

**Minutes of the Dodge County
PLANNING COMMISSION MEETING
September 5, 2012**

The regular meeting of the Planning Commission was called to order by John Allen at 7:00 PM on Wednesday, September 5, 2012. Present were Planning Commission members Harlan Buck, Jon Balzum, John Allen, Galen Johnson, Walter Wyttenbach and Richard Wolf. Also present were County Commissioner Dave Erickson, Jane Olive, Lyle Tjosaas, Dave Hanson, and Zoning Administrator, Melissa DeVetter.

Motion by Harlan Buck, seconded by Richard Wolf, to approve the agenda and the July 2012 minutes. Motion passed unanimously.

Brian and Brenna Scanlan – IUP#12-06

The first public hearing is to consider an application for an Interim Use Permit to allow a Home Occupation Business in an accessory structure. The property is 7.8 acres located in the NW 1/4 of the NW 1/4 of Section 24, Vernon Township. Brian and Brenna Scanlan are the applicants and the property owners.

Brian and Brenna Scanlan were present to explain their request. Ms. Scanlan stated that they wish to create an agricultural educational facility for pre-school, daycares, and youth groups. They would come out and visit the farm to learn more about agriculture.

Mary Greening stated that Vernon Township did send in a comment sheet stating that they had no objection to this proposal. The comment sheet came in late, but was included in the envelope that was mailed to the commission.

Motion by Harlan Buck, seconded by Jon Balzum, to close the public hearing. Motion passed unanimously.

Galen Johnson stated that the application indicated that they would have groups of 20 or less.

Brenna Scanlan stated approximately 20 or less is correct.

Galen Johnson inquired if it's a school bus will parking be an issue.

Brian Scanlan stated that they would park the bus out front of the barn in the middle of the circle drive.

Galen Johnson inquired if these visit were scheduled then would port-a-potties be brought in.

Brenna Scanlan stated yes; they will have one available.

Melissa DeVetter stated that there is not a neighboring feedlot to this site. The main concerns would be to make sure that the animals are up on their vaccinations and that there is hand sanitizer stations. The well will be a public water source and should be tested for nitrites. The test was done and it is well below the limits. The conditions on the permit cover all these concerns.

Galen Johnson inquired if the applicant was aware that they need to be licensed for the petting zoo from MN Dept. of Ag for animal and plant.

Brenna Scanlan stated yes; they are working with the USDA on the project for their own protection and insurance. They will be following all guide lines and will have the required hand washing stations.

Richard Wolf inquired if bathrooms will be provided for on site.

Brenna Scanlan stated that they will have portable ones. They plan to be open just this fall and close through the winter months then open again in the spring.

Motion by Galen Johnson, seconded by Harlan Buck, 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.
2. Every animal located on site shall be current on all vaccinations.
3. The site shall be registered 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 Home Occupation business shall not exceed nine (9) square feet and shall be set back a minimum of ten (10) feet from the right-of-way.
7. Hand washing and/or other 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 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.

Motion passed unanimously.

J & D Schrom Property – CUP #10-07 (amend)

The second public hearing is to consider a request to amend a Conditional Use Permit #10-07 to allow an expansion of an Ag Related Business in the Agricultural District. The property is 5 acres located in the SW 1/4 of the SW 1/4 of Section 16, Claremont Township. J & D Schrom Properties are the applicant and the property owners.

Dean Schrom was present to explain his proposal. The plan is to put up a building to the east of the existing building to house a seed treater. The existing building will then hold the boxes of seed. To the east of the existing building will also be six bulk bins with a conveyor that will go into the existing build for them to dump into the boxes. There will be an additional building built to east of the bins for equipment storage.

Richard Wolf, Claremont Township had no objection to this proposal.

Motion by Harlan Buck, seconded by Richard Wolf, to close the public hearing.
Motion passed unanimously.

Melissa DeVetter stated that she did contact the MDA to make sure all license are current and will cover the additional expansion. Mr. Schrom is up to date on his licenses. They did suggest we advise the applicant to think in a larger picture and have the new storage building have berms for future expansion.

John Allen inquired if there will be any chemical storage on site other than what will treat the seed. No insecticide.

Dean Schrom stated yes; there will be insecticide, but it will be in a containment system.

Motion by Galen Johnson, seconded by Harlan Buck, to recommend approval of the Findings of Facts and Recommendations of the agenda report with the following conditions:

1. All original conditions of CUP#10-07 apply and will be enforced. In instances where administrative or changes within the ordinance have occurred, the successor provisions will apply

2. Operation will comply with all local, state, and federal regulation regarding the use and activities performed on site.
3. Any change involving the addition of new business related structures or employees beyond that specified in the agreement/application on file with the CUP, enlargement, intensification of the use or similar changes not specifically permitted by the CUP shall require an amended CUP to be issued.
4. The business shall comply with the conditions of this permit and the original Business Plan and the information on the scope of the operation submitted during the application, which shall be recorded with the CUP.
5. A Zoning Permit shall be obtained prior to any additional construction.

Motion passed unanimously.

Scott and Judith Rose – IUP #12-05

The third public hearing is to consider an application for an Interim Use Permit to allow a Home Occupation Business in an accessory structure. The property is 5 acres located in the NW 1/4 of the SW 1/4 of Section 11, Canisteo Township. Scott and Judith Rose are the applicants and the property owners.

Scott and Judith Rose were present to explain this request. Mr. Rose stated that Judith would like to move her dog grooming business to their home site. She has had the business since 2006 and would like to down size some.

Loren Torrens, Canisteo Township Supervisor, the township has no objection to this proposal.

Motion by Galen Johnson, seconded by Walter Wyttenbach, to close the public hearing. Motion passed unanimously.

Melissa DeVetter stated that they are very detailed on their plans. The wash water from the grooming salon will go to a holding tank that will be installed. They are required to have a contract with a maintainer for that tank. The bathroom will be hooked up to the existing septic system. This is not a kennel it's simply a grooming salon.

Motion by Harlan Buck, seconded by Richard Wolf, 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 storage and use of hazardous products and the treatment and disposal of hazardous waste.

2. All waste generated on site shall be properly disposed of in accordance with the Dodge County Solid Waste Ordinance and MPCA rules.
3. The applicant shall install a holding tank to collect wash water generated from the grooming salon. When present, floor drains from the salon shall also be connected to the holding tank. An operating permit shall be required for the holding permit and a copy of the contract with the licensed maintainer shall be submitted to the Dodge County SSTS Coordinator. Sewage from the bathroom shall be properly addressed under the Dodge County Sewage and Wastewater Ordinance No. 4, or successor.
4. The sign shall meet the performance standards of the Dodge County Zoning Ordinance. A sign advertising the Home Occupation business shall not exceed nine (9) square feet and shall be set back a minimum of ten (10) feet from the right-of-way.
5. 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.
6. The business shall comply with the conditions of this permit, supporting documentation, Chapter 16 and the Home Occupation Agreement, which shall be recorded with the IUP.
7. The business shall comply with the Nuisance Standards. Nuisance complaints shall result in review of the IUP by the Planning Commission.
8. Lighting provided for the salon shall be directed away from adjacent properties.

Motion passed unanimously.

Other Business

Dave Brooks was present for the 5 year review of B&B Sand, Inc. – CUP# 02-029.

Melissa DeVetter stated that on this CUP was a condition that the permit be review in 5 years. The five years is up now. A site visit was conduct to make sure that all the conditions were met. The Pollution Control Agency was contacted to verify that all permits are current and they are.

Motion by Richard Wolf, seconded by Harlan Buck, to recommend approval of the 5 (five) year review for CUP#02-029 with the original conditions and another review in 5 (five) years:

1. Additional slit fencing along the east side of the operation where stockpiling has taken place to prevent runoff into ravine;
2. Berming or clean water diversion to prevent storm water entering the pit area;
3. Seeding of the stockpiles as soon as possible; submit plan for weed control;
4. Remove or pull back overburden that has been pulled into ravened area (this is a small area that amounts to 3-10 yards of black dirt from previous operator).
5. Review of permit in 5 (five) years on or before September 4th, 2017.

Motion passed unanimously.

Zoning Amendment – ZA#12-02

The fourth public hearing is to consider an amendment to the Dodge County Zoning Ordinance. The proposal includes new language for Chapter 16 (Performance Standards) and Chapter 17 (General Development Standards), and Chapter 4 (Definition pertaining to Chapter 16 & 17). Chapter 8 (Agricultural District), Chapter 10 (Urban Expansion District), Chapter 11 (Rural Residential District), Chapter 12 (Commercial District), Chapter 13 (Industrial District), Chapter 14 (Shoreland Overlay District), Chapter 15 (Flood Plain Overlay District) have amended language or references pertaining to Chapter 16 and 17. Chapter 5 (General Limitations), Chapter 9 (Public Recreational Land and Trails) Chapter 21 (Wind Energy Conversion Systems) and Chapter 23 (Adult Entertainment) will be repealed and reserved for future use contents are under Chapter 16..

Melissa DeVetter stated that what you see before you is a zoning amendment to the ordinance for a lot of different Chapters. Chapter 16 is an existing chapter but with this amendment it will allow all performance standards to be pulled together into one chapter instead of them being in various chapters. This will allow us to eliminate obsolete references that did not exist and address the ones that the County Attorney will not prosecute.

Galen Johnson had a concern on what the County Attorney would not enforce. Mr. Johnson requested to hear an example.

Melissa DeVetter stated the example is the tree issue. Currently we have a 25' setback from property lines for tree planting and 15' for shrub planting. Lately we are having a tree wars where neighbors are driving around and complaining on each other. The tree provision goes back as far as 1983, which was more restrictive at the time. We currently have a list from one individual who would drive around and reported on all of his neighbors. After having a conversation with the County Attorney he indicated that he would not prosecute because it's a private nuisance. If you look up in the definition of what a private nuisance is; the first example is a tree on the property line between to two neighbors. It's not a public health, safety or wealth fare issue. But if the Township or Road Authority determined that it was a safety hazard by being in the road right of way or sight line then that's a different issue. At this point the language is still in this revision.

Richard Wolf had a concern that if it was removed than tree could be planted on the property or fence line.

Melissa DeVetter stated that currently it read 25 feet from the property line but a fence can be on the property line.

Richard Wolf stated he felt that there should be a setback for trees.

Galen Johnson inquired if these complaints were of trees planted to close to the fence line or the right of way.

Melissa DeVetter stated that it was both. If it's in the road right of way the Road Authority can go in and cut them down.

Loren Torrens stated that he felt there should be a setback for trees. If you remove the setback than you are allowing an individual to plant a tree on his property line and then when it grows up it will hang over the line onto an adjacent property owner causing problems.

Melissa DeVetter stated that according to the County Attorney that would be a private nuisance between the two landowners and he would not enforce. So why put something in the ordinance that is non-enforceable?

Walter Wyttenbach stated that we cannot throw all setbacks away. Now you just open up a new can of worm. As a township board member he has dealt with all kinds of fence issue.

Loren Torrens stated he thought that the setback should be kept in place but would only be enforceable between the two landowners. Mr. Torrens felt he should have the ability to say; no you can't do that to the neighbor.

Melissa DeVetter stated you can, but is this County's responsibility to enforce it or is it between the landowners.

John Allen stated this is a no win deal no matter how this was handled it will end up in court.

Richard Wolf stated that you need that setback so people don't plant new trees.

Loren Torrens stated that the only people that would go to court should be the adjacent landowners not someone who is driving around looking for violations.

Melissa DeVetter had a concern; as a Zoning Administrator who is responsible to enforce it; how would you make it an issue between two landowners if it is listed in the ordinance.

Loren Torrens stated it would be only the two landowners that could bring it forward.

Melissa DeVetter inquired than a landowner could not make a compliant unless they are adjacent.

Loren Torrens stated no; unless they own the property. The owner of the property is the only one that can make the complaint.

John Allen stated that would eliminate an individual driving around the county making complaints.

Melissa DeVetter stated maybe there could be language that states; 25' unless there is some sort of an agreement between landowners.

Walter Wyttenbach stated that if the next door neighbor asked if he could plant trees there and if the other neighbor said no then the 25' setback is in place. Most likely it's a property owner who would like to put in a grove of trees for a windbreak.

Galen Johnson inquired if this was Section 8.6.8 in the ordinance.

Melissa DeVetter stated no; this will be in Chapter 17 as a development standard.

Galen Johnson asked for another example that would be an issue.

Melissa DeVetter stated that another example is; we get a lot of variance requests on setbacks for accessory structure. Currently it is the same setback as the principal structures. We have had a lot of variance request. The county has a lot of lots that are small and narrow so they are asking to be closer to the property line than their dwelling.

Richard Wolf inquired if the change is listed in the packet.

Melissa DeVetter stated yes; in Section 16.3 accessory buildings.

Galen Johnson inquired if there was a definition for accessory building.

Melissa DeVetter stated that the definition for an accessory building has not changed and is the same as what is in the ordinance currently.

Richard Wolf had a concern about the setback for an accessory build changing to 10 feet because of farming practice next to the property line. He currently has a field that is adjacent to a parcel that has a building that is too close to the fence line. The roof slopes to his field and the field is always wet there. When he is shelling corn the cobs fly at the building as he turns his equipment around. That is a couple of the problems he sees if they change the setback.

Galen Johnson inquired if there was a size on accessory structures.

Melissa DeVetter stated that there is a size limit regarding to issuing zoning permits, but they still have to meet all setback requirements.

Walter Wyttenbach suggested that maybe we could add language to the Ag Covenant pertaining to treating the water that runs off the roof with rain gutters.

Melissa DeVetter stated that when we have a variance request the Board of Adjustment thought that originally there were concerns for access around the structure because of possible fires. They felt that is why the 25' setback was established.

John Allen stated that it could always be changed back to 25 and then they could just get a variance.

Harlan Buck stated he felt a 10' setback was enough.

Walter Wyttenbach stated that this could be addressed through the Ag Covenant with additional language for setbacks and flying debris.

After more discussion it was decided to change the 25' setback to 10' for accessory structures.

Melissa DeVetter proceeded to explain each section one at a time. Once they were through discussing Chapter 16 it was decided that they will conditionally discuss the rest of the proposed amendments at the next public hearing in October.

Motion by Walter Wyttenbach, seconded by Harlan Buck, to continue the public hearing until the October meeting. Motion passed unanimously.

Adjourn

Motion by Harlan Buck, seconded by Jon Balzum, to adjourn. Motion passed unanimously. The meeting was adjourned at 9:45 P.M.