Donkers, has applied for approval of an Interim Use Permit for placement of a Temporary Equipment aggregate crushing operation. The property is described as: Part of the S1/2 of the SE1/4, Section 12, Walcott Township, Rice County, Minnesota. PID#: 15.12.4.75.001. Property address is: 22762 Gates Ave, Faribault, MN 55021. The property is Zoned A, Agricultural.

Motion by Matt Purfeerst, seconded by Garrett Johnson, to recommend approval of the Temporary Equipment Placement Permit with the following conditions and findings for Corey Kielmeyer, on behalf of Paul Donkers. The property is located in Section 12 of Walcott Township.

RESULT: Approved, AYES: Charlie Peters, Michael Streiff, Julia Hogan, Garrett Johnson, Matt

CONDITIONS OF APPROVAL - Kiekmeyer (Donkers) - 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 applicant or operator shall furnish a one-year \$50,000 bond or other financial surety for haul road and site restoration.
3. All financial surety shall be reviewed and approved by the Rice County Attorney's office prior to onsite operations.
4. This Interim Use Permit is to allow for an aggregate crushing operation between May 1, 2023 and December 31, 2023.
5. 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.
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 Gates 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).

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

CK - Just trying to get a permit to crush in there again.

CP - How many years have you been in that pit?

CK - About 50, it was opened in the 70's and it is pretty much running out, so we are reclaiming down the line. The pit behind us still has a lot of material.

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 - This one has been every year.

JH - This is pretty standard to previous years.

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

4. Interim Use Permit/Winjum - Section 11, Wells Township

Jon Winjum, on behalf of Roy Winjum, has applied for approval of an Interim Use Permit for an aggregate mining and crushing operation. The property is described as: Part of the E1/2 of the SE1/4, Section 11, Wells Township, Rice County, Minnesota. PID#: 10.11.4.00.001. Property address is: 2150 165th St W, Faribault, MN 55021. The property is Zoned UR, Urban Reserve.

Motion by Michael Streiff, seconded by Garrett Johnson, to recommend approval of the Interim

Use Permit with the following conditions and findings for Jon Winjum, on behalf of Roy Winjum.
The property is located in Section 11 of Wells Township.

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

CONDITIONS OF APPROVAL - Winjum - 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 sand and gravel mining including an aggregate material crushing operation.
3. The applicant or operator shall furnish a six (6) year \$100,000 bond for haul road repair and for site restoration. All bonds 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 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 and crushing operation shall be restricted to the area and depths shown on the applicant's approved site plan, subject to compliance with the minimum 100-ft County Right of Way, 70-ft Township Right of Way and 20-ft property line boundaries. Deviation from these boundaries will require application for a new interim use permit.
6. Mining boundaries 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 time.
7. The hours of operation shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday and 7:00 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. The applicant shall follow the same dust control requirements on the section of 165th St W. from the driveway to Bagley Ave.
13. Unless separately approved by the Rice County Highway Department all site access shall be from the existing driveway off of 165th St W.
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.

18. Applicant must verify wetland regulation compliance with the Rice SWCD prior to any onsite mining.

Hearing Minutes:

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

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

JW - Same as in the past. We don't mine much out of there, really none. It's more about a place to store, crush, and recycle back into the County. A lot of it went to the City of Faribault.

CP - That was for the 2016, HWY 46 project correct?

JW - Yea, now there is a 35 project coming up, so it might get used again.

CP - You are aware of the 18 conditions?

JW - Yes.

JW - One thing I think when we first opened that back up, because it was closed for quite a while, they had asked for some berms and screening, so we put that all around. Then you may have saw the expensive gate, we had some people dumping garbage so it kind of helped. Now they just drop it off at the gate.

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

Tom Reineke - *165th St. Wells Township* - I came before the commission back in 2016 and gave my support for the Conditional Use Permit. Sadly, today I'm not able to give that same support. I have seen what this operation has done to my road 165th Street. It used to have a nice crown to the road, now it's a dish and nothing but a mud pit. The concrete apron that was put in as a part of the County road HWY 46 project has a big crack in it, and that was done by a heavy piece of equipment. Other concerns I have are with the hours of operation for the crushers. They were given maybe a 12 hour limit last time from 7 am to 7 pm. We did notice there were times they were operating before that and after that. Another thing is concrete crushing on windy days. I don't want to breathe concrete dust, there should be some way to mitigate and keep that concrete dust down on their property. It has to be a health concern, it is a concern of mine. There are times that the dust is so thick it's like you're driving in a fog. The driveway off of 165th St to access the pit, there should have been a culvert put in, when it rains real hard it washes out and creates a gully that you have to drive across that creates a concern. Other than that if some of these things can be addressed in the 18 conditions, I hope you give my comment some consideration.

JH - Condition 11 states the applicant is responsible for repair of County, State, and Local 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. This IUP is for 5 years, but if 165th Street is in that bad of condition that should be addressed prior to the 5 years.

CP - Yes, I agree.

JH - Especially since there was that lapse that had ended in 2021, from 2016 because that was the five year mark from that approved CUP.

CP - Then water in the crushing operation could be sprayed, I think most are setup for that, we can ask the applicant.

The Chair called the applicant back up to comment.

JW - I can comment on some of this stuff, so they did have a crusher in there probably 3 years ago, and the County came out and said we had to get some water, that day we added some water to stop the dust. As for the road, I do the maintenance for the Township and most of the problem this Spring is past our driveway. So I will say the Township knows the road is falling apart. We tried doing something with the road this year, but again it was past our driveway. I was just made aware that semi-trucks, not from me but from Aldi's, park on that road and have destroyed the road that is currently closed.

CP - If you can do something on 165th and when they are crushing have some water, anything to make the neighbors happy.

JW - This is regulated by the MPCA, they are supposed to. I don't know if there was an issue with the water, but I know they tried to correct it that day.

JH - Would you say most of your traffic is from Bagley Ave or 165th?

JW - All of it goes on 165th, maybe 10% off of Bagley. And this is what was requested when it was opened back up.

TM - The Bagley Ave access was only for use during Bagley construction, all traffic should be from 165th. State regulates crushing dust, not the County.

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

Discussion:

CP - I know concrete dust is a huge issue, not just with this site if the MPCA is regulating.

MS - I'll motion to refer this item with 18 conditions.

GJ - I'll second.

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

5. **Interim Use Permit/Witte - Section 34, Wells Township**

Witte Bros Inc., on behalf of Harold Witte Trust, has applied for approval of an Interim Use Permit for an aggregate mining and crushing operation. The property is described as: Part of the SE1/4, Section 34, Wells Township, Rice County, Minnesota. PID#: 10.34.4.25.002. Property address is: 3151 Wells Lake Dr, Faribault, MN 55021. The property is Zoned GDS, Shoreland.

Motion by Michael Streiff, seconded by Matt Purfeerst, to recommend approval of the Interim Use Permit with the following conditions and findings for Witte Bros Inc., on behalf of Harold Witte Trust. The property is located in Section 34 of Wells Township.

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

CONDITIONS OF APPROVAL - Witte - 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 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 interim 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, crushing and stockpiling shall be restricted to the area on the applicant's submitted site plan, subject to compliance with minimum setback requirements of 100-ft to State Road Right of Way (ROW), 70-ft to City/Township Road ROW, 20-ft to other property lines and 300-ft from Wells Lake/Cannon River. Existing mined areas within setbacks may be restored but not mined. Deviation from these boundaries will require application for a new Interim Use Permit.
6. Materials and equipment shall not be stored or stockpiled within the mapped 1% annual chance floodplain areas unless those areas are presently above an elevation of 981.8-ft.
7. 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.
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. 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.

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 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.
12. The applicant is to be responsible for repair of county, state, city 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.
13. 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.
14. All road access to and from the operation shall be off of Wells Lake Dr.
15. Solid waste shall not be placed in the gravel pit; illegally dumped material shall be immediately removed by the applicant.
16. The site is to be cleaned of all debris and equipment after closure of the pit.
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).

JH - No concerns or anything from the City or those homes?

TM - We did receive some comments today. In the past there have been concerns with the roadway on this site. I did not receive any comments from the City.

CP - There was one in our packet about gravel and the river and hydro vac dumping - *reference Public Comment #1.*

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

JoW - I'm just looking to get a permit on this, just don't know what the future brings for everything. It is really close to the City of Faribault, we have been taking material out of there, 85% of the gravel is under water and has to be dug out first. Sometimes we pump the water to another location on the property, sometimes we just dig it out of the water with no pumping. You can't go far down when you don't pump it. I'm guessing the deepest spot is 10 to 12 feet. There is a 35 project, a 2 year project coming up starting this summer. That's looking like we might be selling some material, we just don't know. We do work for the Townships and a little bit for the City and for Rice County roads also. That would give us another location closer to the job site.

CP - *Referenced Public Comment #1.*

JoW - They are in a different location than we are. It's a slurry with sand, rock, and dirt that they suck up from whatever they are doing, within a year's time it dries up and you can drive over it. We have even hauled some of it away.

CP - I'm sure with the DNR with the flood plain near Cannon, there was one about digging in the aquifer? So are you aware of the 18 conditions?

JoW - Yes.

CP - And the equipment storage up and out of the floodplain?

JoW - 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 - That site has been around for a long time, as long as the 18 conditions are followed, and they bring it out of the floodplain. He says the City of Faribault is going to be on that site pretty soon.

MS - I'll motion to refer this item with 18 conditions.

MP - I'll second.

TM - *Reference condition #15* references any material or illegally dumped material needs to be properly disposed of, and regarding pumping, if they do any pumping it does require a DNR permit.

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

6. **Conditional Use Permit/Deutsch - Section 6, Wheatland Township**

Marvin Deutsch, has applied for approval of a Conditional Use Permit for a contractor's office and yard for a construction business. The property is described as: Part of the NW1/4 of the NE1/4, Section 6, Wheatland Township, Rice County, Minnesota. PID#: 01.06.1.25.002. Property address is: 12410 New Prague Blvd, New Prague, MN 56071. The property is Zoned A, Agricultural.

Motion by Michael Streiff, seconded by Garrett Johnson, to recommend approval of the Conditional/Interim Use Permit with the following conditions and findings for Marvin Deutsch. The property is located in Section 6 of Wheatland Township.

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

CONDITIONS OF APPROVAL - Deutsch - Conditional Use Permit

1. The applicant is to follow all Federal, State, County and Local rules and regulations.
2. The conditional use permit is for a contractor's office and yard for a construction business. Applicant is to follow the approved site plan. Changes to the business are not permitted without approval of a new/amended permit.
3. All outside storage and parking shall be screened to public roads. Screening shall be provided by maintaining the existing tree cover on the east and west sides of the parking and storage areas. There shall be no parking or storage within the Road Right of Way.
4. All vehicles, equipment and trailers stored/parked outside shall be operable and have a current license if said license is required for use on a roadway.
5. There shall be no outside storage of inoperable equipment or waste materials.
6. Bathroom facilities shall be provided for employees. A compliant septic system shall be installed before use of the new building or November 1, 2023 whichever occurs first.
7. A stormwater plan shall be created and implemented to control runoff from the parking and building areas. This plan must be approved by Rice County Environmental Services prior to new construction on this site.
8. All buildings shall meet building code for the intended use.
9. The separate onsite metal finishing business shall not be expanded or changed without first obtaining proper zoning approvals.
10. Onsite signage shall be brought into compliance with County and State regulations before permits for the new building are issued. The site is allowed to have one onsite sign meeting the county zoning requirements.
11. A new deed shall be recorded combining the 13-acres into one parcel before permits for the new building are issued.
12. Failure to comply with conditions may result in revocation of the conditional use permit.

Hearing Minutes:

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

CP - We have the following submitted tonight? Public comment #1 and #2?

TM - Yes.

JH - How can you enforce it if the metal fabrication can't be expanded?
TM - Zoning enforcement is done by a complaint basis.

The PC asked the applicant, Marvin Deutsch (MD), to come forward to add comments or answer questions regarding the request.

MD - You remember what you just saw and heard, the plan is to take some of our equipment and put it inside for winter. Just cleaning up the place as part of our plan. Expanding would not be our main concern, we would just have more storage because our jobs are somewhat slowing down at this point. I don't have anything else, I have read through the conditions.

CP - So the new building is basically cold storage?

MD - Basically storage for trucks and equipment. It's hard for them to be stored outside, sometimes we plow and it gets tough to start the trucks.

CP - And the 12 conditions you are familiar with?

MD - Yes!

JH - I know the onsite signage needs to be brought up to compliance. Are you aware the onsite signage is not up to code?

MD - We bought it in 1988, and the sign that is being talked about has been there since well before we bought it.

JH - I just know with the CUP, this is a requirement and it has to be brought into compliance.

MD - Does that mean move it, or take it down? I think we were just notified that the sign needs to come down because a new powerline will be going through. We had our first meeting with them 2 weeks ago.

JH - That needs to be a discussion with Environmental Services in regards to that.

MD - I think the rules have changed since that was put in place in the mid 70's.

CP - That must be the size allowance then correct, along that right-of-way?

TM - Currently the site has 2 signs, one advertising off site, which isn't an allowed option, this would be considered a billboard and is not allowed. The other sign which is a business sign does have to meet certain size and height and meet certain setbacks. With this proposal, what it would require is the one sign be gone and the other be brought into compliance.

CP - OK.

MD - Who owns the billboard? How would it meet these requirements?

CP - Well I think you will have to have a discussion with TM, but they have an ordinance for advertising, that discussion could be brought up with County staff if the billboard is not allowed on that stretch of highway.

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

Brad Skipper - I'm across the street. A couple of concerns we have are the painting business, that it stays compliant or becomes complaint and how can it be inspected or tested? Can it be checked once a year or once every 5 years? We want to be sure it is not expanding and that it is meeting EPA requirements. Another issue we have is, he is expanding into a residential area, both sides of that have 5 acre lots and he is going to cut one of those 5 acre lots in half and turn that into part of his industrial site. We are just wondering why can't he just take it all to the west side and put it all in there which is, I think, a 90 acre parcel instead of cutting the residential lot in half? I will say though that he has really cleaned up the place, putting the blacktop down did make a big difference and as long as he follows these things and if we can get some oversight on making sure when he isn't compliant to make sure it becomes complaint.

Rosalie Schaefer - *see Public Comment #1*

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

Discussion:

CP - The CUP is for a contractors' office which expands the storage of the contractors' office. The metal fabrication and painting are not part of this. The only way we can control that is through complaints correct?

TM - The current metal finishing business is permitted under an old permit, so as long as it operates under that old permit, County Zoning wouldn't have an effect on that. What is proposed right now is an expansion of the construction business there, it appears to not have been permitted in the past, and would be at this point.

CP - To put it in perspective. The metal and painting is not under our control?

JH - So if that CUP didn't go through, that would still stand because that is under a different approval in the 70's.

GJ - As I'm looking through it for what we are doing with this permit is just, as a general overview, we are allowing him to clean up the site. To allow a lot of the outside equipment to be placed inside and not making changes to the grandfathered-in metal or painting.

JH - There are 12 conditions with this CUP and a concern was the signage, and it is required that has to be compliant with code as it is today and, as well as the other conditions that must be followed and if it is not and there is a complaint to the County, that has to be addressed.

MS - The signs need to be dealt with before a building permit is issued. Reference condition #5.

CP - I see your concerns about metal fabricating and painting, but this before us is for the construction business and an office. If there are other complaints regarding MPCA, that should be brought at a different level.

TM - I think it was mentioned that the MN Pollution Control Agency (MPCA) is the proper unit to regulate any emissions from the site, and also any noise. They would be the appropriate ones to respond to any concerns with those and to check on permitting. I know other painting facilities have to deal with permitting and those are permitted with the State. Two other things I made comment on. There were concerns with Leroy Ave access, I believe there is no access proposed to the business site off of Leroy at this point, that's coming directly off of the existing driveway off of Hwy 19 for the existing proposal. Some comments relating to the 5 acre site, currently the 5 acre site is not buildable for anything and they are not proposing to build on that site other than the septic. It is just septic going on the current location.

JH - The proposed expansion is directly south of the existing building still on that 5 acres.

CP - Farther away from the road.

JH - Yes.

CP - I think if there aren't any other questions or concerns. Just so we separate that, I know the painting is a concern.

JH - Just to reiterate as well, the 12 conditions, if this gets approved, do need to be followed.

CP - If he doesn't comply with the conditions, that's where we will revoke the CUP. With that he is trying to clean it up, more storage to get it out of the yard.

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

III. Adjournment

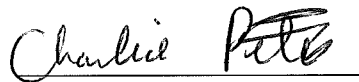
Hearing no other items before the PC, a motion was made by Hogan, second by Johnson, to adjourn the meeting at 8:02 pm. Motion carried 5-0.

Respectfully Submitted

Planning Commission



**Cassy Klumb
Office Support Specialist**



Charlie Peters, Chair

