

Draft

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
May 18, 2009 MEETING MINUTES

The Goodhue County Planning Advisory Commission was called to order at 7:00 p.m. by Chair B. Overby in the Goodhue County Justice Center located at 454 West Sixth Street in Red Wing, Minnesota.

Present: Bernie Overby Dan Rechtzigel Tom Webster Mike Patterson Richard Bauer
Brandon Schafer Howard Stenerson Michael Wozniak

Absent: Suzanne Blue Larry Olson

¹Motioned by D. Rechtzigel and seconded by B. Schafer to approve the May 18, 2009 agenda. Motion carried 5:0

²Motioned by R. Bauer and seconded by D. Rechtzigel to approve the April 20, 2009 minutes. Motion carried 5:0

H. Stenerson and M. Patterson arrived at the meeting

STAFF UPDATES

M. Wozniak stated that the Board tabled the shoreland ordinance and directed staff to come up with additional information, we will be bringing that back to them tomorrow.

CONFLICT/DISCLOSURE OF INTEREST

T. Webster and B. Schafer stated that they had the same disclosures as the last time but did not feel it warranted removal from the request.

OLD BUSINESS:

NEW BUSINESS:

Summary

Jason Fitzgerald had applied for a Conditional Use Permit that was granted in early 2009 and was recently revoked due to conditions not being met, in an A-3 District to allow a Home Occupation Business on parcels 33.028.0600 and 33.028.0602 at the property situated at 20865 390th Street in Goodhue Township. The request at this time is to re-apply for the Conditional Use Permit. The business includes a proposed 70' by 104' building. Multiple County site inspections have confirmed that the business is currently in operation. Article 3, Section 13. Subd. 2., includes provisions that require a conditional use permit for home occupations involving more than (1) non-resident employee and/or being carried out in an accessory building exceeding 2000 square feet.

Background

Jason Fitzgerald is seeking re-approval of a Conditional Use Permit to operate a home occupation business on the property in Section 28, Goodhue Township. The business includes multiple structures. The business is currently in operation while having a revoked approval from Goodhue County. The business also had outstanding concerns with state authorities (MPCA).

The following standards shall apply to conditionally permitted home occupations in the A-1, A-2, and A-3 Districts.

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
May 18, 2009 MEETING MINUTES**

- A. The number of employees employed in conjunction with a conditionally permitted home occupation shall be determined by the Planning Advisory Commission.
- B. The home occupation shall be incidental and subordinate to the use of the premises for farming and related farm activities.
- C. The conduct of a home occupation may be carried on in an accessory building the size of which shall be determined by the Planning Advisory Commission.
- D. No traffic shall be generated by the home occupation beyond that which is reasonable and normal for the area in which it is located.
- E. Only one non-illuminated sign not to exceed sixteen (16) square feet in area shall be allowed in conjunction with the home occupation.
- F. No equipment or process shall be used in such home occupation to create noise, vibration, glare, fumes, odors, or electrical interferences detectable off the premises.

Issues:

- On February 9, 2009, the PAC held a public hearing to consider the CUP Application of Fitzgerald Trucking and Excavation for a Home Occupation Permit. The PAC recommended approval of the CUP to the County Board; and
- On February 17, 2009, the County Board approved a Conditional Use Permit for a home occupation business to operate an excavating and trucking business subject to the following conditions:
 1. Business activities shall be limited to storage of vehicles and equipment and administrative functions of the business according to the site plan submitted with the CUP application. The site plan identifies an existing 50' x 80' shed/shop building and an existing gravel surface parking area. The plan also proposes a 70' x 104' storage shed which will need future building and zoning approval.
 2. No storage or transfer of waste of any kind, garbage or demolition debris or salvage material shall be allowed on the site. Violation of this provision shall result in immediate revocation of the home occupation conditional use permit. Any existing garbage, demolition debris or salvage materials present on the site must be removed and disposed of at a licensed facility by March 30, 2009 or this home occupation permit shall be immediately revoked. This determination shall be made by the Goodhue County Land Use Management Department in consultation with the Minnesota Pollution Control Agency.
 3. The trucking and excavating business shall be subject to all applicable local, state, and federal rules and regulations.
 4. The Jason Fitzgerald Trucking and Excavating business shall use State Highway 58 as the access route to the site.

Draft

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
May 18, 2009 MEETING MINUTES**

5. The Land Use Management Department Staff report including Findings of Fact and Public Hearing comments shall be considered as supporting information for the County Board on this item.

6. Not more than 12 employees may be employed on the premises at any time. This shall include independent contractors doing work for the business.

- In a letter dated April 15, 2009, Land Use Management Director, Lisa Hanni took action to revoke the CUP because Mr. Fitzgerald did not comply with Condition #2 (see attached letter). **Staff will update the PAC on the status of removal of demolition debris and other materials from the property and will further explain how violations of MPCA Rules have been addressed by the that agency.**
- Mr. Fitzgerald submitted an application to re-apply on May 1, 2009 having had a meeting with the Zoning Administrator and Land Use Management Director. He resubmitted the same application that had been considered by the PAC in February 2009.
- Option of Change of Zone to Industrial: Land Use Management Staff discussed options available to Mr. Fitzgerald when visiting with him on May 1. It was discussed that his business is a use that would clearly be permissible under the County's Industrial Zone District. The Industrial District references "Any contractor's establishment, storage yard or equipment rental" as a permitted use.

Findings of Fact

No conditional use shall be recommended by the County Planning Commission unless said Commission shall find:

- Subd. 1. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the immediate vicinity. **The proposed home occupation business includes structures and proposed additional 70' by 104' accessory building. External evidence of the business is clearly viewable by property owners in the vicinity.**
- Subd. 2. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant to the area. **The nature of the business could impact the desirability of surrounding property for future residential use. Future growth concerns of the City of Goodhue should be factored into the decision.**
- Subd. 3. That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided. **The existing Highway 58 Blvd. adjacent of the property on 390th Street does appear to be in adequate conditions to handle heavy truck traffic if generated by the proposed business.**
- Subd. 4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use. **It appears that adequate off-street parking and loading space have been provided on the site.**
- Subd. 5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a

Draft

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
May 18, 2009 MEETING MINUTES**

nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result. **The equipment parking/storage operation may include lighting that is customary for an agricultural property. Odors, fumes, and noise have not been addressed in the application submittal.**

Options for Planning Commission to Consider:

Based upon the history of business activities of Fitzgerald Trucking and Excavation on the subject property Land Use Management Staff has decided to present the Planning Advisory Commission with the following three options for action to consider:

- **Recommend Denial of the Conditional Use Permit to the County Board.** *An action to recommend denial would logically be based upon concerns associated with the history of the property included eight year of operation without proper zoning approvals and revocation of the February 2009 CUP for lack of compliance. If the PAC decided to choose this option staff will provide further advice regarding wording for the “findings of fact” at the May 18, PAC Meeting.*
- **Offer the applicant the opportunity to apply for a Change of Zone of a portion of the subject property from A-3 (Urban Fringe) to I (Industrial).** The applicant would need to apply for a change of zone and public hearings would need to be held with both the PAC and the County Board. Following consideration of this item by the PAC if the applicant is interested in applying for a change of zone he will advised to withdraw his CUP Application.
- **Recommendation of Approval of the Jason Fitzgerald/Conditional Use Permit Application for a Home Occupation Excavating and Trucking Business –Twp-111N Range-015W, Part of SE ¼, SE ¼, Section 28– Goodhue Township subject to the following conditions:**
 1. Business activities shall be limited to storage of vehicles and equipment and administrative functions of the business according to the site plan submitted with the CUP application. The site plan identifies an existing 50’ x 80’ shed/shop building and an existing gravel surface parking area. The plan also proposes a 70’ x 104’ storage shed which will need future building and zoning approval.
 2. No storage or transfer of waste of any kind, garbage or demolition debris or salvage material shall be allowed on the site.
 3. The trucking and excavating business shall be subject to all applicable local, state, and federal rules and regulations.
 4. The Jason Fitzgerald Trucking and Excavating business shall use State Highway 58 as the access route to the site.
 5. The Land Use Management Department Staff report including Findings of Fact and Public Hearing comments shall be considered as supporting information for PAC action on this item.
 6. Not more than 12 employees may be employed on the premises at any time. This shall include independent contractors doing work for the business.

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
May 18, 2009 MEETING MINUTES

7. The applicant submit to the County financial security in the form of a Performance Bond, an Irrevocable Letter of Credit or a Cash Escrow in the amount of \$20,000.00 to address any clean-up and site restoration costs that may arise in conjunction with business operations. The applicant shall be released From this financial security obligation may be released if the business is operated in compliance with all local and state permits, rules and regulations for a period of one year from the date of approval of the Conditional Use Permit by the Goodhue County Board of Commissioners.

Discussion:

M. Wozniak read through the above staff report.

H. Stenerson asked if there were any pictures of the violations.

M. Wozniak said that they have been by the property, but would leave it to Mr. Fitzgerald to what he has done and the status of the property.

Mr. Fitzgerald said that he had met the county requirements by March 30th, and the County decided otherwise and decided to pull the permit.

M. Wozniak said that L. Hanni and J. Petersen from Environmental Health

C/B. Overby asked if the MPCA was involved

Mr. Fitzgerald said the MPCA requirements were met and they were impressed.

M. Patterson asked

Mr. Fitzgerald said that it was a difference of opinion. She said that I couldn't have any barrels and the barrels that are there are not scrap to him, they are something that they use.

C/B. Overby asked if they were removing the houses by June.

Mr. Fitzgerald said yes.

M. Wozniak said that part of the issue was that the cleanup was to be removed to a properly licensed site, which it wasn't, it was moved to another property in the county.

C/B. Overby asked if this material would be acceptable if the property was zoned industrial.

M. Wozniak said read permitted uses in the Industrial District. We do have other language in the ordinance that states that waste materials are not allowed in any district. So a transfer station would not be allowed, but materials related to his business would be allowed.

H. Stenerson asked what qualifies as waste materials.

M. Wozniak said the best way to distinguish would be if it is related to a business, for instance we do allow junk and salvage yard as a conditional use permit. If the operation was a junk or salvage yard that would be a different way to go about this issue.

Draft

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
May 18, 2009 MEETING MINUTES

C/B. Overby stated that there is a difference between hazardous material and waste material.

M. Wozniak said yes, there are state statutes that regulate hazardous material.

D. Rehtzigel said that he would not be open to permitting a junk/salvage yard tonight, that would need to go back to the township and neighbors would need to be notified.

T. Webster asked what needed to be cleaned up.

Mr. Fitzgerald said a

T. Webster asked what was moved to the other site.

Mr. Fitzgerald said a couple loads

R. Bauer asked why it was taken there.

Mr. Fitzgerald said that it was getting close to March 30.

T. Webster asked do any of us that have to take out our iron and tires have to be taken to a licensed facility. If we are going to require this across the county.

M. Wozniak said that you cannot take demolition debris from somewhere unless you are a licensed facility.

C/B. Overby opened the discussion to public comments.

No one present wished to speak for or against the request.

With no public comment it was motioned by M. Patterson and seconded by T. Webster to close the public comments. Motioned carried 7:0.

H. Stenerson asked if we could issue an interim conditional use that would make this property legal until the property was able to change the zone.

M. Wozniak said that the interim use is a tool that the county can use, typically it is for a uses that there is something that has a timeframe. To continue operating the way they are for a time period.

C/B. Overby said that he did not see anything in the conditions about hazardous materials.

M. Wozniak said that is federal and state rules.

D. Rehtzigel said that the problem of changing it industrial would be that it could cause problems later on. Could we keep it the same zone and work within a conditional use permit.

H. Stenerson said that is the problem most of the work is done off site and it can't be moved back on the site. You have a situation with this kind of business that you have things moving in and out. The other big problem is you can't get aggregate, you want to be able to stock pile these things so you have them when the farmers need them. He said he saw the tires, and scrap iron in the back of a old garbage truck. Staff felt that they had to interpret the absolute letter of the law, how can we write a conditional use permit with flexibility. We need

Draft

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
May 18, 2009 MEETING MINUTES**

direction from staff here. Would the industrial zone give him more flexibility than the conditional use permit.

M. Wozniak said there would be more flexibility with the industrial zone, it may be acceptable to move a structure and park it there until it could be moved elsewhere. We might still have to sort out what would be permissible as storage materials versus demolition debris. There are some pros and cons.

C/B. Overby asked if the ordinance specifically says there shall be no storage of demolition material. It seems like the major thing is the demolition.

T. Webster said that his comment is the lack of public comment speaks volumes if we consider the industrial zone change we may be opening the neighborhood to more opportunity to bring more items in do more salvage work, we may bring more hardship onto the neighbors than they are now. He suggests we stick to the opportunity to modify the conditional use permit.

C/B. Overby asked Mr. Fitzgerald whether he is going to have to have the garbage allowed on site.

Mr. Fitzgerald said yes.

M. Wozniak said that is where we have the conflict. Read Article 11, Section 9. The only way this could be allowed is that some districts allow junk/salvage yards as a conditional use permit. But this is not a permitted conditional use in the A-3 zoning district.

D. Rehtzigel said if the waste is on its way to be transferred. How literal does staff interpret that provision?

M. Wozniak said it would be up to the Board.

D. Rehtzigel said that if you take that provision out of there it could be on its way to be a junk/salvage yard, but without it, it is difficult to believe this isn't done.

H. Sternerson something has to be allowed or you are going to have to shut down everybody that hauls garbage.

R. Bauer said that we aren't talking about stuff outside of roll off.

C/B. Overby asked Mr. Fitzgerald if he takes it to a licensed facility.

Mr. Fitzgerald said yes.

T. Webster said he doesn't see why he can't bring the roll off box back to his site, drop it on the ground after hours and go back and get the other one.

M. Wozniak said that then you get into the situation, is one ok, is five ok.

D. Rehtzigel said that as long as the provision is written the way it is, I don't know how we can change that.

M. Wozniak said that you have to realize this is the A-3 Urban Fringe Zoning District.

D. Rehtzigel said that this was sold as a trucking excavation business, not a junk/salvage yard.

M. Patterson asked what he needs to take back to his site.

Draft

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
May 18, 2009 MEETING MINUTES

Mr. Fitzgerald said that scrap metal from time to time, full rolloffs when I can't make it to the landfill in Austin in time. I'm not a salvage operation but when you tear down buildings you wind up with stuff from time to time.

B. Schafer

Mr. Fitzgerald said there was no way to be legal under the provisions of a conditional use permit.

M. Wozniak said your other option would be to put them in a building.

B. Schafer asked what is the concern to have tires on the site.

M. Wozniak said that it is an environmental concern with mosquitos and fire issue.

H. Stenerson said what about the farmers that uses tires to hold down the silage tarps.

M. Wozniak said you cannot have waste tire dumps.

Mr. Fitzgerald said the MPCA allows 500 tires.

M. Patterson said is it realistic to keep it inside until you have a load to go. What else is a challenge.

Mr. Fitzgerald said that L. Hanni was real clear that I cannot have any loaded boxes, I do. What is allowed under the industrial zone is a contractors yard, he is not a home occupation, he is a contractors yard.

H. Stenerson said that he has spent some time in Mr. Fitzgerald's property, and he has seen better, but he has seen a whole lot worse. When you take a roof off a building can you take the whole roof.

Mr. Fitzgerald said that he could have a permit by rule if he was industrial.

D. Rehtzigel said that we need to have a committee of a whole with the County Board to see if the Board members would be interested in changing the language.

M. Wozniak said that you could certainly table the request and the County can extend the 60 day review period.

D. Rehtzigel said that he can make a fairly decent prediction of what the Board would do, but this time he doesn't have any idea.

M. Wozniak said that we have fairly dated language in the zoning ordinance. They didn't have words like transfer stations, we have words like junk/salvage yards.

C/B. Overby asked if Mr. Fitzgerald could continue to operate.

M. Wozniak said that as of right now his conditional use permit is revoked and shouldn't be operating.

H. Stenerson asked D. Rehtzigel about the potential of an interim use permit to allow him to keep operating until the language can be adjusted. The issue is whether or not we can change a policy through a conditional use permit. We can grant a temporary permit to continue, but condition 2 would still have to be followed, but we could make the recommendation tomorrow and we can get to the committee of the whole in June.

M. Patterson asked Mr. Fitzgerald if he would be open to that.

Mr. Fitzgerald said yes.

³Motion by H. Stenerson seconded by M. Patterson to approve the Interim Conditional Use Permit for the period of time of 1 year page 4 last sentence on #1 should be struck until we can sort this out. #2 strike salvage material, that way we are still covering waste, that way staff possibly has some flexibility. Salvage would be used again or separated before it is transferred out for instance the i-beams could possibly stay as well as the unlicensed trucks to strip parks from as well as striking the requirement for the bond.

D. Rehtzigel asked if we need 1 year.

M. Wozniak said it depends on what the board wants to do. I don't know if a year is necessary but it would give Mr. Fitzgerald some insurance that he would have to relocate too soon.

D. Rehtzigel asked if it could go up to.

M. Patterson said that the one question he had was if it had to be interim. If those things are met do we have a problem with it.

M. Wozniak said that is a fair point.

M. Patterson said that it is currently not in conflict with our language, but if he wants to do something different than there's a problem.

M. Wozniak said an interim use permit is intended for businesses that are intended to limit for a limited time period. One instance is a Terry LaCanne and a turkey manure business, the county approved the permit based on a rational time period.

H. Stenerson said that he has no problem approving this. With all the questions, nobody is going to wait a year. But it gives us some time period, we don't want to have to extend the interim use in 6 months. After that year he can come back and say he wants a permanent conditional use.

D. Rehtzigel said that as long we can expedite this process. If there is a change we take him back in. The two houses should removed by June 30, 2009.

B. Schafer offered a friendly addition to #2, no storage or transfer of waste of any kind, other than those materials salvaged for marketable use.

M. Wozniak said that we do define junk/salvage yards in our zoning...read the wording.

M. Patterson said that is part of what D. Rehtzigel was talking about, that is what needs to be resolved.

H. Stenerson amended the ordinance to add Condition #7 to include the two houses need to be removed by June 30, 2009. Motion carried 7:0.

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
May 18, 2009 MEETING MINUTES

Summary

Circle K Farms (Mike Kohlhofer) are requesting approval of a Conditional Use Permit, CUP to construct and operate a NG12-5, 33 Kilowatt, 110 foot high, wind turbine on parcel 26.023.0400 in an A-1 (Agricultural Protection) Zone District. The purpose of this wind turbine will primarily be to produce electricity for onsite Agricultural use.

Background

Circle K Farms (Mike Kohlhofer) has submitted a CUP application to install a NG 12-5 Wind Turbine on farm property located in Belvidere Township. The applicant stated in the written justification that the wind turbine will be used to produce electricity for agricultural use and that the 33 Kilowatt turbine will produce standard 240 volt single phase power. He indicated that electricity will continue to drawn from the grid in addition to the output of the turbine and when needs are below the production of the turbine power will flow backwards through the existing transformer onto the utilities grid. The applicant also indicated that they believe any potential conflicts with nearby land owners will be mitigated by their choice of site, since they are keeping the turbine 1,200 feet from any existing land owners. The turbine structure stands 90' (110' with blades), the same height as many nearby harvestor silos. The engineer drawings and specifications have been provided after staff requested more information.

The potential site is located on parcel number 26.023.0400, and has no other dwellings within 1,000 feet of the structures site location. The parcel is currently in agricultural use and has an animal feedlot with structure. Towers and structures less than 200 feet in height do not require lighting. It is the applicants responsibility to ensure all FAA criteria measures have been met, if necessary.

Belvidere Township has indicated that it will support the request and has not stated any additional provisions.

Findings of Fact

No conditional use shall be recommended by the County Planning Commission unless said Commission shall find:

- Subd. 1. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the immediate vicinity. **The location and operation of a single wind turbine would not have significant impact on the use and enjoyment of surrounding properties being used for agriculture or dwelling sites.**
- Subd. 2. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant to the area. **The surrounding property around each of the potential sites is zoned A-1 and wind turbine location as per requested specific sites would not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
- Subd. 3. That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided. **See attached site map. The site offers the potential for access to a County Highway or Township Road (subject to driveway access permit). Electric service for the proposed Wind Turbine would be available to**

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
May 18, 2009 MEETING MINUTES

the potential site.

- Subd. 4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use. **As a provision of any CUP issued for the proposed use, offstreet parking for construction and service vehicles should be required.**
- Subd. 5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result. **This subdivision must be adhered to.**

Staff Recommendation/Resolution

Based on the above stated findings of fact, staff recommends approval of the conditional use permit for a NG12-5 Wind turbine to be located and operated in an A-1 Zone on parcel number 26.023.0400 owned by Circle K Farms with the following conditions:

- 1) **Circle K Farms (Mike Kohlhofer-agent) may locate and operate a NG 12-5, 33 Kilowatt, 110' Wind turbine on parcel ID# 26.023.0400 as per the specific site addressed on the site map.**
- 2) **Off street parking shall be provided for any parking needed during installation/construction and for on-going maintenance; and**
- 3) **Evidence of an approved Township or County Driveway access permit shall be provided to the Zoning Administrator prior to issuance of a building permit for the Wind Turbine; and**
- 4) **No grading or site work in preparation of installation/construction of the Wind Turbine shall take place prior to issuance of a building permit.**

Discussion:

M. Wozniak read through the staff reports for both requests.

D. Rehtzigel asked why this wasn't a permitted use, why does it need a conditional use permit.

M. Wozniak said that the way the ordinance reads, based on the height there is a 100' trigger and these are going to be 110'.

C/B. Overby asked about the decommissioning plan with this?

M. Wozniak said that was primarily for commercial projects. If the Board should have any concerns you could add something to that effect, it is less of an issue with a unit this size than it is for the 300' tall operations.

Mike Kolnhoffer said there is less concrete in this than with a harvester silo.

T. Webster said that it is on private property so it should be up to them how they dispose of it.

Mr. M. Kolnhoffer said that they were trying to choose sites that would be away from neighbors and still have access to wind.

C/B. Overby opened the discussion to public comments.

Eleanor Bollum lives across the road from Jeff and her concern is where it is going.

Jeff Kolnhoffer said that it is as farthest from you.

Mr. M Kolnhoffer said it was over 1,000 feet from her house.

Mr. J. Kolnhoffer asked what her concern is.

Ms. Bollum said that she doesn't have any. Somebody said that if you get a wind turbine you are going to get a whirring noise and you can't get your cell phone reception. What if it does, what is her outcome.

Mr. J. Kolnhoffer said that they went to two or three sites and it isn't an issue.

C/B. Overby said that the cell phone is only an issue if there is a cell phone tower is right next to the turbine.

M. Wozniak said the intent is to help power their operations and any excess would enter the grid.

Mr. M. Kolnhoffer said that there really won't be any excess.

Veronica Mickelson was wondering where it is located from her farm.

Jeff Mickelson said it wouldn't effect if he wants to build a building up down the road.

C/B. Overby said that if it is permitted by the County there shouldn't be a problem.

With no further public comment is was motioned by M. Patterson and seconded by B. Schafer to close the public comments. Motioned carried 7:0.

⁴Motion by M. Patterson seconded by R. Bauer to Approve the Conditional Use Permit for the for a NG12-5 Wind turbine to be located and operated in an A-1 Zone on parcel number 26.023.0400 owned by Circle K Farms with the following conditions:

- 4) Circle K Farms (Mike Kohlnhofer-agent) may locate and operate a NG 12-5, 33 Kilowatt, 110' Wind turbine on parcel ID# 26.023.0400 as per the specific site addressed on the site map.***
- 5) Off street parking shall be provided for any parking needed during installation/construction and for on-going maintenance; and***
- 6) Evidence of an approved Township or County Driveway access permit shall be provided to the Zoning Administrator prior to issuance of a building permit for the Wind Turbine; and***
- 7) No grading or site work in preparation of installation/construction of the Wind Turbine shall take place prior to issuance of a building permit.***

Motion carried 7:0.

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
May 18, 2009 MEETING MINUTES

Summary

Circle K Farms (Mike Kohlhofer) are requesting approval of a Conditional Use Permit, CUP to construct and operate a NG12-5, 33 Kilowatt, 110 foot high, wind turbine on parcel 26.029.0800 in an A-1 (Agricultural Protection) Zone District. The purpose of this wind turbine will primarily be to produce electricity for onsite Agricultural use.

Background

Circle K Farms (Mike Kohlhofer) has submitted a CUP application to install a NG 12-5 Wind Turbine on farm property located in Belvidere Township. The applicant stated in the written justification that the wind turbine will be used to produce electricity for agricultural use and that the 33 Kilowatt turbine will produce standard 240 volt single phase power. He indicated that electricity will continue to drawn from the grid in addition to the output of the turbine and when needs are below the production of the turbine power will flow backwards through the existing transformer onto the utilities grid. The applicant also indicated that they believe any potential conflicts with nearby land owners will be mitigated by their choice of site, since they are keeping the turbine 1,200 feet from any existing land owners. The turbine structure stands 90' (110' with blades), the same height as many nearby harvestor silos. The engineer drawings and specifications have been provided after staff requested more information.

The potential site is located on parcel number 26.029.0800, and has no other dwellings within 1,000 feet of the structures site location. The parcel is currently in agricultural use and has an animal feedlot with structure. Towers and structures less than 200 feet in height do not require lighting. It is the applicant's responsibility to ensure all FAA criteria measures have been met, if necessary.

Belvidere Township has indicated that it will support the request and has not stated any additional provisions.

Findings of Fact

No conditional use shall be recommended by the County Planning Commission unless said Commission shall find:

- Subd. 1. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the immediate vicinity. **The location and operation of a single wind turbine would not have significant impact on the use and enjoyment of surrounding properties being used for agriculture or dwelling sites.**
- Subd. 2. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant to the area. **The surrounding property around each of the potential sites is zoned A-1 and wind turbine location as per requested specific sites would not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
- Subd. 3. That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided. **See attached site map. The site offers the potential for access to a County Highway or Township Road (subject to driveway access permit). Electric service for the proposed Wind Turbine would be available to**

Draft

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
May 18, 2009 MEETING MINUTES**

the potential site.

- Subd. 4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use. **As a provision of any CUP issued for the proposed use, off-street parking for construction and service vehicles should be required.**
- Subd. 5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result. **This subdivision must be adhered to.**

Staff Recommendation/Resolution

Based on the above stated findings of fact, staff recommends approval of the conditional use permit for a NG12-5 Wind turbine to be located and operated in an A-1 Zone on parcel number 26.029.0800 owned by Circle K Farms with the following conditions:

- 1) **Circle K Farms (Mike Kohlhofer-agent) may locate and operate a NG 12-5, 33 Kilowatt, 110' Wind turbine on parcel ID# 26.029.0800 as per the specific site addressed on the site map.**
- 2) **Off street parking shall be provided for any parking needed during installation/construction and for on-going maintenance; and**
- 3) **Evidence of an approved Township or County Driveway access permit shall be provided to the Zoning Administrator prior to issuance of a building permit for the Wind Turbine; and**
- 4) **No grading or site work in preparation of installation/construction of the Wind Turbine shall take place prior to issuance of a building permit.**

Discussion:

See the above request for the discussion and public hearing

⁵Motion by M. Patterson seconded by B. Schafer to approve the Conditional Use Permit for a NG12-5 Wind turbine to be located and operated in an A-1 Zone on parcel number 26.029.0800 owned by Circle K Farms with the following conditions:

- 1) *Circle K Farms (Mike Kohlhofer-agent) may locate and operate a NG 12-5, 33 Kilowatt, 110' Wind turbine on parcel ID# 26.029.0800 as per the specific site addressed on the site map.*
- 2) *Off street parking shall be provided for any parking needed during installation/construction and for on-going maintenance; and*
- 3) *Evidence of an approved Township or County Driveway access permit shall be provided to the Zoning Administrator prior to issuance of a building permit for the Wind Turbine; and*
- 4) *No grading or site work in preparation of installation/construction of the Wind Turbine shall take place prior to issuance of a building permit.*

Motion carried 7:0.

Public Hearing/Zoning Text Amendment –

Action to Consider: Adoption of a Text Amendment addressing references to use of soils for various zoning regulatory purposes in Articles 1, 3, 12, 20, 21, 22 and Appendix A.

The County Board has requested that the Planning Advisory Commission review the provisions of the County's Zoning Ordinance that reference the use of soils. The need to consider these amendments is primarily being driven by the fact the current Goodhue County Soil Survey does classify soils according the CER (Crop Equivalency Rating) system that has been utilized in part to determine A-1 and A-2 Zoning District boundaries and also to limit where dwellings may be constructed in the A-2 Zone District.

Staff will review the various amendment to the Zoning Ordinance Text that have been drafted for consideration by the PAC and explain the rational behind the proposed regulatory approach.

Discussion:

M. Wozniak read through the proposed language changes and reasoning behind the proposed changes.

H. Stenerson asked if the proposed language would be too cumbersome for the average landowner. Are we going to have to pull an engineer in to build a garage?

M. Wozniak said that a lot of these items are currently being required, but they are not being followed.

H. Stenerson said that you could provide them with #3.

M. Wozniak said yes, we do a lot of that now.

C/B. Overby asked about the conservation overlay.

M. Wozniak said that the best ag soils are usually the best soils to build on too.

D. Rehtzigel said that what he likes with it listed is that it is a policy and we can change it down the road. But if we just say it's a policy depending on who's working in land use it can vary quite a bit.

R. Bauer asked if it is possible to use the GIS to make a standard map.

M. Wozniak said that we do a lot of that now. We do provide the basis, but it hasn't always been to a defined scale. Laying out a grid overlay would be an excellent idea. We can always require more if we decide there is a need for survey level of detail. A lot of jurisdictions require a survey everytime.

M. Wozniak summarized the remainder of the language changes and the reasoning behind the proposed changes.

C/B. Overby asked what about what if there was only one dwelling in the prime farmland section, and there could be 3 other sites, are we not going to allow them to be built now?

M. Wozniak said right now we don't limit where a person can build in the A-1 zoning district, but what we are looking at is working with the people to minimize the impacts. You can build close to the road to eliminate the need of the long driveway.

C/B. Overby said you are not going to stop the buildability of a section are you.

M. Wozniak said that it is not an absolute, the goal is to limit the impact.

H. Stenerson asked what is prime farmland, who determines it?

K. Gross brought up the web soil survey and read the definition of prime farmland and explained that the prime farmland determination is based on the soils themselves, it doesn't change with technology, it is the potential for that soil to be productive, versus the CER or CPI which is based on technology and the soil to be productive and can change with technology. We felt the prime farmland was more constant.

D. Rehtzigel suggested we wait a month and play around with the website.

B. Schafer asked if it is too loose to reference an technology that changes.

K. Gross said that it is a living document and that we

H. Stenerson said that under the change of definitions of bluffland, down to 12 % slope is considered bluffland. He is considered about changing the location of those acres.

M. Wozniak said that the survey says these soil types may be found in bluff areas. We are primarily using topography to determine where a bluff is located.

H. Stenerson said that it is one thing if it has to meet these requirements. If it has to meet this or that, somebody might be defined by a bluff based on their soils when they are actually fairly flat.

M. Wozniak said that it is considered "Bluff land protection area" and not clearly defined as a bluff. The definition of a bluff does not list soils as a determining factor.

H. Stenerson said that if we are sure that this isn't going to change anything, than let's hold our public hearing, but if you think it may harm somebody then let's look at it.

C/B. Overby opened the discussion to public comments.

No one present wished to speak for or against the amendment.

With no public comment it was motioned by B. Schafer and seconded by H. Stenerson to close the public comments. Motioned carried 7:0.

C/B. Overby said that he doesn't think there is anything in there that he can object to.

M. Wozniak said that the contours are new, and the survey requirement is and it isn't new.

B. Schafer said that

6Motion by B. Schafer seconded by M. Patterson to approve the Zoning Text Amendments as presented and pass it on to the County Board.

H. Stenerson said he would only be able to adopt it if there is guarantee that this would not be harming

anybody or adding acreage to the bluffland ordinance.

M. Wozniak gave an example of somebody who wished to put a driveway up a bluff and they had a couple of small options, but the soils showed that it was all bluff, and all steep slopes, we wanted an engineer to design the driveway and after thinking about it they decided to build lower on the hill. We were willing to work with them within the bluff.

C/B. Overby asked if there is a way to show that.

R. Bauer said there would be a difference.

K. Gross said there is a difference now.

D. Rechtzigel asked if there is a map that we can show what is considered bluff and what would be considered bluff now.

H. Stenerson asked if we are gaining anything by leaving the soil definition in.

M. Wozniak said that the soils probably date back to when the bluff land was adopted and these soil types were more accurate than the topographical information that was available.

H. Stenerson said that if it is obsolete then remove them from the ordinance.

⁷Moved by D. Rechtzigel seconded by H. Stenerson to table the zoning text amendment. Motion carried 7:0.

⁸Moved by B. Schafer seconded by M. Patterson to adjourn the May 18, 2009 Planning Advisory Commission meeting at 9:40 p.m. Motion carried 7:0.

Respectfully Submitted,

Kristi Gross
Recording Secretary

MOTIONS

¹ APPROVE the May 18, 2009 agenda. Motion carried 5:0.

² APPROVE the April 20, 2009 minutes. Motion carried 5:0.

³ APPROVE the Interim Conditional Use Permit for the period of time of 1 year page 4 last sentence on #1 should be struck until we can sort this out. #2 strike salvage material, that way we are still covering waste, that way staff possibly has some flexibility. Salvage would be used again or separated before it is transferred out for instance the i-beams could possibly stay as well as the unlicensed trucks to strip parks from as well as striking the requirement for the bond. Motion carried 7:0.

⁴ Approve the Conditional Use Permit for the for a NG12-5 Wind turbine to be located and operated in an A-1 Zone on parcel number 26.023.0400 owned by Circle K Farms with conditions. Motion carried 7:0.

⁵ APPROVE the Conditional Use Permit for a NG12-5 Wind turbine to be located and operated in an A-1 Zone on parcel number 26.029.0800 owned by Circle K Farms with conditions. Motion carried 7:0.

⁶ APPROVE the Zoning Text Amendments as presented and pass it on to the County Board.

⁷ TABLE the zoning text amendment. Motion carried 7:0.

⁸ ADJOURN the May 18, 2009 Planning Advisory Commission meeting at 9:40 p.m. Motion carried 7:0.