

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
JUNE 20, 2011 MEETING MINUTES**

With no further public comment it was motioned by H. Stenerson and seconded by L. Fueling to close the public comments. Motioned carried 7-0.

Motion By H. Stenerson, 2nd by B. Schafer, to Approve the Kim Earnest-Brian Miller Conditional Use Permit on parcel 32.130.0220 commonly known as the Villa Angela property which is located on Lake Avenue in Section 12 of Florence Township to elevate an existing structure by means other than fill located within flood fringe area of Lake Pepin to the RFPE (Regulatory Flood Protection Elevation) subject to the following conditions and supported by the following findings of fact. Motion Carried 7-0.

Elevation of the structure at a minimum to the RFPE of 682.5

- 1. The structure should be situated as proposed in the site plan attached to the CUP with the closest point no closer than 24' from the Ordinary High Water Mark.**
- 2. The construction drawings presented for the building permit shall be prepared in conformance with Article 31 Section 5 Subdivision 4A of the Goodhue County Zoning Ordinance. Any above grade enclosed area must meet the restrictions of the ordinance or a registered professional engineer or architect may certify an alternative mean that would meet flood proofing standards.**
- 3. The structure's design must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and the required flood proofing classifications.**
- 4. The applicant must provide an as-built certification from a Minnesota Licensed Surveyor specifying the lowest floor elevation and the elevation of all electrical, heating, ventilation, plumbing and air conditioning equipment and other service. Such elevation shall be at a minimum of the RFPE (682.5).**
 - a. If the electrical heating, ventilation, plumbing or air conditioning equipment or other service is below the RFPE a registered professional engineer or architect will need to certify that these items are designed to prevent flood water from entering or accumulating within these components during times of flooding.**

Findings of Fact

- The proposed Earnest-Miller Conditional Use Permit states the lowest floor elevation of the structure is 4.5 feet above the BFE, this is consistent with the Goodhue County Comprehensive Plan Element 1 Goal 1 and Element 3 Goal 6 Policy 1; and**
- The proposed Earnest-Miller CUP shall comply with provision of Article 31, Section 5 of the Goodhue County Zoning Ordinance as interpreted by the Goodhue County Zoning Administrator; and**
- Florence Township has considered the CUP and has expressed support for approval of the Earnest-Miller CUP; and**

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- **The property is situated within the Shoreland Overlay District of Lake Pepin and was granted a Variance to allow the structure to be placed 24' from the OHWM instead of the required 100' setback.**

(2) Public Hearing – Conditional Use Permit for Riverwood Community Church (John Anderson-Agent)

The Riverwood Community Church is requesting a Conditional Use Permit for the construction and use of a new church facility along Highway 19 in Section 13 of Stanton Township west of the City of Cannon Falls.

DISCUSSION:

The County Planner and Zoning Administrator presented background material, “draft” findings of fact and staff recommendations related to this item.

VC/J. Volz opened the discussion to public comments.

Robert Benson, Stanton Township official, said Stanton Township is 100 percent in support of the CUP request with no objections.

H. Stenerson asked R. Benson if there were any farm or feedlot concerns nearby.

R. Benson said there were none in area.

With no further public comment a motion was offered by B. Schafer and seconded by L. Fueling to close the public comments. Motioned carried 7-0.

Mr. Anderson the church’s representative explained the what facilities were proposed to included in in Phase (1, 2, 3) of proposed development of the Riverwood Community Church property.

PAC members discussed phases of construction and CUP timelines.

Motion By L. Fueling, 2nd by H. Stenerson, to Approve the Riverwood Community Church phase 1 and 2 Conditional Use Permit, subject to the following conditions and supported by the following findings of fact. Motion Carried 7-0.

- 1. Submittal of the following information to the Zoning Administrator:**
 - **Proof of issuance of the required drive access permit to Hwy. 19 by MNDOT prior to building permit issuance.**
 - **Proof of application to the Minnesota Pollution Control Agency for the required NPDES National Pollutant Discharge Elimination System (NPDES) permit prior to building permit issuance.**
- 2. Conformance with site plans and specifications for Phase I (11, 800 sq. ft. church structure and associated site improvements) submitted with the Conditional Use Permit Application on 5-24-2011 and on file with Goodhue County Land Use Management Department.**

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Findings of Fact

- **The proposed Riverwood Community Church Conditional Use Permit that proposes development is consistent with the Goodhue County Comprehensive Plan; and**
- **The applicant has secured a conditional use permit for the proposed project from Stanton Township; and**
- **MNDOT has established site design and construction standards for driveway access and a right turn lane from Hwy. 19. MNDOT has also established requirements for storm water management including construction a storm water detention pond.**
- **A variance to permit a metes and bounds subdivision of land to create the current parcel #41.013.4001 (16.64 acres) and to allow construction of the church on less than 35 acres was approved by the Goodhue County Board of Adjustment in 2002.**
- **The proposed building and related site improvements are in compliance with Zoning Ordinance standards recognizing the variance approved in 2002 that will allow construction on a parcel less than 35 acres in the A-3 Zone District.**

The Planning Advisory Commission action also recognizes the Staff Report (dated June 13, 2011) background information to support the action taken on this item.

(3) Public Hearing – Interim Ordinance/Moratorium to temporarily restrict issuance of Conditional Use Permits to allow mining of Silica Sand: The applicant's, Citizens Against Frac Sand (Barbara Tittle-agent) are requesting a one (1) year moratorium on any permitting or use of silica (frac) sand mineral extraction in Goodhue County and for the study and development of ordinances related to this form of mineral extraction.

The County Planner and Zoning Administrator presented background information and Options for Planning Advisory Commission action regarding the Interim Ordinance/Moratorium request.

The following individuals presented reasons for the County to adopt an Interim Ordinance to establish a One Year Moratorium on the issuance of any Conditional Use Permit for a new silica/frac sand mining operation (Mineral Extraction Facility) within rural Goodhue County on behalf of the applicant (Citizen's Against Frac Sand Mining): Larry Sonnek, Dr. Karen DeLucha, Jim Macahlrath, John Tittle and Barbara Tittle.

VC/J. Volz opened the discussion to public comments.

Lou Schmidt, voiced opposition to moratorium and proposal. He expressed the sentiments that existing County Plans, Policies and Ordinances were sufficient to regulate potential silica sand mining.

Jan Bruhs, spoke in support of the Interim Ordinance/Moratorium request.

Pat O'Neill, spoke of Hay Creek campground concerns, and in support of the Interim Ordinance/Moratorium

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request. Specific concerns included potential impacts on campground water supply, traffic safety concerns and potential impacts on the water quality of Hay Creek.

Bob Glassman, county employee, spoke in support of the Interim Ordinance/Moratorium request.

Michelle Miner, voiced concerns about potential negative community impacts and spoke in support of the Interim Ordinance/Moratorium request.

Robert Myerhoft, spoke in support of the Interim Ordinance/Moratorium request.

Derek White, Trout Unlimited, spoke in support of the Interim Ordinance/Moratorium request and protection of Hay Creek.

Ed Twig, Trout Unlimited, spoke in support of the Interim Ordinance/Moratorium request and protection of Hay Creek. He raised specific concerns regarding the potential for negative impacts on fish populations in Hay Creek.

Virginia Oliver, spoke in support of the Interim Ordinance/Moratorium request.

Dale Bannitt, a neighboring property owner to the Windsor Permian site in Hay Creek Township, spoke about test borings, asked questions of oversight, and spoke in support of the Interim Ordinance/Moratorium request.

John Bremer, commented that he was not in favor of the moratorium, but asked the PAC to direct staff to further research issues of concern related to potential silica sand mining.

Myron Alms, Hay Creek Township resident, noted his long history in the area and spoke in support of the Interim Ordinance/Moratorium request.

Chuck Bolger, spoke in support of the Interim Ordinance/Moratorium request.

Winston Kaylor, spoke in support of the Interim Ordinance/Moratorium request.

Dennis Kanick, spoke in support of the Interim Ordinance/Moratorium request.

David Anderson, spoke in support of the Interim Ordinance/Moratorium request, and asked the PAC to just say no.

Erv Parker, Orchard Ranger Saddle Club, spoke in support of the Interim Ordinance/Moratorium request.

Brian Schrieber, Florence Twp. Official, commented on Florence Township plans and ordinances and expressed support for the Interim Ordinance/Moratorium request.

Sam Tittle, an area resident who had recently moved back to the area from Montana, spoke in support of the Interim Ordinance/Moratorium request.

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Dave Tincher, Hay Creek Township, stated the township had done work in the past to protect area natural resources and agricultural land uses and encouraged the PAC to review township policies. Mr. Tincher spoke in support of Interim Ordinance/Moratorium request.

Larry Sonnek, offered rebuttal of some previous comments.

With no further public comment it was motioned by H. Stenerson and seconded by L. Olson to close the public comments. Motioned carried 7-0.

Barbara Tittle re-stated request.

H. Stenerson reviewed provisions of the County's current Mineral Extraction regulations. He stated that current ordinance provisions offer strong regulatory tools that allow the County to say yes or no to any given project based upon its merits and degree of conformance with specific zoning provisions.

J. Volz, wondered about strength of the County's Comprehensive Plan in regard to this topic. She asked H. Stenerson if there was a need to strengthen planning policies pertaining to silica sand mining, processing and transport.

H. Stenerson, stated he had reviewed the Comprehensive Plan, and ordinances generally and noted that they did not necessarily call specific land uses such as specific types of mining, but, rather included more broadly worded goals and policy statements.

T. Webster questioned what the parameters of land use study associated with moratorium would be and raised questions about potential costs of such a study. He was not sure that would be economically viable.

M. Wozniak explained that if the County decided adopt the Interim Ordinance/Moratorium that staff could assist the PAC and/or County Board to develop a scope of work for a land use planning study.

J. Volz, stated ultimately the PAC needs to determine if changes to Comp Plan or Ordinances are warranted. She further noted that if a moratorium were to be pursued that thought must be put into what level of study would be feasible within a 12 month time period.

H. Stenerson, noted that review of individual mining proposals under current policies and ordinances allows PAC to require mineral extraction facility CUP Applicant's to bear reasonable out-of-pocket review costs.

H. Stenerson noted that he thinks current ordinances could stop unwanted projects.

M. Wozniak explained the thresholds that would trigger a mandatory EAW or EIS.

J. Volz stated she wondered about amending the ordinance to prohibit silica sand mining period.

L. Feuling stated he was afraid the same thing would happen that has occurred with the County's effort to regulate Large Wind Energy Projects.

T. Webster disagreed with L. Feuling. He stated that County has last say on mining. He indicated that he would

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like to see what the township ordinances and studies say.

M. Wozniak said there was nothing specific communicated to staff in this proposal from townships, but he is aware of Florence Township's strong natural resource emphasis.

H. Stenerson asked if a 30 day discovery period would assist PAC decision making.

M. Wozniak stated that PAC should provide direction to the staff.

R. Bauer, expressed his opinion in favor of tabling the matter to allow for further County research and to find out how much of this resource is actually located within the entire county. He suggested to, then, determine health impacts if possible.

L. Hanni, stated staff will continue to gather existing information, but may have to hire a geologist.

R. Bauer, stated we need to know costs.

M. Wozniak, re-stated Dr. DeLucha health concerns. He noted that the silica dust health concerns represent a complex issue. He not various studies which have been provided to PAC and also discussed the Goodhue County Geologic Atlas.

R. Bauer asked about state by state statistics.

M. Wozniak stated state by state statistics for industrial sand (silica sand) product were provided to PAC in electronic form on thumb drives already. He mention LeSeuer County and Woodbury, MN, sites as examples of silica sand mining in Minnesota.

Motion By T. Webster, 2nd by L. Olson, to TABLE the request for an Interim Ordinance to establish a one year Moratorium on the issuance of any Conditional Use Permit for a new silica/ frac sand mining operation(mineral extraction facility) within Goodhue County with instruction to staff to bring the two townships comprehensive plans if available and seek legal counsel from county attorney of enforcement of current ordinances to silica sand. Motion Carried 6-1.

PAC DISCUSSION:

Discuss Cory Pettel sled dog kennel one year review.

Summary:

A conditional use permit to operate a kennel in an A-2 Zone District in Pine Island Township requested by Mr. Cory Petell was reviewed by the PAC in October of 2010 and approved by the County Board in November of 2010. The property on 240th Avenue borders on Wabasha County near the City of Mazeppa. The kennel would propose to house up to 40 sled dogs. Based on concerns related to barking of the dogs, the a review of the CUP by the PAC during the summer of 2011 was stipulated as a condition of approval.

Land Use Management Staff and Mr. Petell informed the PAC that one concern/complaint was received shortly after approval of the CUP in November, 2010, and that the concern was quickly address and that no on-going complaints have been filed with the County.

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Motion by H. Stenerson and seconded by B. Schafer to allow the Petell sled dog kennel continued operations without having to appear at the July 2011 PAC Meeting. Motion carried 7-0.

Adjourn:

³Moved by B. Schafer, seconded by L. Olson , to adjourn the June 20, 2011 Planning Advisory Commission meeting at 10:44 p.m. Motion carried 7-0 .

Respectfully Submitted,

Kelly Moriarty
Recording Secretary

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MOTIONS

¹ APPROVE the June 20, 2011 agenda. Motion carried 7-0.

² APPROVE the May 16, 2011 minutes. Motion carried 7-0.

³ APPROVE the Conditional Use Permit for Phase 1 and 2 of Riverwood Community Church. Motion carried 7-0.

⁴ APPROVE the Conditional Use Permit Amendment for Earnest-Miller. Motion carried 7-0.

⁵ TABLE the Moratorium/ Ordinance Text Amendment. Motion carried 6-1.

⁶ ADJOURN the June 20, 2011 Planning Advisory Commission meeting at 10:44 pm. Motion carried 7-0.