

**Minutes of the Dodge County
PLANNING COMMISSION MEETING
December 4, 2013**

The regular meeting of the Planning Commission was called to order by Richard Wolf at 1:00 PM on Wednesday, December 4, 2013. Present were Planning Commission members Harlan Buck, Richard Wolf, Jon Balzum, Galen Johnson, Walter Wyttenbach, Gene Hallaway, and Darren Durst. Also present were County Commissioner Dave Erickson, Steve Gray and John Allen, County Attorney, Paul Kiltinen, County Administrator, Jim Elmquist, Environmental Services Director, Mark Gamm, and Zoning Administrator, Melissa DeVetter.

Motion by Harlan Buck, seconded by Jon Balzum, to approve the agenda and the September 4, 2013 minutes. Motion passed unanimously.

Donna Knobel – IUP#13-08

The first public hearing is to consider an application for an Interim Use Permit to allow a Limited Rural Business in the Agricultural District. The property is 80 acres located in the E ½ of the SE 1/4 of Section 6, Milton Township. Donna Knobel is the applicant and Richard and Donna Knobel are the property owners.

Donna Knobel was present to explain her proposal. The plan is to open up a petting farm for educational purposes. It seems that small farms are a thing of the past and this will give children an opportunity to learn about animals and where their food comes from.

Tom Pyfferoen, Milton Township supervisor, stated that Ms. Knobel did come to their November meeting. They did discuss the business plan. There were some concerns that if a motor home was brought onto the property if the size of the parking lot would be adequate. Ms. Knobel assured them that it would be. They did discuss rotating out the animals after a number of years. They also discussed that there will not be any swine on site because of the proximity of the large swine operation across the road. Milton Township has no objection to this proposal.

Motion by Galen Johnson, seconded by Harlan Buck, to close the public hearing. Motion passed unanimously.

Melissa DeVetter stated that the comments that the Township made were the same as what was addressed in the Findings of Fact. The only thing that needs to be identified is a place for over flow parking if they have large events. The current space is rather small for that. Ms. Knobel will have to have the proper license from the USDA plant and health inspection. The other issue that will have to be addressed is the number of employees. The current amount that a Limited Rural Business is allowed to have is 4 and Ms. Knobel has indicated that there will be 4 to 6 employees.

Galen Johnson inquired if Ms. Knobel knows how many parking spots she had.

Donna Knobel stated that after the Township meeting she did measure the parking area. The area will have 26 parking spots for cars and if they need additional parking they can increase the lot by adding land from the grove to the north. The proposed area is 19,000 square feet with an additional 19,000 if they need it. The driveway is already widened so buses could turn around if they need to.

Richard Wolf inquired if the hog setup was right across the road.

Donna Knobel indicated yes.

Galen Johnson stated that the business plan was well done.

Motion by Jon Balzum, seconded by Walter Wytenbach, to recommend approval of the Findings of Facts and Recommendations of the agenda report with the following conditions:

1. Operation will comply with all local, state, and federal regulation regarding the proposed use of the property. The business shall obtain all necessary licenses, registrations and/or other approvals for activities taking place at the site.
2. Every animal located on site shall be current on all vaccinations.
3. The site shall maintain registration as a feedlot and shall meet the requirements of Minnesota Rules Chapter 7020, when applicable.
4. The permittee shall be licensed and be in compliance with any approval granted under the Minnesota Department of Agriculture's Animal and Plant Health Inspection Services (APHIS), or provide proof that they are exempt from such requirements.
5. All waste generated on site shall be properly disposed of in accordance with the Dodge County Solid Waste Ordinance and MPCA rules.
6. The sign shall meet the performance standards of the Dodge County Zoning Ordinance. A sign advertising the Limited Rural Business shall not exceed nine (9) square feet and shall be set back a minimum of ten (10) feet from the county road right-of-way.
7. Hand sanitation facilities shall be provided on site.
8. Any change involving the addition of new business related structures or employees beyond that specified in the home occupation agreement/application on file with the IUP, enlargement, intensification of the use or similar changes not specifically permitted by the IUP shall require an amended IUP to be issued.
9. The business shall comply with the conditions of this permit, Chapter 16 (performance standards for home occupations) and the Home Occupation/Limited Rural Business Agreement, which shall be recorded with the IUP.

10. The business shall comply with the Nuisance Standards of the Dodge County Zoning Ordinance. Nuisance complaints shall result in review of the IUP by the Planning Commission.
11. Hours and days of operation shall be as indicated by the applicant in the Findings of Fact and business plan on file in the ES Department.

Motion passed unanimously

H4 Enterprises LLC/Chris Hallstrom – ZA#13-01

The second public hearing is to consider a Zoning Amendment to allow a property that is currently zoned Agricultural to be rezoned to Commercial. The proposal is to split approximately 12.6 acres from the 23.41 acre parcel located in the SE 1/4 of the SE 1/4 of the NE ¼ of Section 35, Mantorville Township. H4 Enterprises LLC / Chris Hallstrom is the applicant and the property owner.

Chris Hallstrom was present to explain his request. The H4 Enterprises is owned by himself and his wife. A little over a year ago they purchased the Moorman Feed warehouse property and have spent that time to develop a suitable tenant that would be a positive impact to the community. Mr. Hallstrom lives one mile to the west and considers himself as a neighbor as well as the owner. In July, they signed a lease with Creative Modular Concepts company that builds modular housing units for the oil well people in North Dakota. They started the site work in July and in August he was contacted by the Melissa DeVetter, County Zoning Administrator. He was informed that this type of business was not allowed in the Ag District. They have had many conversations and questions on how to proceed. It started with the misunderstanding about the zoning classification of the property. It is and has been taxed as industrial and he believed that the use and the zoning were then Industrial. It has been recognized as a business property for 40 years. He has talked to a few of the board members and the township to find the best way to solve this issue. Mr. Hallstrom stated it's not a problem that he created intentionally.

Andy Buckwalter, Mantorville Township has no objection to this proposal. However, if the rezoning is granted they would like to request that when the CUP is issue they could put conditions on it.

Richard Nelson, father-in-law, stated that he is in favor of the rezoning. He lives one mile west of this property.

Carol Malecha, who owns the commercial property ½ mile to the west, stated she is also in favor of the rezoning.

Motion by Walter Wyttenbach, seconded by Darren Durst, to close the public hearing. Motion passed unanimously.

Melissa DeVetter stated that these finding will be different than what you will normally see. There are certain criteria that the zoning ordinance has that have to be addressed for CUP and IUP however, for rezoning there is not. There are only a

couple of things that pertain to rezoning in the zoning ordinance under amendments. The amendment can be adopted if the rezoning is consistent with the comprehensive plan and a review the comprehensive plan which was done in 1993 with an update in 2001. You, the Planning Commission will have to analyze the facts. As you discuss and weigh these facts you will need to make a decision whether the facts or the reasons support the rezoning or denying it.

Richard Wolf inquired if the current zoning was agricultural.

Melissa DeVetter stated yes. Moormans would have been an Ag Related business. Until the 1995 ordinance there were no other type of zoning besides the four districts; Agricultural, Shoreland, Airport and Floodplain. In the 1993 Comp Plan it identified areas that needed to be developed for Industrial, Commercial and Rural Residential zones. Additional areas were identified around the cities as Urban Expansion District. The request is not consistent with the Comprehensive Plan that was done in 1993 or the updated one in 2001; the maps show that this area is planned for residential.

Richard Wolf inquired that Mr. Hallstrom stated that it is being taxed as industrial.

Chris Hallstrom stated that about 8 ½ acres, which is the building, is being tax as industrial the rest is Ag tillable.

Melissa DeVetter stated that this is common because the taxation statute that the assessor goes off of is an entirely different statute than zoning has. There are several properties that are taxed either commercial or industrial even though they are Ag uses. They are only classified that way for taxing purposes.

Chris Hallstrom stated that in 1968 there was no industrial zone and a Special Use Permit was issued to change the use of the land from Ag to Industrial. There were only two zones an "A" District and a "B" District until 1995 when it was changed.

Melissa DeVetter stated that there was and "A" and "B" District. The A District was a handful of uses that were considered agricultural in nature and everything else was in a B District which was processed under a Special Use Permit. A Special Use Permit is similar to the Conditional Use Permit that we use now.

Richard Wolf inquired if it had to be rezoned, couldn't it go with a Conditional Use Permit.

Melissa DeVetter stated no; the use that is there now is considered as manufacturing which is allowed as a permitted use in the Industrial District. It is not even allowed in the Commercial District. If it is rezoned, then at that time it will have to be determined by the County Board if this use would actually be allowed in the Commercial District.

Galen Johnson inquired if they were being asked today to rezone this to Commercial. Then if so, then is the business allowed to operator or does the business have to come back to the board after it is rezoned to Commercial.

Melissa DeVetter stated that there is a "catch-all" phrase under the Conditional Uses section in the Commercial District that states "the business has the same general character", which means a decision will have to be made that the manufacture of modular homes is similar to other businesses. If so, the applicant will then have to apply for a Conditional Use Permit.

Galen Johnson stated that they are not being asked yes or no on whether the business should be allow to operator, but they are being asked yes or no on whether this property should be rezoned to Commercial.

Melissa DeVetter stated that is correct.

Chris Hallstrom stated that he had to decide whether to apply for a text amendment to the Ag District or rezoning to Industrial or Commercial. He could have applied for Industrial which would allow the business as a permitted use, but he felt that Commercial seem to be a better fit for the surrounding area. He also purposely split the parcel to create a barrier of green space in respect to the neighbor to the east.

Richard Wolf inquired what the difference was between Industrial and Commercial.

Melissa DeVetter stated that Chapter 12 of the Zoning Ordinance which is included in the packet (exhibit 8) states the use. Chapter 13 was not included because it was not proposed, but other uses in the Industrial District would be junk yards, strip clubs, manufacturing and processing plants.

Richard Wolf stated that Industrial is a heavier uses.

Melissa DeVetter stated yes, that Commercial could have gas stations, convenience store, retail shops, off-sales, lumber yard.

Galen Johnson stated that a text amendment would create larger implication that could open the county up for a new industry that was not intended in the Ag District.

Melissa DeVetter stated yes it could.

Galen Johnson stated that he originally thought that if a CUP was issued first it would give them time to consider rezoning this parcel, but now understands that this would not be an option. If this is rezoned to Commercial and the business proposal comes forward for a CUP, would it be listed on the application as Commercial District?

Melissa DeVetter stated yes.

Galen Johnson stated than at that time conditions could be put on the CUP.

Melissa DeVetter stated yes.

Darren Durst inquired to Mr. Hallstrom that if the zoning was change to Commercial and down the road he and his tenant had a falling out what then would your plans be for the building. You are not using the building yourself, correct?

Chris Hallstrom stated that is correct. Creative Modular Concept is the tenant and the owner is Dale Jech from Elgin. This is a boom type business for the oil fields in North Dakota. The projection is that the boom could last anywhere from 5-25 years. Mr. Hallstrom stated that he is not out to develop a large installation he is just trying to keep his tenant and will deal with it when it happens.

Galen Johnson stated that there is a Commercial District one mile to the west. Is there any implication that it would lead itself to an obligation to the county to rezone adjacent parcel as Commercial.

Melissa DeVetter stated that it would take away any kind of argument about spot zoning. Spot zoning is a change in a small parcel of property and the correspondences to that is there would have to be a negative impact to the property in question or the neighboring properties. It would no longer meet this criteria so there would be a less of a challenge for the spot zoning.

Galen Johnson stated that there would be less of a barrier to it and it does not create an obligation on the county to do additional properties as Commercial.

Melissa DeVetter stated no we do not have specific criteria for rezoning like some counties and cities do. Unless our criteria changes we will analyze the same things that we are analyzing right now.

Walter Wyttenbach stated that he kept reading the two pages for supporting or denying and with the issue of spot zoning he understands that, but had a concern with the City of Kasson and the township not supporting this.

Galen Johnson wanted to clarify what Mr. Wyttenbach just stated that he believed that the township was in support of the rezoning.

Andy Buckwalter indicated that was correct. They do support it.

Walter Wyttenbach apologized that he heard it incorrectly.

Chris Hallstrom stated that at the township meeting on Monday there was a citizen who is on the Planning Board and this comment was not from the City of Kasson Planning board and that it was not discussed. Mr. Hallstrom did meet with Mr. Martin and his standard are for the City of Kasson. This area is not platted on the land use map and nothing is platted passed 260th Ave.

Galen Johnson stated he was interested on what the outcome of the township meeting and that nothing was included in their packet. He felt that it was a very important piece of information for them to know.

Walter Wytttenbach stated that it's apparent that Mr. Hallstrom has the community support. There are no written statements from the neighbors on this issue. Is that correct?

Melissa DeVetter indicated that is correct.

Galen Johnson wanted to clarify that the Planning Commission is only looking at rezoning the property and not making a decision on whether this business should operator there.

Melissa DeVetter stated that is correct.

Motion by Galen Johnson, seconded by Walter Wytttenbach, to recommend approval of rezoning approximately 12.6 acres of the property after hearing testimony at the hearing and recognizing all of the staff findings, including both facts supporting approval and facts supporting denial of the rezoning request, which are included below:

FINDINGS SUPPORTING APPROVAL OF THE REZONING OF THE PROPERTY

1. Updating of the Dodge County Comprehensive Development Plan is overdue. With the census performed in 2010, and the length of time since the last update, there could be changes in policy or growth patterns which may support a Commercial Zone in the area the applicant is proposing.
2. There are two other properties that are zoned as "Commercial" within one mile of the applicant's property. These sites contain storage lockers and the billboards adjacent to U.S. Hwy 14.
3. The Highway Engineer and MnDOT have indicated that the rezoning from Agricultural to Commercial is not anticipated to cause impacts to public roads if traffic is handled appropriately.
4. Based upon information from the Assessor's office, the business currently operating on site is not anticipated to have a detrimental impact on adjacent property values.
5. There have been other sites that have been rezoned to Commercial or Industrial out in the rural portion of the county that do not require existing infrastructure to function.

6. If the existing business is properly managed under a Conditional Use Permit, conditions could potentially be developed to prevent or mitigate impacts from the use.
7. The site has adequate sewage treatment facilities to accommodate the business currently operating on site, provided hours, days and/or employees are not expanded.

FINDINGS SUPPORTING DENIAL OF THE REZONING OF THE PROPERTY

1. The rezoning request is inconsistent with the Dodge County Comprehensive Plan, as updated and amended.
 - A. The 1993 comprehensive plan does not identify this area for future commercial growth.
 - B. The update completed in 2001, which included urban expansion areas for the cities within Dodge County, does not include this area as identified as a future commercial growth area.
 - C. Although a Goal of the Comp Plan is to provide opportunities for commercial, industrial, and residential development, the applicant's property is not located within an area that can be accommodated with urban services at this time. The City of Kasson has also expressed concerns with regards to fire protection due to the distance from the fire station and the presence of raw materials (lumber, paint, other chemicals) on site.
2. The site lacks existing infrastructure. All uses that would be allowed should the property be rezoned to Commercial would not be able to be accommodated without public water or sewer services. There is currently no public water or sewer serving the site and public services are not planned for this area in the near future.
3. The City of Kasson has an Orderly Annexation Agreement with Mantorville Township for this area. This area is not identified for future commercial growth in the City of Kasson's comprehensive plan. The City of Kasson does not support the rezoning request per reasons stated in comments dated 11/13/13, which is included as part of the record.
4. The development in this area in Mantorville Township along County Road 34 is primarily showing a trend towards a Rural Residential development.
5. There is a relatively high density of dwellings located in this area, as opposed to other properties zoned Commercial that have been rezoned out in the rural portion of the county.

6. The adjacent and surrounding area is zoned Rural Residential and Agricultural. Some uses that are allowed within the Commercial Zoning District would not be compatible with the existing surrounding land uses, which are primarily residential and agricultural in nature.
7. The adjacent and surrounding area is zoned Rural Residential and Agricultural. Some of the uses that may be allowed within the Commercial Zoning District may have a detrimental effect on the property values.
8. The adjacent and surrounding area is zoned Rural Residential and Agricultural. Some of the uses that may be allowed within the Commercial Zoning District may affect the enjoyment of the surrounding properties and/or increase nuisance complaints.
9. The applicant has reasonable use of the property under the current Agricultural zoning of the property.

Motion passed unanimously.

Other Business

Stussy Quarry – CUP#04-15 review

James Paulson was present for questions.

Melissa DeVetter stated that James and Thomas Paulson / Stussy Construction are currently operating under CUP #04-15, under conditions of that permit that was last revised in 2006 it states: This conditional use permit is valid for eight years (to December 31, 2013) and may be renewed by board action. The permit may be renewed following staff review and approval by County Board of Commissioners.

For the permit review the 12 conditions were analyzed and were given a compliance or non-compliance.

Melissa DeVetter gave a brief run down on some of the conditions and their status.

Galen Johnson inquired about the berms.

Mark Gamm, Environmental Services Director gave a brief explanation on what the issues were with the berms.

A motion by Harlan Buck, and second by Jon Balzum, to approval to allow the continuance of the existing permitted quarry operation under CUP#04-15 for an additional eight years (to December 31, 2021).

1. All mining activity, including removing soil overburden, soil stockpiles, blasting, rock crushing, and rock stockpiling shall be confined to the property

described in the Reclamation Plan dated November 25, 2005. Secondly, operations will be in accordance with the Permit Application dated June 16th, 2004.

2. The Quarry shall obtain, and update when required, all county, state and federal permits including the Industrial Storm Water Management Permit, and the Groundwater Appropriation Permit.
3. The Quarry shall not increase the height or width of the existing berms on the east and south sides of the quarry, with the exception of grading to control erosion and the placement of topsoil to support vegetation.
4. Berms and stockpiles shall not exceed 25 feet in height and shall have slopes no greater than 34% (3:1) unless slopes are terraced or other approved methods are used to assure stable slopes that can be maintained for erosion control and weed control.
5. By September 10, 2006, all finished slopes on berms and stockpiles shall be covered with topsoil and seed in accordance to the specifications defined in the permit application.
6. By September 10, 2006, the height of the berm in the Northeast corner of the site shall be reduced to 25 feet or consistent with the height of the first terrace level of the berm.
7. Weeds and trees on the berms shall be controlled to prevent nuisance or safety concerns to neighboring properties and traffic on State Highway 57.
8. When any activity is planned in areas that are identified on the map as "hydric soils", the quarry shall comply with the MN Wetland Conservation Rules before activities begin.
9. Prior to the sale or transfer of the property containing the old dump located in the area identified as "proposed park" (north of the haul road) on the Reclamation Plan Sheet dated 11/29/05, the owner shall provide the county and prospective buyer a description of the vertical and horizontal extent of the fill area, a description of the types of debris located within the fill area, and a description of the potential water quality impacts that may be associated with the old debris. Owner will conduct investigation in accordance with standards and practices recommended at the time.
10. This conditional use permit is valid for eight years (to December 31, 2021) and may be renewed by board action. The permit may be renewed following staff review and approval by County Board of Commissioners.
11. The owner and operator of the Quarry shall allow government officials and staff on the property at any time during operating hours to conduct site

inspections and document current conditions. Such access will only be granted if in compliance with OSHA, MSHA, and other safety rules. The owner and operator shall make every effort to assist government representatives to safely inspect the site.

12. Operator will make available to the County, within 30 days of the County's request, any or all of the seismograph reports for any explosive events within five years.

Motion passed unanimously.

Melissa DeVetter stated that there are four Planning Commission members with term limits up. They are as follows; Gene Hallaway, Galen Johnson, Darren Durst, and Harlan Buck. Harlan Buck, Galen Johnson and Darren Durst have indicated that they will stay on. Gene Hallaway has submitted his resignation.

Melissa DeVetter also informed the Planning Commission that the January Planning Commission meeting falls on New Year's Day which is a holiday and if so approved the meeting will be changed to the 2nd Wednesday, January 8th, 2014. This meeting will be held at 1:00p.m.

The Planning Commission thanked Gene Hallaway for serving on the Planning Commission.

Commissioner Gray expressed his appreciation for all the work that the Planning Commission, Ms. DeVetter, Ms. Greening and Mr. Gamm had done over the last year.

Adjourn

Motion by Harlan Buck, seconded by Jon Balzum, to adjourn. Motion passed unanimously. The meeting was adjourned at 2:07 P.M.