

WRIGHT COUNTY PLANNING COMMISSION

Meeting of: February 28, 2019

MINUTES - (Informational)

The Wright County Planning Commission met February 28, 2019 in the County Commissioners Board Room at the Wright County Government Center, Buffalo, Minnesota. Chairman, Dan Mol, called the meeting to order at 7:30 p.m. with all Board members present. Sean Riley, Zoning Administrator, was present to represent the Planning & Zoning Office; Greg Kryzer, Assistant County Attorney, was legal counsel was present.

MINUTES

On a motion by Bravinder, seconded by Borrell, the minutes for the February 7, 2019 meeting were approved as printed. Felger abstained, noting he was not present at that meeting.

1. JONATHAN P. BIGALK – New Item

LOCATION: 7864 145TH Street NW – Part of the W ½ of the NW ¼ of Section 23, Township 122, Range 27, Wright County, MN. (Clearwater Twp.) Tax #204-100-232300

Petitions for a Conditional Use Permit to allow a two-lot unplatted-residential subdivision (existing dwelling and buildings on one lot) as regulated in Section and Sections 155.028, 155.029 & 155.047 of Chapter 155, Land Usage & Zoning of the Wright County Code of Ordinances. Property was rezoned A/R Agricultural-Residential in 2004.

Present: Jonathan Bigalk

- A. Riley reviewed the property that was rezoned A/R in 2004 and later issued a Commercial Outdoor Recreation permit in 2012. Property is 20 acres and proposal now is to split it into two ten-acre lots. The applicant has provided the survey and soil borings. The Commission has to determine if the property is reduced in half, although the building and house is staying on one lot, if that is substantial enough to void the existing Conditional Use Permit (CUP). If the new owner wishes to use that permit, he would have to reapply.
- B. Bigalk stated they have owned the property since 2005 and have a purchase offer on the ten acres with the buildings. A closing is scheduled a week from tomorrow. Their understanding is the new owners have no intention of using the CUP issued to the property in 2012 for outdoor recreation. Mol -asked then, that would not kill the sale if voided? Bigalk confirmed that. Riley – stated the building was not finished to the extent that was originally planned, or at least we don't have record of any improvements. At the time of the CUP there was obviously only one house on the property and now there is a potential for a new house now and a new owner could have concerns if events would start on the parcel. If the CUP is voided, it could be reapplied for later. Kryzer the property owner would have to sign a nullification of the CUP because a condition by this Board does not nullify it. Borrell noted the Commission would not have to nullify it. Discussion on whether a new owner would be aware of the CUP, especially if it did not start up again for a few years. Bigalk noted the CUP is reviewed at the Town Board annually, he has seen these matters as a member of the Town Board the last two years. He plans to keep the other 10 acres. Borrell asked if the applicant has a preference one way or another? Bigalk

- the buyers are not looking for the CUP. Mol – there are three new lots and owners since they got the CUP and noted it might be harder to get it later.
- C. J. Thompson – felt it is more logical for it to go away, they could reapply if they need it.
- D. Mol asked for public comment. No one responded and he returned to the Commission.
- E. Felger asked what is the mechanism if they do as commissioner J. Thompson suggests. Mol – noted a new application would have to be made for the CUP. He noted a new rezoning across the road where there are three new lots/homes. Borrell noted they do not have to revoke it. Riley – that is right, but there is a document the applicant can sign to waive this as part of the current request. Mol –the CUP was issued on 20 acres and now if they agree to split it down to ten, the Board would be saying they don't want to leave that permit on a 10-acre parcel. Mol asked Bigalk what he would prefer. Bigalk stated he does not want the scheduled closing held up. The CUP is not part of the sale and he is willing to sign it off. The neighbors to the east have attended the review hearings at the Town Board when the use was reviewed and had no objections. Borrell – he would support leaving it if the owner wants that. Bigalk – leaving the use does not hurt anything; but would not benefit anything either. J. Thompson – there have been changes to the area since they were given the CUP. The new owners have the right to come back. She noted there have been restrictions recently that do not allow the transfer of a CUP. She felt in this case the property is being split; it would make sense to start new with a new owner.
- F. Bravinder – felt it should be up to the applicant. There have been no issues with it. Mol asked the applicant if he would prefer to have the use transfer with the property or not. If the new owners would not use it for a number of years; it might be best to start with a clean slate. He noted they don't know how the area will develop. Bigalk stated he would agree to nullify. The hearing process is not that difficult and the new owners could do the same. Felger – asked what if the sale does not go through with this buyer. Kryzer – stated the County can hold off on recording the document until his closing next Friday.
- G. J. Thompson moved to approve a conditional use permit for a two lot un-platted subdivision in accord with the survey completed by Webb Surveying LLC, dated 2/1/2019; Project No. 19002, with the following conditions: 1) Wright County Soil & Water Conservation District and wetland regulations must be met prior to the issuance of any building permits; 2) The mobile home is removed prior to the sale of the east lot with the existing home; 3) Access permits will need to be obtained, if required, from the Township before construction on the new lot; and 4) The existing Conditional Use Permit for Commercial Outdoor Recreation will be revoked by the owner. Felger seconded the motion.

DISCUSSION: Bravinder asked if the Commission is saying he has lost the CUP? Kryzer – explained only if the applicant signs the document. The Commission would have to go through a formal revocation hearing to do it.

VOTE: CARRIED UNANIMOUSLY

2. **JOHN HOLTHAUS & DONOVAN LIND** – New Item

LOCATION: Corner of 55th Street NE & State Highway 25 – Part of W ½ of SW ¼ of Section 4; and Part of SE ¼ of Section 5, lying east of State Hwy. 25. Also, South 5 rods of the W ½ of the NW ¼ lying east of State Hwy. 25 and South 5 rods of the West 310 feet of the E 1/2 of the NW 1/4, Section 4, all in Township 120, Range 25, Wright County, Minnesota. (Buffalo Twp.) Tax #202-000-043200 & -042301
Property owners: Holthaus Limited Partnership & Lind

Petitions to rezone approximately 33 acres from AG General Agricultural to A/R Agricultural-Residential and a Conditional Use Permit for a three-lot unplatted residential subdivision (10 + acre lots proposed) as regulated in Section 155.027, 155.028 & 155.047 Chapter 155 Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: John Holthaus and Mike Holthaus

- A. Riley presented maps to show the property location, zoning is currently AG General Agricultural; land use plan designation is a combination of Rural Residential and Commercial. Proposed is rezoning of the north 33 acres to A/R Agricultural-Residential and if approved; a three-lot subdivision. Riley explained the Staff Report addresses the aggregate resources and map that shows this is an area of sand and gravel. A Land Use Plan goal is to preserve those resources and at one time, it was discussed setting up a district for preserving them. In this case, there is a conflict because the Plan dating back decades designates the area for large lot residential. This area is primarily Agriculture, there is not a way to piece it back together such as residential development and then mining can happen someday later.
- B. Felger asked if the LUP designates this for A/R then where does the gravel part come in. Riley that policy is from the Land Use Plan. The resource was determined. The last round of Land Use Plan discussions was how to protect the resources so development does not happen over it and then you cannot get at the resource. Felger asked if the colored area of the Plan is A/R? Riley – that is A/R, some is commercial and some area has already developed residential. He reminded the Commission there was a request for commercial for mini-storage nearby that was not approved because it was not in the Plan and lack of development around it. There is a conflict in the Plan and policies and it is probably difficult to protect the resource unless a mining company gets it first. J. Holthaus the last amendment to the Plan did not include this property for the Aggregate Resource Area. Riley – agreed most were passed up, but it is still in the Plan to protect aggregate. He reviewed the Plan is for Residential, is surrounded by residential, yet there are policies to protect the resource. Felger how do you protect property from development by indicating that there might be gravel below. Asked if that is not a regulatory taking without compensation. Riley it can be done by Ordinance, in this case it is a Land Use Plan goal. They have seen things that are in the Plan that should not be and vice-versa. If it was in the Plan and was prime-farmland they may have a difficult time finding it is suitable. Felger – this area is guided for A/R and the property to the north is zoned residential. Riley – resource is close to highway and other pits were noted along there. Some have pointed out all the residential development in the 1970's over a resource and what were people thinking. Felger – noted the objection from residents near the mine when they had hearings

on the pit near Al-Gen Acres (Buffalo Twp.). He questioned how these residents would react to another mining permit. Riley – residents might prefer homes, that is not how they decide the matter. They could have a mining request come in. Felger – felt the gravel is not a consideration because the Plan has this designated A/R. If the government wants it then the owners should be paid for it. If the property owners chose a gravel mining operation, then they can come in for that permit. He would support the Plan.

- C. Mol asked if the applicants have input. J. Holthaus – when the Plan was revised for the NE Quadrant, he recalled at that time there were several areas designated for aggregate resource. Riley it was discussed but not adopted for this area. People were resistant to that because they did not want to give up any rights to develop. Mol – it was established in another part of the County. The Plan encourages it is done in sequence, get the gravel and then develop. He agrees there is a conflict with what is on the map and what is in all the policies. J. Holthaus – the property has been for sale for a long time and also tried to market the resource. Had a contract with a Company and they had soil tests done and decided to back away. M. Holthaus added that other people have had it tested and the results were not good, too much shale. Riley – a neighbor to the east was going to mine but it did not take place. Agreed if it is not a certain resource they won't pay top dollar. Office have had calls and inquiries, agreed it is possible the quality, quantity of it is not there. J. Holthaus – since it is the Plan for A/R that is the direction they decided to pursue.
- D. Richard Brown – owner on 50th Street – he lives east to where they were intending to mine 10 years ago. What is the possibility they could mine on the rest of this property or the land next to him? At that time the mining request was denied. Riley it would not change anything other than there would be more residents probably attending those meetings. This would not take away the rights of neighboring property that is undeveloped and right to try to mine the resource. Brown they could go through the same mining process again? Riley-it is possible.
- E. Mahlberg – questioned the parcel west of State Highway 25 that is not part of the rezoning. J. Holthaus –explained the history of the location of the State Highway when it was rerouted to the east side of the Stevens residence. This was attached to the other parcel because it was part of the same section. The parcel is 1.53 acres and they plan to hang on to that and may sell it to the neighbor to the west.
- F. Borrell – the highway may want to purchase that at some point. This is one request where people don't want more neighbors, but don't want the mining. Riley – have not heard the neighbors don't want homes.
- G. Bravinder -felt if this was good aggregate they would be here mining it. Riley – we don't know the resource is worthless. Bravinder – he would agree with Felger that because it is in the Plan for A/R it is suited. Noted another request that was in the A/R in the Marysville Land Use Plan, was prime farmland and although a split vote, was rezoned. Felger – noted the applicant has testified the borings show it is not good quality.
- H. J. Holthaus – explained Don Lind is a co-applicant because he owns a remnant parcel 10-12' wide that is between their parcel and 55th Street. They have an agreement to purchase that and it will need to be rezoned also. Legals would be rewritten to incorporate that strip into the rezoning and proposed three lots. Riley – agreed it would have to be included in

the subdivision stage. Riley suggested the parcel west of the highway could be addressed through the subdivision stage. If it is going to be sold that would be best.

- I. D. Thompson moved to recommend the rezoning of the north 33 acres of the property to the County Board of Commissioners from AG General Agricultural to A/R Agricultural-Residential because the Board feels it meets the criteria laid out in the Land Use Plan and the Town Board approves. Mahlberg seconded the motion.

VOTE: CARRIED UNANIMOUSLY

- J. Borrell moved to continue the hearing to March 28, 2019 on the subdivision portion of the request to allow time for the applicant to finalize survey work and obtain other required information for subdivision approval and for the County Board to act on the rezoning. Bravinder seconded the motion.

VOTE: CARRIED UNANIMOUSLY

3. **ANNANDALE ROCK PRODUCTS, INC.** – New Item

LOCATION: S 1/2 of SE 1/4; Part of S 1/2 of SW 1/4, Section 21; Part of the SW 1/4 & W 1/2 of SE 1/4, all in Township 121, Range 28, Wright County, Minnesota. Tax #217-000-214400 & 217-000-214401; 217-000-213300, 217-000-223300 & 217-000-223400 OWNER: Gravco Land LLC

Petitions for a Conditional Use Permit to extend permit issued in 2008 for another 10 years as regulated in Section 155.029 & 155.100 Chapter 155, of Title XV Land Usage of the Wright County Code of Ordinances to continue gravel mining to provide materials needed for the manufacturing of concrete, asphalt and other final products.

Present: Tim Ferrell

- A. Riley reviewed the location of the property north of Lake Sylvia. The property is currently zoned AG General Agricultural and he noted it is one of the areas designated Aggregate Resource in the Land Use Plan. The permit issued ten years earlier was reviewed and the operations plans were displayed. A conveyor belt takes the material from the pit for processing on another part of the property. Riley did not think from looking at the mining in 2008, the current conditions are close to depth or area that was going to be mined. An area along 80th Street that they had intended to have a park/nature area as a buffer did not play out. Meeting with the Township who indicated it would be acceptable for them to use a standard berm, etc. That has not happened either and suggested they discuss what reasonable things can be done and a potential berm and trees should be done. The County Road standards discussed were not needed because progression has not reached that far. The request is to continue the mining project.
- B. Ferrell explained the nearest neighbor in Northridge along 80th Street was the one who approached this Board to see if a large bank that was creating snow drift problems could be removed down to road level. That neighbor had hired a landscape designer to draw up a plan. A berm did not do him any good because his house sits higher than the berm. They did take down that hill, however, that neighbor moved and were not sure what to do now. He concurred there was a snow issue before and the Town Board might have a suggestion as to what they want now. They are open to any suggestions and whether they want trees. Borrell felt planting trees will create another snow problem. Mol – suggested he work with the Town Board and agreed it might create another snow issue with a berm built or trees.
- C. J. Thompson – would encourage the applicant to work with the Town Board. The people in the area would like to see the area beautified and felt residents in the Sylvia area would like to work with the Company. This is an excellent opportunity to get with the residents to put together a plan and allow the Company to do its business. The request is to continue mining and it is her suggestion to ask that a condition be added that he work with the community and come back with a plan.
- D. Stephanie Lind - 15867 80th Street – year-around residents – pointed out her home location south of the pit. She explained they were not aware of the amount of noise when they purchased their home a few years ago because the open house was on a weekend when operations are shut down. Living here they experience constant noise and whether it is berms or something else they would like some buffers. She questioned how much work will be done in ten years and how far will it go down. Dave Lind – asked how close to

them. Riley – displayed the 2008 mining plan and explained what the screening barrier looks like.

- E. S. Lind – noted there is no berm along 80th. Riley – a berm blocks people from seeing the pit but will not block noise. He reviewed where operations are in relation to CR 2. Borrell explained the mining is not close to these neighbors and the trees shown on the plan would not be taken out. Riley – explained the future mining plans and noted if not completed, the Company could be back. The trees pointed out will not be mined, but he cannot say the owner would not remove them. Mol – because they do not know the demand they cannot estimate a time frame. If the Company gets a big job it could go fast. Lind questioned end use. Mol – it will get reclaimed and could be developed. J. Thompson – stated Southside Township is full of holes old mining pits that were never filled in. There is nothing on the books to prevent this Company from keeping the hole open. The gravel is a resource needed, but the best they can do is try to work with these gravel companies to resolve these problems. This is a beautiful part of the County and feels as good neighbors it is a problem they can solve. There is a large gravel resource in this area. The Town Board has worked with the applicant on the traffic and road issues, but suggested they keep working with the Town Board.
- F. D. Lind – did not feel the Township will be able to do anything, although they send their recommendation. The permit extension is a request to this Board. They are asking to keep the noise down, they live on a beautiful lake. Mol – there have been a major effort to keep noise down, however, they have taken on a large expense and put in a conveyor to move the material down two forty acres to another road, putting the trucks down at that end. S. Lind –her motive was not to shut it down but how long can they expect and how they can address noise. D. Lind – he explained unless the Commission members lived out here they cannot understand; there is digging, backup beepers to load the conveyor and it is very noisy. Mol – those issues are not new and the members have been out to many pits and know the noise. S. Lind – they are new owners and they are trying to retire here and they are willing to work with the applicant. D. Lind – thought the tree line that the one neighbor suggested would help. Mol – that is something to work with the Town Board. He goes by the property all the time and sees the effort the applicant has made to maintain trees. S. Lind – they are looking forward to working with the applicant and Town Board.
- G. Borrell asked if the operator can turn off the backup beepers. Ferrell this is a Federal regulation and they have asked, however, there is a huge fine if they do not use them. Borrell recalled an instance they were not used. Riley noted that was a night operation. Borrell – in this situation there is not anyone around.
- H. J. Thompson suggested they make a site inspection. Ferrell – stated they have the same concerns as a family, his brother lives on the road and his family have a place on the peninsula at the end of Northridge. He explained the EAW they went through ten years ago, there were many meetings that included meetings with neighbors. They made a lot of accommodations for noise at that time. Operations are very limited, are located way in the back, all the traffic comes out way to the east. Previous meetings were standing room only at that time and he felt the lack of attendance tonight shows their efforts have been successful. Mol would agree with that. He asked if they should include in condition 1) he work with the Town Board on a plan. Riley agreed as he cannot design it. J. Thompson – would suggest they make a site inspection and recommend to the Town Board that just

extending it ten years would not serve the community, but encourage they work with the applicant to develop a landscape plan. Riley that is up to the Commission to decide. Ten years ago, they tried to do that. He felt the Township is concerned about the road maintenance. A berm with trees they can be required but that won't address noise. Mol – he is not suggesting a condition, but asking the applicant to be a good neighbor and meet with them. He has watched operation for ten years and has been satisfied. J. Thompson – would disagree, she lives in the Township and feels the Ordinance is weak; although she understands they only vote on the Ordinance. The applicant has indicated a willingness to work with everyone. Ferrell – he stands by that, but committees and meetings get long and drawn out and they are trying to run a business. He would rather pick a berm with some flexibility to keep things moving and operating after the snow melts.

- I. Bravinder moved to approve the request for a time extension according to the original approved plans with the following conditions: 1) All requirements of the original Conditional Use P must be met, 3) All mining and reclamation shall be completed by March 1, 2029 unless the permit has been properly amended by Wright County. D. Thompson seconded the motion.

DISCUSSION: Mahlberg questioned if the conditions on the original motion for the conditional use permit required screening or alternate screening? Riley the alternate was not put in the motion, it was property owner specific and the standard is to work with the Township and try to work it out. West of Pittman there is about 30% done and over that ten years no one has complained because the noise exists. Bravinder – felt the conditions should be worked out with the Town Board and not residents and is the reason he did not include condition 1). Suggested they give the applicant a chance. J. Thompson would agree they all need to work together, however, they do not know the details of the berm. Thompson stated she would like to amend the motion and asked for language. Riley – read from the Ordinance the relevant language that addresses screening and berms.

Mol called for action on the motion, noting if enough members would like to see the berm the motion will reflect that.

VOTE: CARRIED, J. Thompson voted nay

4. **MID-MINNESOTA HOT MIX INC.** – New Item

LOCATION: 8779 Oliver Avenue NW –Part of the NE ¼ that lies north of the railroad and except tract..., Section 22, Township 121, Range 28, Wright County, Minnesota. (Southside Twp.) Tax #217-000-221100 Property owner: LAMCO Land LLC

Petitions for a Conditional Use Permit as regulated in Section 155.029 & 155.100 Chapter 155, of Title XV Land Usage of the Wright County Code of Ordinances to locate a hot-mix plant in the existing pit with related stockpiling and recycling of materials for a period of three years. Temporary permit issued through the 2018 season has expired.

Present: Tim Ferrell

- A. Plans to show the property on State Highway 55 were displayed. Riley noted the land is zoned AG and in the Aggregate Resource Area of the Land Use Plan. The hot-mix plant has expired and request is to continue it for a three-year period.
- B. Ferrell reviewed the hours they have operated the last three years were 68 days and the hour meter on the plant shows they operated on a 3-hour average. The Company does small projects such as parking lots or town roads. Some days were very short.
- C. Borrell asked what hours the Company was looking for. Ferrell 7 a.m.- 7 p.m. and Saturdays, however, the last three years he did not recall operating on a Saturday. The reason they ask for them is in the event of a rainy spell.
- D. Mol noted there is no one in attendance in the audience for this item.
- E. Borrell moved to approve the placement of a temporary bituminous plant for the 2019-2021 seasons, only; and in accord with the plans submitted and the description provided by the applicant on the record. Felger seconded the motion.

DISCUSSION: J. Thompson clarified the permit was just for a bituminous plant and asked if they could not address screening, as there is very little behind. Mahlberg – because it is a conditional use permit they could propose conditions consistent with the Ordinance to prevent issues. Mol – concurred the permit before them is the plant. Ferrell explained this permit that is the plant down below the hill. J. Thompson she noted when they issued the permit along highway 55 they had some screening, but the piles of material and holes are behind Maalco. She would like to see some screening behind there. Is it appropriate to add conditions at this time. Mol – likes the ability to see what is going on and monitor what they are doing. J. Thompson – the purpose of screening is trying to make it more attractive.

- J. Thompson moved for an amendment to the motion to require screening running from East to West from CR 3 to Highway 55 to shield the view and cut down on some of the odor. Mahlberg seconded the motion for discussion.

DISCUSSION: Mahlberg understands the scenic beauty concern and supports that there should be screening to reduce impacts and improve aesthetics. But would not support it in this case because on two applications that have potential to cause some noise, they only had one couple present that had concerns and suggests it is not wide spread and in this one does not see the

need for the suggested condition to protect the health, safety and welfare of residents. There is not enough in the record to determine the need. Agrees there are spots where that condition is important, but not on this one. Felger clarified if it is north of Maalco? J. Thompson – no, clarified if they were at the stop sign and heading north. The road runs at an angle and behind (north) Maalco. Felger asked if Maalco is zoned Industrial? Riley responded yes.

VOTE ON AMENDMENT TO MOTION: J. Thompson in favor

OPPOSED: Borrell, Mahlberg, Felger, D. Thompson, Mol & Bravinder

MOTION FAILED

VOTE: CARRIED, J. Thompson opposed

Meeting adjourned at 9:15 p.m.

Respectfully,

Sean Riley
Planning & Zoning Administrator

SR:tp

cc: Planning Commission
County Board of Commissioners
Kryzer
Twp. Clerks
Applicants/owners