

Minutes of the Dodge County
PLANNING COMMISSION MEETING
December 3, 2008

The regular meeting of the Planning Commission was called to order by Galen Johnson at 7:00 PM on Wednesday, December 3, 2008. Present were Planning Commission members Galen Johnson, Jon Balzum, John Allen, Rhonda Toquam, Larry Schmeling, Harlan Buck, and Richard Wolf. Also present were County Commissioner Klaus Alberts, Don Gray, Dave Erickson, Lyle Tjosaas and Compliance Officer Melissa DeVetter.

Motion by Harlan Buck, seconded by Jon Balzum, to approve the agenda and the November 2008 minutes. Motion passed unanimously.

Ellingson Drainage – CUP #96-34

The first public hearing is to consider amending Conditional Use Permit #96-34 for an agricultural related business to allow a new accessory building in the Agricultural District. The property is 7.70 acres located in the NE 1/4 of the NE 1/4 of Section 30, Concord Township. The Ellingson Drainage Inc is the applicant and Roger Ellingson is the property owner.

Roger Ellingson was present to explain his proposal. He plans to build a warehouse to move the materials that are stacked outside to an inside location. He has two possible building location proposals. He had tried to get a variance to build a 120 foot wide building within 10 feet of the property line in the southwest corner but, the variance was denied. He still may build the larger building; the neighbor did call him and has indicated it might be willing to sell some land to Mr. Ellingson. This will be a drive though warehouse to store material and load trucks.

Dan Rabe, Concord Township has not made an official decision on this proposal and the township does have some questions on the size of the building.

Galen Johnson inquired when the next township meeting will be.

Dan Rabe stated it will be next week on Thursday night.

Motion by Rhonda Toquam, seconded by Harlan Buck, to close the public hearing. Motion passed unanimously.

Galen Johnson had a concern with all of the conditions at are listed with this Conditional Use Permit.

Melissa DeVetter addressed this concern that these conditions are just more detailed on what the State and Federal rules are. Also there are more conditions that are required by ordinance than what was listed in 1996. If you have an agricultural district with a commercial use on it and you have a property adjacent to it that is zoned for residential use or Urban Expansion there are screening requirements. The conditions listed should address what is going on at the site already.

Galen Johnson had a concern about the screening requirement to the north of the property.

Melissa DeVetter stated that is due to the Urban Expansion District to the north and there are trees there already. We have the nuisance standard that applies also the signage; his sign should meet it. The septic system was originally designed for only 16 people and now he has 65 employees. They just want to make sure that the existing system on site can handle that many people.

Galen Johnson inquired if the county does the inspections septic systems.

Melissa DeVetter stated no the county does not; the applicant can hire anyone to do the inspection as long as they are licensed

Roger Ellingson indicated he has no problem in having his septic inspected.

Jon Balzum inquired how far away is the city water and sewer.

Roger Ellingson stated its $\frac{1}{4}$ mile away and if the septic system does fail; then he will go to the city of West Concord to be hooked up.

Jon Balzum inquired what type of building this will be.

Roger Ellingson stated it will be a steel building with an east to west entrance.

Jon Balzum inquired if the fencing will be along the west and south side of the property.

Roger Ellingson indicated yes.

Galen Johnson had a concern on what was being asked of the commission.

Melissa DeVetter stated this is an amendment to the original Conditional Use Permit to add an accessory building.

Jon Balzum inquired if this is just for the site not the building location.

Melissa DeVetter indicated yes.

Galen Johnson inquired if the amendment was for the size of the building.

Melissa DeVetter stated this request is for the addition of accessory structure to the site not the size of the building.

Larry Schmeling inquired if they will need more land to build on the alternate site.

Roger Ellingson indicated no; he was going to build a 120' wide building but couldn't meet the setback.

John Allen inquired if the existing build will be taken down.

Roger Ellingson indicated yes the new building would be more usable year round and would clean up the site.

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

1. A Dodge County Zoning Permit shall be obtained before construction.
2. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued shall require an amended conditional use permit to be issued.
3. A Dodge County Septic Permit shall be obtained if running water and bathrooms are installed within the building.
4. The current septic system (#97-001) serving the office and shop was issued in 1997 and designed to accommodate 16 employees. The business currently employs approximately 65 people. The existing septic system shall be inspected and sized according to current usage and treatment needs.
5. Section 1601.4 - The aggregate square footage of sign space per lot shall not exceed 160 square feet.
6. Ellingson Drainage shall provide screening in the form of fences or vegetation that conforms to Section 1609 along the entire northern boundary of the property across from the area that is zoned for residential use by the City of West Concord and the adjacent property owner.
7. Ellingson Drainage shall comply with Section 1611, items 1 through 6, regarding Nuisance Standards. Nuisance complaints shall result in review of the permit by the Planning Commission.
8. The business is responsible for obtaining all required state and federal permits, licenses, or approvals that pertain to their operation.
9. Ellingson Drainage is responsible for complying with all State and Federal Rules/Laws that pertain to the operation of the business and other on-site activities, which may include, but not be limited to the following:

- a. Permits and Certifications – Minnesota Rules Chapter 7001
 - b. Above-Ground Storage Tanks (ASTs) - Minnesota Rules Chapter 7151 (Existing on-site gasoline and diesel tanks)
 - c. Septic System – Minnesota Rules Chapter 7080 through 7083
 - d. Wash Bay –Minnesota Rules Chapter 7045. Wash water collected from the wash bay and/or repair shop must be properly disposed of off site and shall not enter the on-site septic system.
 - e. Repair Shop – Minnesota Rules Chapter 7045 relating to hazardous waste (disposable and recyclable & parts washer). The business is responsible for properly processing, storing transporting, documenting, recycling, and disposing of all waste/materials generated on site in accordance with state and federal law.
 - f. Fabrication Area- National Emission Standards for Hazardous Air Pollutants (NESHAP) – welding and fabrication
 - g. Stormwater – An Industrial Stormwater Permit or Certification of No Exposure be obtained from the MPCA
10. Recommend Board approval contingent on Township approval.

The motion was passed unanimously.

Wind Ordinance Amendment

The second public hearing is to consider an amendment to Section 21 Windpower Development / 250kw or greater and Section 22 Windpower Development / less than 250kw of the Dodge County Zoning Ordinance. The proposed language changes would replace/repeal the current language in Sections 21 and 22 and will more closely follow State of Minnesota General Wind Permit Standards, issued January 11, 2008. The three significant areas of discussion will be (1.) Setbacks and General Standards (2.) Decommissioning and (3.) County Inspection. Also there will be a discussion on whether the County should assume authority for processing applications for permits required by the Wind Siting Act for LWECS facilities less than 25MW in total nameplate capacity through a delegation agreement with the Minnesota Public Utilities Commission.

Duane Johnson, Planning Director was present to explain the proposed zoning amendment for wind turbines. The County Board has asked the staff and the Land Use Task Force to study this issue and propose changes. The county comes into play for the small wind turbines up to 5 MW. The state or PUC would permit LWECS. What is projected for the county is 3000 MW; which is approximately 1000-1500 wind turbines depending on their size. Most developers are looking at 1.5 to 2 MW size wind turbines. Dodge County is a great wind source. The ordinance draft has 3 areas that we need to focus on. The current setback is 8 rotors diameter from boundary or property line. In the new draft we would use the state standards that are; 3 rotor diameters east and west and 5 rotor diameters north and south. We would require a conditional use permit to allow review the project. The second area to discuss is decommissioning. In the current ordinance we have a \$3000 per turbine deposit to be held in escrow for decommissioning.

What we are proposing in terms of decommissioning is not to go with the \$3000, but to follow the state standard. That would give us an opportunity to go back later to put into place any requirements such as; a bond to make sure there is responsibility and accountability for a decommissioning plan to be exercised. The third area of focus is what is happening in the field during construction; is there any oversight. The state application is very detailed. They get very few complaints. The state tells the developer that it is their responsibility to hire an inspector. The concern that we have is how do we know that they are doing what they are supposed to be doing. It was put into the ordinance that if the county hires an inspector the developer will pay for the wages and not put a burden on the tax payers.

Another area we need to look at is county delegation; there are two counties that have gone with a delegation agreement.

Mark Moenning, who lives south of McNeilus wind farm, has seen the damage the cranes make moving across the farmland and driveways. The property owners sign a lease agreement with the developer and who does the property owner have to see if the job is being done right. We need to be ready and have someone trained to deal with complaints. He also had a concern on any wetland they might have to cross. Whose jurisdiction is it?

Duane Johnson stated in a large wind turbine project the State is required to hold a public review and would notify the SWCD and DNR as part of their reviewing process.

Galen Johnson inquired if the draft ordinance includes the fee process.

Duane Johnson indicated yes on page 10 section f & g; the fee schedule is set and we would require 50% paid up front if a county inspector was needed.

Galen Johnson inquired if it was set but no trigger unless we had a compliant.

Duane Johnson indicated yes; if a county inspector was designated at that point we would establish a fee. Then half of that fee would be assessed up front and that fee would be used to pay cost of the county inspector during construction stage.

Rhonda Toquam had a concern that a county inspector would not go out to inspect the concrete unless there was a compliant.

Duane Johnson stated that the county will determine if the developer was not being responsible. At that point the county would ask the PUC to consider suspending the permit. There would be a point where the county and state would agree to an inspector.

John Allen had a concern about tile lines being cut and how they would repair them. Would you call someone from the state and would they come down.

Duane Johnson said that the state would not come down. You will not see them on site they will go through the process with the wind project inspector.

John Allen had a concern who the inspector is working for.

Duane Johnson stated it would be the permittee.

John Allen asked if the inspector is being paid for by the state or the company.

Duane Johnson indicated the company.

Richard Masching stated he and other area farmers have had several meetings with three companies. Tile lines are a big concern with the farmers and they showed the companies the tile pattern and asked their plans on how they will handle repairs of cut tile lines. They couldn't really tell them how this will be handled.

Duane Johnson said the state permit outlines the procedures on the repairs of tile lines unless it spelled out differently in the lease agreement with the owner.

Dave Erickson had a concern if the state would allow a county inspector.

Duane Johnson indicated he didn't know. The state claims they have a very good track record and have a big hammer that they will use if the companies are not in compliance.

Mark Moenning had concerns about the tile damages; not getting them fixed correctly; and the cost of the damage not being covered by the developer.

Galen Johnson had a concern about the inspection being just for the 25 MW.

Duane Johnson indicated local inspection was meant for the large systems and it would be for the construction phase.

John Allen had a concern that if we change the ordinance and the state don't deem it necessary we don't have any control of it.

Duane Johnson indicated that is correct. The state can preempt our ordinance.

Don Gray stated that we been down this road before with Northern Gas Pipeline Company. Regardless what the state thinks we have to do what's best for the county and have someone out there inspecting the site.

Galen Johnson stated it's better to be on the front side of the project so the state would know what the county wants.

Duane Johnson stated this will go to the county board for approval. Once the ordinance draft is approved it will then go to the state by a resolution and will clearly spell out where the ordinance draft has more stringent requirements.

Galen Johnson had a concern about setbacks with the original ordinance setback of 8 rotor diameter is quite restrictive. The 3 rotors and 5 rotors are the setback from land that is not under the permittee control.

Dave Erickson had a concern about different developer mixed together within the county. How that was going to work.

Galen Johnson had a concern about setback from public roads; it reads 250 feet setback, unless the 3 and 5 rotor diameter setback apply.

Galen Johnson had a concern about not putting a dollar amount on the decommissioning.

Duane Johnson indicated yes; we are proposing to eliminate the \$3000 per turbine. In place what we have is on page 7 i. The applicant shall have a decommissioning plan which shall include the following information regarding decommissioning of the project and restoration of the site. Anticipated life of the project, estimated decommissioning costs in current dollars, method and schedule for updating the costs of decommissioning and restoration, and anticipated manner in which the project will be decommissioned and site restored.

Lyle Tjosaas had a concern that in four years who will own it. The original company will probably be gone by then.

Duane Johnson stated that the state issues a 30 year permit. The systems are to be decommissioned or restored.

Galen Johnson had a concern about removing the \$3000.00 per turbine dollar amount; he had always thought we would have some dollar amount just more then \$3000.

Duane Johnson commented what the developer will tell you they want to minimize their cost.

Rhonda Toquam had a concern that this is just words. If you make the developer put money down he will know the county is serious about decommissioning. They are going to save every penny the can. We would be doing a disservice to the county and to the people in it if we did not have a decommissioning fee.

Galen Johnson stated that the state could supersede us then but we could still put this fee as a requirement and it would be in place.

Duane Johnson indicated yes they could but, we would need to know the amount the Planning Commission was thinking.

John Allen stated he thought \$10,000 would work.

Galen Johnson stated he thought that because of the size of this project and how much concrete is in the ground that \$10,000 be a reasonable number.

Harlan Buck stated it will be a big job to decommission these projects and to get the land back to normal.

John Allen stated that he agrees with Rhonda Toquam and on page 10 f. it reads if a county inspector is designated that it should read we will have a county inspector.

Duane Johnson wanted clarification from the commission that they want to have a county inspector.

Harlan Buck stated that will be the only way we could control it.

Rhonda Toquam stated that having a local inspector would be good. How many people will call the state? This way we have a local contact.

Galen Johnson had a concern if there is liability with an inspector.

Duane Johnson stated we are going beyond state rules now with feedlot inspections for bio-filters.

Rhonda Toquam had a concern on who would pay for the inspector if he had no inspections until March.

Duane Johnson stated if the inspector is an employee and there was no activity; he would be doing something else. It also could be a third party that the county would hire who would fill this position.

John Allen stated the biggest amount of time for an inspector would be when they are digging the holes for the base and cutting across the tile lines; because they could do the repairs and back fill pretty fast. They don't compact around the tile. So this would be a problem later on.

Rhonda Toquam had a concern about them going in wetlands.

Duane Johnson state they could not build in wetlands. They may traverse a wetland.

Rhonda Toquam clarified that they just couldn't drain it.

Duane Johnson indicated yes that is correct. They would have to be permitted though BWSR to work in a wetland.

Galen Johnson had a concern about other land uses in the county that might be impacted by turbines.

Duane Johnson stated he has had calls from the realtors and they have concerns about the WECS projects.

Richard Masching had a concern about future tile lines. What will happen when you want to tile your fields?

Duane Johnson said he hopes the property owner would write this into the agreement with the developer.

Harlan Buck said he felt the property owner needs to accept that responsibility if he is willing collect income from them.

Lyle Tjosaas had a concern if the landowner signs an agreement that the county would need to know what is in this agreement if we are going to have an inspector out there.

Motion by John Allen, seconded by Larry Schmeling, to close the public hearing. Motion passed unanimously.

Galen Johnson reviewed with the commission the language for Section 21 - Wind Energy Conversion System in the ordinance.

John Allen stated the developer will only be removing 4 foot of concrete when they decommission the turbine.

Jon Balzum stated he was told that they will remove the top part of concrete and put back black dirt.

Motion by John Allen seconded by Rhonda Toquam, to recommend approval of the Findings of Facts and Recommendations of the agenda report with the following conditions:

1. Approval to replace existing Section 21 Windpower Development / 250 KW or Greater and delete Section 22 Windpower Development / less than 250 KW with new draft language as proposed.
2. Add language to 2107.2 i; the decommissioning plan shall include \$10,000 per turbine to be held in escrow by Dodge County
3. Change language to 2109.f; a County inspector will be designated.

The motion was passed unanimously.

Other Business

Melissa DeVetter reminded the commission that the next months meeting will be held at 1:00 P.M.

Mary Greening also asked if they wanted to schedule a tour for January applicant. The commission indicated no.

Adjourn

Motion by Harlan Buck, seconded by Larry Schmeling, to adjourn. Motion passed unanimously. The meeting was adjourned at 9:20 PM.