

DRAFT

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES**

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

Present: Brandon Schafer Daniel Rechtzigel Bernie Overby Suzanne Blue Larry Olson
Tom Webster Sam Michels Howard Stenerson Mike Patterson

Absent:

¹*Motioned by B.Overby and seconded by S. Blue to approve the November 17, 2008 agenda. Motion carried 9-0.*

²*Motioned by H. Stenerson and seconded by D.Rechtzigel to approve the October 20, 2008 minutes. Motion carried 9-0.*

STAFF UPDATES

M. Wozniak stated updates on Dec. 15, 2008 special meeting for Geronimo and T. LaCanne. Informed PAC about Zumbrota comp plan meeting and posted meeting dates for all comp plan meetings for 2009 March-July.

NEW BUSINESS:

OLD BUSINESS: none.

CONFLICT/DISCLOSURE OF INTEREST – none.

Summary

SUBJECT: PUBLIC HEARING: Various Amendments to the text of the Goodhue County Zoning Ordinance

Requested Action: Recommendation to the County Board to approve an amendment to delete the existing Article 11, Section 7 (Tree and Woodland Protection) and to replace it with a substantially new Section 7 (Commercial Timber Harvesting License and Permits)

Background Information:

A public hearing has been scheduled as an extensive of the public hearing held at the September, 2008 Planning Advisory Commission Meeting to hear additional public comment regarding the matter of the County's Timber Harvesting Regulations. Staff has been receiving a considerable number of comments from property owners

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES**

suggesting the need to streamline the County's current regulatory approach which includes a requirement to obtain a Conditional Use Permit for commercial timber harvesting.

Included below are the current Goodhue County Zoning Regulations for (Tree and Woodland Protection, and a streamlined version of what was presented in September.

Included below is Section 7, of Article 11, which represent the County's current text:

SECTION 7. TREE AND WOODLAND PROTECTION

Subd. 1. Vegetative Cutting.

- A. Within the controlled vegetative cutting areas, intensive vegetation clearing, except for any authorized public services such as roads and utilities, shall not be permitted.
- B. Selective cutting of trees in excess of four (4) inches in diameter at breast height shall be permitted providing cutting is spaced in several cutting operations and a continuous tree cover is maintained.
- C. The above cutting provisions shall not be deemed to prevent:
 - 1. The removal of diseased or insect infested trees, or of rotten or damaged trees that present safety hazards.
 - 2. Pruning understory vegetation, shrubs, plants, bushes, grasses, or from harvesting crops, or cutting suppressed trees or trees less than four (4) inches in diameter at breast height.

Subd. 2. Intensive Vegetation Clearing. Intensive vegetation clearing anywhere in the designated land use district on the Cannon River and in any other district which regulates vegetation alterations is subject to the following standards and criteria:

- A. Intensive vegetation clearing shall not be used as a cutting method where soil, slope, or other watershed conditions are determined by the Zoning Authority to be fragile and subject to severe erosion and/or sedimentation.
- B. Intensive vegetation clearing shall be conducted only where clear cut blocks, patches, or strips are, in all cases, shaped and blended with the natural terrain.
- C. The size of clear cut blocks, patches, or strips shall be kept at the minimum necessary.
- D. Where feasible, all clear cuts shall be conducted between September 15 and May 15. If natural regeneration will not result in adequate vegetation cover, areas in which intensive vegetation clearing is conducted shall be replanted to prevent erosion and to maintain the aesthetic quality of the area. Where feasible, replanting shall be performed in the same Spring, or the following Spring.

Subd. 3. Timber Harvesting. Timber harvesting as defined in this Ordinance shall require a conditional use permit per the requirements of Article 4.

Proposed Amendment (revision of the language presented to the PAC in September):

The following new text is intended to entirely replace the existing Article 11, Section 7, establishing requirements for Commercial Timber Harvesting Licenses and Permits:

Section 7. COMMERCIAL TIMBER HARVESTING PERMITS

A permit shall be required to cut, fall, harvest or otherwise remove timber for the purpose of profit from property owned or used by a landowner within environmentally sensitive areas. Specific requirements and application procedures are set forth in this Section.

Subd. 1. Commercial Timber Harvesting Permit Procedures, Requirements and Performance Standards

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES

A. Purpose

1. To insure the economy of harvesting and processing of the County's woodland natural resources through proper forest management principles.
2. To prevent further watershed destruction through unwise logging operations and to protect streams and waterways from woodland debris.
3. To establish a means with which to assure continued restocking of depleted forested areas.
4. To maintain an aesthetic wooded conservation areas where lands are not suited for other types of agriculture.
5. To properly manage forest resources in environmentally areas such as flood plains, wetlands, Blufflands, Shoreland management areas, areas populated with rare and endangered plants species or wildlife, and wild and scenic river districts.

Subd. 2. Commercial Timber Harvesting Permit

A. No person shall harvest trees on environmentally sensitive land within the County as defined in Subd. 1, Paragraph 5, of this Section without first securing a permit.

B. Application for a Commercial Timber Harvesting Permit shall be filed with the Goodhue County Zoning Administrator who may submit the application to the State Forester for review. The application shall contain the following information:

1. The applicant's name, address and phone number.
2. A full description of the location of the land where the timber harvesting is to be undertaken and the volume of timber to be removed.
3. A statement of the purpose of the timber harvest, intent of replanting, disposal program and program of land restoration.
4. The highways, roads or other public ways in the county upon and along which the timber is to be hauled.
5. The estimated time when the timber harvest is to begin and will be completed.
6. A map or plat of the proposed area of timber harvest showing the confines or limits thereof, together with a plan showing generally the vegetative growth pattern.
7. A forest management plan, including method of harvesting, method of reforestation and soil conservation.

Subd. 7. Intensive Vegetation Clearing. Intensive vegetation clearing anywhere in the designated land use district on the Cannon River and in any other district which regulates vegetation alterations is subject to the following standards and criteria:

A. Intensive vegetation clearing shall not be used as a cutting method where soil, slope, or other watershed conditions are determined by the Zoning Authority to be fragile and subject to severe erosion and/or sedimentation.

B. Intensive vegetation clearing shall be conducted only where clear cut blocks, patches, or strips are, in all cases, shaped and blended with the natural terrain.

C. The size of clear cut blocks, patches, or strips shall be kept at the minimum necessary.

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES

D. Where feasible, all clear cuts shall be conducted between September 15 and May 15. If natural regeneration will not result in adequate vegetation cover, areas in which intensive vegetation clearing is conducted shall be replanted to prevent erosion and to maintain the aesthetic quality of the area. Where feasible, replanting shall be performed in the same Spring, or the following Spring.

Subd. 8. Permit Fee. The application for a Commercial Timber Harvesting Permit shall be accompanied by a fee which shall be established by resolution of the Goodhue County Board of Commissioners. A penalty fee shall be applied to Commercial Timber Harvesting Permits applied for and issued after the harvesting operation has begun. The amount of penalty fee shall established by resolution of the Goodhue County Board of Commissioners.

A. Permits shall be valid for a period of one (1) year from the date of issuance, but may be extended subject to approval of the Goodhue County Land Use Management Department.

B. When evaluating the Commercial Timber Harvesting Permit, the Goodhue County Land Use Management Department, as a prerequisite to the granting of a permit, may require the applicant to whom such permit is issued or to the owner or user of the property on which the timber harvesting occurs to:

1. Restore to a reasonable and useable condition all cuts, access roads or stripped slopes.
2. Dispose of all slashings or other refuse resulting from cutting operations in a safe manner.
3. Exercise reasonable care and take whatever practical action necessary to prevent and suppress forest fires in the permit area and vicinity.
4. Perform all cutting operations in cooperation with conservation programs administered by the Department of Natural Resources and authorized representatives thereof.
5. Apply timber stand improvement practices to the area.
6. Avoid any trespassing on abutting properties unless expressly granted permission from the affected property owner.
7. Avoid impacting abutting properties with timber harvesting practices such as leaving tree tops or other debris resulting from the timber harvesting operation. Any such impact on abutting properties shall be promptly addressed by removing tree tops or debris with permission of the affected property owner.

Discussion:

M. Wozniak stated summary of the item. He read DNR edits to adjusted report, including number 4 re-wording.

S. Blue disagreed with number 4 and manual input.

B. Overby asked if this is only about private or public lands.

M. Wozniak stated we have no authority over fed or state lands, just privately owned.

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES

H. Stenerson said back and forth about licensing situation between landowner and logger.

M. Wozniak said staff eliminated licensing in this draft. County is in authority to license is so choose to, question is why license. For example is it a tracking mechanism or oversight of bad operators, bottom line is input received is that opinion of staff is work versus benefit is not worth wild, but can be added later.

H. Stenerson asked if licensing is a zoning procedure.

M. Wozniak stated it can be as part of administrative ordinance.

S. Blue said her instincts are completely contrary. Appreciated staff reports. Concerned that efficiency for good reason, but priority for PAC is making something fit within each landscape situation. We need to make logging make sense and fit better in the surroundings it is in. She said it is more complicated and deserves a month of committee work in trying to organize how it goes forward for all landowners, logging companies, and loggers. She does not feel the DNR foresters helped with that at the last PAC meeting to help resolve issues although good intentions.

M. Wozniak stated back on agenda because a lot of folks had placed call-ins. Wind damaged situations allowed for administrative permits and sometimes still receive complaints.

S. Blue said adjacent land owners rights not fully addressed.

M. Wozniak said something should be put back in front of PAC, they do not have to act immediately and can deliberate further. After comments this evening you can take this change and adjust it again later.

H. Stenerson said permitting falls on landowner not logger and this brings up licensing again.

M. Wozniak stated landowner has to sign off on it.

B. Overby asked if not in environmentally sensitive areas can he cut his trees. Does this preclude anything else then.

M. Wozniak stated yes, just wanted to understand. That's what PAC suggested before.

S. Blue asked is that what we said in September.

M. Wozniak stated before September at former workshop. He raised issue to think about in value in best practices even if outside environmentally sensitive areas.

D. Rehtziegl asked about any oversight in non-environmentally sensitive areas, if in huge areas. He asked about clear cuts.

M. Wozniak stated only pockets out there outside of some sensitive feature.

S. Blue asked if 99, 90, 80 percent in sensitive areas.

M. Wozniak asked have we done that type of survey work. Issue with mixed landscape and how to judge.

H. Stenerson asked for opinion from staff. He asked if condition in ordinance for sensitive areas would confuse landowners into reading land features themselves and cause confusion on needing permits.

M. Wozniak stated that's why this is being brought up, good point.

C/m. Michels opened the public hearing.

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES

Ray Higgins, Mn. Timber Producers Assoc, Duluth, brought reading material and explained materials. A lot of common ground; water quality, trespass, etc. share concerns. Regulations not behavioral answer; education will address issues and address sources. This is what DNR uses to manage state land and can be used for private lands management. When guidelines aren't followed violations can be addressed by MFA state rep. here tonight. MLEP mentioned with training requirements and cont. education requirements and Seth Johnson here from MLEP board. In Wisconsin it is called FISTA and DNR recognized, but certifications different. Sources made available for review. One option is a permit, but suggested that county recognize MLEP without permits suggested. He mentioned Terry Helbig, DNR, said lets not re-invent the wheel. Forest Resources Council can handle issues also for landowners. Pieces in place state wide, ordinances are expensive. He was glad about streamlining.

B. Overby asked if he was asking for a MLEP exemption.

R. Higgins said yes, not sure ordinances ok, patchwork across state, in perfect world urge no regulations at all. Recognize county already has regulations, but again suggests recognize MLEP.

H. Stenerson asked do you believe MLEP are doing much more than we would ask for in an Ordinance. Would it be better to ask for regional loggers go through MLEP or licensing.

R. Higgins said as he and Howard had spoke last week, he does not like licensing process.

H. Stenerson asked about MLEP; are members need to be the contractors or subs that cut and how is that related.

R. Higgins answered what state does is require a MLEP person on site and handles oversight on state land. Person A and then person B does logging.

H. Stenerson if they have to be onsite when harvest.

R. Higgins said yes onsite during harvest.

S. Blue stated big problem on non-state land, it is different and that is not covered on non-state land. What do you suggest.

R. Higgins suggested DNR advise.

S. Blue gave example of local DNR not good enough.

R. Higgins asked about trespass issue.

S. Blue gave sub-contractor trespass example problems. She noted this is the third time in this township this year.

R. Higgins stated all on same page, gap in logger on the ground being certified, no suggestion for that. Adjacent landowners should work it out with sheriff as civil or criminal issue.

Bruce Sumbal, past president of Mn. Forestry Association (MFA) has concern of patchwork of ordinances around the state that make it hard to comply. He referenced 1995 Act and explained programs for sustained forest resources. He suggested public concern by registration process for complaints for landowners for council to investigate. It is educational not punitive. Catalyst for mitigating problems and left brochure for process. He agreed with Mr. Higgins about patchwork in Planning. Unclear with application information on permitting.

M. Wozniak stated application forms often that way and staff would address.

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES**

- B. Sumbal said education better than regulations and less expensive and guidelines mentioned by R. Higgins effective. MFA is strictly non-profit educators, no paid staff.
- B. Overby stated about guidelines, asked what about environmentally sensitive areas for logging.
- B. Sumbal stated in the guidelines and added examples like cultural resources. He mentioned most of foresters are family logging owners. He explained Forest Management Plans and landowner requirements for activity members to be in the programs. He gave M. Wozniak documents.
- D. Rehtzigel asked are these guidelines but not rules.
- B. Sumbal said voluntary until contract made.
- D. Rehtzigel asked how many percentage wise that enter into that.
- B. Sumbal said all DNR sales and government sales. 90 percent of timber in state. Directory published in cooperation with MN logger education program.
- D. Rehtzigel stated concern about patchwork but land use because county takes on land use, people get used to county responding to land use situations. Landowners want county to handle it, not state answers.
- B. Sumbal stated opportunities through the council and investigations confidential.
- S. Blue asked as we wrestle with this, in a situation we have long term lumber company involved in cross state logging. They deal with sub-contractors and everyone has best interests of jobs, but we are talking about role of planning commission so that all of the citizens can trust the structure. We have difficulties right now.
- B. Sumbal said lack of forest management plans state-wide frustrating also.
- S. Blue re-stated situational pieces to problems.
- B. Sumbal stated loggers should be following pre-harvest guidelines, but not always addressing adjacent landowners.
- M. Wozniak stated best practices have not been consistently followed in the county, staff would have seen that. Jim Brooks, local consulting forester, adding thoughts, said it may have confused public if permitting only on sensitive sites, not all sites. He gave an example, he would rather get a permit, not a CUP, but a streamlined permit. Why CUP in that form to begin with, he gave former example in 2001, not CUP at that time. He was the only one getting a permit when others don't. CUP fee of 346 dollars was onerous, 50 dollars would be better as cost of doing business. 350 dollars is nothing more than a tax. The streamlined permit gives information. Selective enforcement has not done the county some good, so we are here tonight. What M. Wozniak is doing is the proper direction. Everyone gets permit, dealt with administratively, can go to county board if needed later. Trespass is judicial issue. He thinks this is the right road, CUP timetable is an onerous requirement. No other examples in county for business transactions taking 2 months, he would suggest that the staff can review and let business proceed.
- D. Rehtzigel asked about regulation reading to say permit required for all not just sensitive areas.
- J. Brooks said yes, gave client example for 8 trees.
- H. Stenerson asked J. Brooks about contracts, MLEP in contracts, do you put that in your contracts.
- J. Brooks makes lists and sub-lists and may not be MLEP sub-cons but experienced and comfortable business associates. May be or not, tends to be sub-set of voluntary state list both certified and uncertified.

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES**

S. Blue asked about 8 tree comment, versus 5 acre threshold.

M. Wozniak explained minimum threshold not set, 5 acre as Winona example.

S. Blue asked if intent for 50 dollar land use permit and trespass issues relayed to law enforcement.

J. Brooks said education needed, and going on tonight. For simplification all commercial timber sales need permit so as not to split hairs for certain places or threshold limits.

S. Blue said our problems are adjacent landowners issues, clear cutting shear faces and on bluffs, outside loggers, etc. and 3 issues in one year in Florence Township.

J. Brooks said he is familiar with a few of them. Body of laws deal with that both civil and criminal and does not fall under Land Use Planning authority in Goodhue County.

S. Blue said it does fall under to preclude by staff as they head off problems if more efficient than law enforcement.

J. Brooks said other issues surrounding contracts does not fall under prevue of PAC and LUM.

Seth Johnson, Johnson Logging in Cannon Falls, been on state board for 3 years, he is only MLEP and only 2 members in SE Minnesota but state also recognizes FISTA and recognizes Mn. state Education guidelines is best we can do. He noted as Mike Wachholz stated from DNR , come down to sawmill and see driveway that was 900 feet long example one versus another.

Rob Sawinski, Hawkeye Forest Products, SE consultant 23 years as consultant forester, knows all here, and worked for 3 industries throughout career. System in place can work if you let it work. Have harvested a lot in southeast MN., gave Winona examples and priorities to review permit. Wilson and Saratoga Townships also have ord's that supercede in Winona County.

B. Overby asked if you are in favor of permitting.

R. Sawinski stated yes, agreed with J. Brooks and gave examples to re-establish certain species. 50 dollar permit fine and affordable.

H. Stenerson asked about Winona, is it important for landowner to ask questions.

R. Sawinski said a lot of landowners out there that do not have concern for resource and only profit and the forester has to convince a management plan. Promotes guideline book.

S. Blue asked if trespassing is uncommon in other places that screen like Winona.

R. Sawinski said there is contractors that should not be operating. In past in SE counties, as time has gone on landowners have changed dramatically to absentee owners also.

S. Blue asked what is appropriate for PAC or simple applications.

R. Sawinski should look for information and is somebody watching them.

S. Blue said that's the problem nobody.

R. Sawinski said MLEP or FISTA onsite working at least one in harvest crew.

S. Blue stated 3 Florence Twp. Situations.

R. Sawinski said trespass is not a PAC issue. PAC item is how to manage forest canopy and BMP.

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES

M. Wozniak stated staff has worked with Rob Sawinski and adjacent landowners concerns addressed. If everyone worked that way no problems. We need to focus on process on changes or ordinances.

R. Sawinski complimented but said follow correct thing in right direction.

Terry Helbig, DNR area Forester in Lake City, careful of dividing DNR and personal opinion. Seems like consensus is that permitting process is not a bad idea. Trespass concern on state land DNR has landowners walk with them and suggests adjacent property owner notified.

Motioned by B. Overby. to close the public hearing, seconded by B. schafers Motion carried 9-0.

H. Stenerson asked if reasonable to table again.

B. Overby agreed.

M. Wozniak stated pending projects and current CUP still stands. Maybe waiver of CUP process until this issue is resolved.

D. Rechtzigel asked about trial process.

M. Wozniak said we are trying to find the balance.

S. Michels asked how many permits in the next 90 days.

M. Wozniak stated a whole bunch of permits and storm permits.

S. Miches asked if 90 day interim ordinance and staff can address problems in that time.

M. Wozniak stated you can go that route, we are trying to replace CUP process, and you can further amend later.

H. Stenerson said to propose to county board with DNR changes to make 6 month interim ordinance.

Motion by H. Stenerson seconded by D. Rechtzigel to Approve the 6 month, interim ord with #2 Subdiv B include company name that harvest and provision that land marked. Zoning Ordinance Text Amendment for Timber Harvesting in Article ??? section ??? Goodhue County Zoning Ordinance . Motion carried 8-1 S. Blue dissenting.

H. Stenerson said add #8 borders marked.

D. Rechtzigel stated this gets out of CUP until they decide.

H. Stenerson said to recommend to consider to put on agenda to review each month to develop in next 6 months.

B. Schafer asked gentleman in audience that said enacting ordinance may preclude people in programs.

R. Higgins said no it would not.

B. Schafer said ultimately no conflict.

R. Higgins said no.

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES

M. Patterson said no need for 6 months, and re-hash and waste of time and would like to see happen in December.

M. Wozniak stated if tabled to Dec 15th it would be acted on in January Board meeting.

D. Rehtzigel said pushed to second January meeting.

M. Patterson said we are there now so lets streamline, almost done lets finish tonight.

L. Olson asked for clarity for wind damage permits.

M. Wozniak explained that situation by Land Use Alteration Permitting.

B. Overby said December good idea.

M. Patterson motioned to amend to strike 6 months to insert until permanent ordinance is in place and put on December agenda.

M. Wozniak stated so we are taking out CUP for clarification.

M. Patterson withdraws motion to strike and amend.

M. Wozniak stated explanation of Amending to take out the CUP process and noted Ordinance Amendment at Dec 4th County Board meeting for second public comments to audience.

SUBJECT: PUBLIC HEARING: Various Amendments to the text of the Goodhue County Zoning Ordinance

Summary

Dole Explosives Inc. and parcel 37.030.100 landowner Monte Otterness are requesting a text amendment to the Article 11, Section 2, Subd. 1. (Accessory Uses) that would recognize the Explosive Storage and Manufacture as an Accessory Use associated with a Mineral Extraction Facility subject to issuance of a Conditional Use Permit

Background:

The applicants are proposing to begin explosives storage and manufacturing operations at the mineral extraction facility in the mining quarry located in Section 30 in Leon Township. The proposed mining site is zoned A-1, Agricultural Protection Zone. The parcel of land is currently being mined. Background information related to this proposal has been included in the staff report for the Conditional Use Permit being requested for the explosives storage and manufacture facility.

In order to be able to consider the request from Dole Explosive to establish an operation for the storage and manufacture of explosives it is necessary to recognize this land use in either the District Regulations for the A-1 Zone District or to list it as an accessory use of a Mineral Extraction Facility in Article 14 (Mineral Extraction Regulations). By listing the proposed land use as an accessory use that may be permitted by conditional use permit in a Mineral Extraction Facility the County would clearly limit any potential locations for such a use. This would be preferable to potentially allowing the storage and manufacture of explosives anywhere in the A-1 Zone District.

The Township has signed the Zoning Application Summary Form, indicating their approval of this request.

Proposed Zoning Ordinance Text Amendment:

The requested zoning text amendment will involve amendment of Article 14, Section 2 (Definitions), Subd. (Accessory Uses) as follows (see underlined red text to be added to Subd. 1):

SECTION 2. DEFINITIONS

Subd. 1. **ACCESSORY USES:** Accessory uses of a mineral extraction facility include the manufacture, storage and sale of products made from minerals on the premises and storage and sale of minerals, recycled asphalt, recycled concrete and topsoil not extracted on the premises. In addition, the storage and manufacture of explosive may be permitted as an accessory use of a mineral extraction facility subject to approval of a conditional use permit.

Staff Recommendation:

Approval of a text amendment of Article 14, Section 2, Subd. 1, of the Goodhue County Zoning Ordinance to read as follows:

Subd. 1. **ACCESSORY USES:** Accessory uses of a mineral extraction facility include the manufacture, storage and sale of products made from minerals on the premises and storage and sale of minerals, recycled asphalt, recycled concrete and topsoil not extracted on the premises. In addition, the storage and manufacture of explosive may be permitted as an accessory use of a mineral extraction facility subject to approval of a conditional use permit.

Discussion:

M. Wozniak stated summary of the item and how it relates to Article 14, Section 2, Subdivision 1 accessory uses added a sentence in the text.

C/m. Michels opened the public hearing.

Brad Anderson, Leon Township Clerk and Zoning Administrator gave background on item at Township level and they drew up a lot of guidelines. They visited site and gained understanding of these explosives and techniques. Manufacture is more of a mixture with alternate options. Township gained comfort level with it and roads can handle it. Township added a lot of guidelines and support them in the text amendment.

B. Overby asked if used or stored only on site or region.

B. Anderson said in region, with ATF setbacks good on site. He recommended approval.

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES

Rich Hockings, Attorney for proposal and Sam Dole also here tonight to answer questions.

Sam Dole and Rich Hockings moved to table.

Motioned by M. Patterson to close the public hearing, seconded by B. Overby Motion carried 9-0.

Motion by M. Patterson seconded by B. Overby to Approve the Zoning Ordinance Text Amendment for Dole explosives Inc and Monte Otterness property in Section 30 in A-1 Zone District of Leon Township . Motion carried 9-0 .

H. Stenerson had question for M. Wozniak about standards.

M. Wozniak stated staff would address through CUP and ask for more information if necessary later if needed.
Strict Fed standards.

L. Olson asked about Township interim use.

M. Wozniak stated previously only townships and cities could use interim uses, this situation expects to be here for awhile. If CUP it would not expect to disappear any time soon. Township said interim, we would have to authorize an interim use language first in Zoning texts.

L. Olson said township authorized interim 20 years and they would have to come back if Dole Explosives changed not landowner.

M. Wozniak stated past CUP example.

H. Stenerson asked about setback requirements.

R. Hockings said that was brought up at Leon Township and strict requirements based upon magazines and locations and distances. Sam Dole could explain better. Township had standard so any new neighbors would not have concerns, but if new could they get building permit within the minimum regulations and put them out of business. Township addressed that.

M. Wozniak asked about the motion.

H. Stenerson said that may be important tonight first.

M. Wozniak stated the second public hearing time.

B. Schafer stated reciprocal setbacks like in feedlots already exist.

S. Michels called to vote.

Summary

Dole Explosives Inc. and parcel 37.030.100 landowner Monte Otterness are requesting a conditional use permit to manufacture and store explosives in a mineral extraction quarry facility in an A-1 Agricultural Protection Zone in Leon Township.

Background:

The applicants are proposing to begin explosives storage and manufacturing operations at the mineral extraction facility in the mining quarry located in Section 30 in Leon Township. The proposed mining site is zoned A-1, Agricultural Protection Zone. The parcel of land is currently being mined.

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES

Also on the November 17, PAC Meeting Agenda is a request from Dole Explosives/Monte Otterness asking the County to approve a text amendment that would list the “storage and manufacture of explosives as an accessory use in a mineral extraction facility subject to issuance of a conditional use permit. The proposed text amendment would establish authority for the PAC and the County Board to permit the explosives storage and manufacture in a Mineral Extraction Facility by conditional use permit.

The mining operation includes plan to install a new haul road with an aggregate surface, which would access off of CSAH 9. The haul road would access County 9 Blvd. where there is an existing field access already in place by easement. Minnesota Department of Transportation (MnDOT) is aware of the request and is reviewing it.

A portion of the subject parcel appeared to be located in the shoreland overlay district according to the County GIS maps. Bill Huber, the DNR Area Hydrologist, reviewed the request and recommended that the parcel not be treated as a shoreland area. (Please see attached correspondence).

The applicants hired Lawler Environmental Inc. to prepare a Storm Water Pollution Prevention Plan (SWPPP). The applicants have also established reclamation guidelines for the mining site.

The applicants have established an Irrevocable Letter of Credit with the Vermillion Bank, Vermillion, MN.

The Township has signed the Zoning Application Summary Form, indicating their approval of the request.

Staff Recommendation:

Based upon the following findings of fact, according to Goodhue County Zoning Ordinance, Article 25, Section 5:

- 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 mining activity does not appear that it will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted and will not substantially diminish and impair property values. In addition, conditions will be added that the applicants maintain the required setbacks from property lines.***
- 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 proposed mining activity does not appear that it will impede the normal and orderly development and improvement of surrounding vacant property for uses predominant to the area. In addition, conditions will be added that the applicants maintain the required setbacks from property lines.***
- Subd. 3. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided. **The applicants are proposing to continue use of an easement driveway that accesses off of County 9 Blvd. to the mining site. They are waiting approval from MnDOT.***

- 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. **The property contains adequate off-street parking and loading space for the haul trucks.***
- 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. **The applicants have proposed a tire wash area for the haul trucks when they are leaving the site. They are also proposing to limit the operation to normal business hours.***

Staff recommends approval of the conditional use permit request to operate a mineral extraction facility in an A-1, Agricultural Protection Zone as an accessory use in Mineral Extraction Facility with the following conditions:

- 1) Follow the conditions established by the SWCD;**
- 2) Receive approval from MnDOT before modified use of the haul road off of County 9 Blvd;**
- 3) Follow the submitted site plan according to the application dated October 14, 2008;**
- 4) The applicant will inform Land Use Management of any complaints that might be received; and**
- 5) Follow the Mineral Extraction Facilities Performance Standards in Article 14, including the minimum setback requirements from property lines, existing dwellings, road right-of-way lines, etc.**
- 6) Compliance with all applicable local, state and federal permit or operating requirements.**

Discussion:

M. Wozniak stated summary of the item and mentioned Leon Township conditions for consideration. He said you can add Township items if needed. Mentioned Karst Topography so potential ground contamination addressed.

R. Hockings asked M. Wozniak about haul road improvements mentioned in recommendations.

B. Anderson said past involvement situation with Hernke building a new road out to County Road 9 with turn lane improvements, probably addressed already.

M. Wozniak stated is Township ok with that.

B. Anderson said ok.

M. Wozniak stated number 2 can be removed.

C/m. Michels opened the public hearing.

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES

B. Anderson, explained CUP at County level, Township as interim use permit. Township put out at 20 year time frame for review. Gave example as CUP being forever. Township asks for list to be fully adopted from Township, doesn't like broad brush approach. They do not want fuel storage in the rock pit. Security and other issues asked to be added also.

M. Wozniak said they could be melded together.

H. Stenerson asked about process and fuel for process or for vehicles.

B. Anderson said mixed onsite.

Bruce Hockensmith, Leon Township chair, said good corporate partner and asks for one standard across the board for Township and County.

Motioned by B.Overby. to close the public hearing, seconded by T. Webster Motion carried 9-0.

B.Overby asked if getting rid of number 2 and adding all Township conditions.

Motion by B. Overby seconded by B. Schafer to Add township conditions and delete number 2 and approve the Conditional Use Permit for Dole explosives Inc. and Monte Otterness property in Section 30 in A-1 Zone District of Leon Township . Motion carried 9-0.

H. Stenerson said change of ownership should be added.

S. Michels said in it.

B. Anderson said township had included only the conditions the PAC can enact.

M. Wozniak stated opportunity for new owner to understand requirements and potential amendment to CUP.

H. Stenerson asked if new CUP made for new owner.

B. Hockings said not applicable because Dole as tenant and sale provisions related to ownership of the land and if landowner was the one getting the CUP. They have lease rights to continue regardless of landowner. They agreed that Interim Use made sense.

H. Stenerson said that's his point and what if Dole sales to others and be sure to provision operators are professional.

M. Patterson said hard for staff to manage. How would the county know without landowner.

S. Michels said PAC can pull CUP later if problems.

H. Stenerson said valid point. His other question is spill containment. Township described plate under emulsion and is it dry.

S. Dole said liquid in sense of mayonaise slurry or grease. The diesel is on fuel tank on bulk trucks driven in.

H. Stenerson asked if mixed as needed or diesel fuel stored.

S. Dole said fertilizer, blasting caps, emulsion stored on site. Truck there to load for particular blast. Then it would drive to the quarry and mixed there. 90 percent not in quarry, 10 percent yes onsite. Bags of mixture sewed and stored onsite.

B. Overby asked if Feds cover that.

S. Dole said yes, ATF, DOT.

H. Stenerson asked about setbacks from ATF charts provided.

S. Dole explained magazine setbacks separated and most stored between 75-80 thousand pounds.

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES

- H. Stenerson asked about setbacks again.
- R. Hockings said how best to document is still being discussed for setbacks in the future in regards to future building in area. Issue to make sure of understanding of notice.
- H. Stenerson asked if grandfathered in by feds.
- B. Schafer said reciprocal setbacks in place.
- M. Wozniak stated no reciprocal in ordinance at this point.
- M. Patterson said we don't want county to buy a house.
- B. Overby said feedlot offset models mentioned in Ordinance.
- R. Hockings said could be written in.
- H. Stenerson said we need to investigate for no future run in of problems in future as county responsibility as applied rules.
- D. Rehtzigel asked if Feds would grandfather them.
- R. Hocking said they brought this forward at Township level to protect themselves.
- D. Rehtzigel stated industry should work that out to protect.
- B. Overby stated feedlot regulations.
- R. Hockings said ANFO industry not big enough yet to regulate.
- M. Patterson stated staff should consult with DA before County Board.
- B. Overby asked if they should review in text amendment for setbacks.
- M. Wozniak stated County Board can adjust if this is moved forward tonight.
- M. Patterson would like to move forward and staff investigate setback role in CUP or text amendment with drawings of boundary.
- S. Michels called to vote.

Summary

Joseph and Sylvia Jerdee are requesting a Preliminary and Final Plat for property in Section 24 of Florence Township. Parcel 32.120.0200 within Section 24 Florence Township has completed a Change of Zone District from A-2 to R-1 Zone District and the applicants request a Preliminary and Final Plat. The purpose of this Preliminary and Final Plat Change is to be allowed the opportunity to match nearby R-1 land uses and later split the parcel in the future for a second residential parcel.

Background Joseph and Sylvia Jerdee currently own the parcel involved in the Preliminary and Final Plat. The parcel has over 2 acres and the existing home has been onsite for decades minus a farm in Sections 24 within Florence Township.

The existing driveway on parcel 32.120.0200 would continue to be utilized as access to the overall property. This exits to a frontage road off of Highway 61. Parcel 32.120.0200 is not affected by the floodway impact zone of Lake Pepin. The proposed Plat is outside of this area on higher elevation and is consistent with the Goodhue County Comprehensive Plan and Zoning Ordinance.

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES**

A dwelling and detached garage currently exist on the property. The intent of the property owner is to remove the garage (which straddles the proposed lot line) and to move the existing dwelling so that is more centered on the northerly lot being created by the subdivision. Conditions should be included to ensure that the garage is removed prior to issuance of any building permits on either of the new parcels and to ensure that the existing home is moved or that it meets the minimum side yard setback of eight feet..

Dave Johnson, of Johnson and Schofield Surveyors, of Red Wing, has been authorized as the Jerdee agent and surveyor in this matter. Florence Township has had opportunity to review and discuss this proposal and support the request.

Detailed description of the proposed Plat has been included in the Jerdee Site Plat Description submitted as part of the application.

Preliminary Plat/Final Plat Requirements: Because subdivision of property is involved the proposed subdivision plan is subject to requirements established in the Goodhue County Subdivision Controls Ordinance. The proposed subdivision represents a re-platting of property, because no new public roads are proposed and because existing structures and water/wastewater systems are substantially in place LUM Staff have permitted some streamlining of preliminary plat submittal requirements.

In addition, Mr. David A. Johnson representing Mr. and Mrs. Jerdee has referred the proposed plat to Florence Township for consideration. The Township Planning Committee and Township Board have reviewed the proposed plat and are comfortable with the proposed subdivision of land.

Findings of Fact

- The proposed Jerdee Bluff View Subdivision Plat is consistent with the Goodhue County Comprehensive Plan; and
- The Jerdee Bluff View Plat meets standards and requirements set forth in the Goodhue County Zoning Ordinance including Article 30 (Shoreland Regulations). The application submitted by David A. Johnson on behalf of Mr. and Mrs. Jerdee meets submittal requirements as expressed in the Goodhue County Subdivision Ordinance and interpreted by the Goodhue County Zoning Administrator; and
- Florence Township has considered the proposed Jerdee Preliminary/Final Plat prior to action by the Goodhue County Board, and

Staff Recommendations:

Land Use Management Staff recommends that the Planning Advisory Commission recommends approval to the Goodhue County Board of the Jerdee Bluff View Preliminary and Final Plat subject to the following conditions:

- 1. Subject to the Jerdee drawing as submitted by the Applicant on October 15, 2008 and supporting descriptive information included with the Joseph and Sylvia Jerdee Preliminary/Final Plat for Jerdee Bluff View.**

2. **Compliance with all standards and requirements included in the Goodhue County Subdivision Controls Ordinance.**
3. **Recording of the final plat with the County Recorder/Registrar of Deeds.**
4. **Subject to removal of the existing detached garage prior to issuance of any building permits for either of the parcels included in the Jerdee Bluff View plat.**
5. **That no building permits shall be issued for either property in the Jerdee Bluff View plat until confirmation is provided that the existing dwelling is in compliance with minimum County Yard Setback requirements.**

Discussion:

M. Wozniak stated summary of the item. He talked through staff recommendations, with added regards to buildings on site (number 4). He explained standard for removal of homes after replacement within 6 months and prior to occupancy of new home. Staff not comfortable, yet structure could stay until a new property built. He mentioned option until certificate of occupancy on parcel with the house, but staff felt best way to do it is as first stated. Number 5 could be dropped, staff open to comments or questions from applicant about garage and can field questions.

S. Michels stated lots both 1.82 acres, how many homes.

M. Wozniak stated 2 and one per parcel after plat.

S. Michels thought four houses.

M. Wozniak stated standards of frontage and shore land cannot meet any additional lots unless road put in there. Surveyor Johnson has evaluated site for the applicant.

B. Overby said in past tear downs never happen once approved, stick to regulations and comply prior to building new.

M. Wozniak stated drawing and driveway situation and what we don't want is house on new lot with non-conforming garage situation.

S. Michels stated nearby example of another not removed in his neighborhood.

M. Wozniak stated enforcement issue or no certificate of occupancy given prior. This recorded against the property.

David A. Johnson, agent, addressed situation, he explained Jerdee couple would prefer to keep belongings in garage until new construction done. Could be other lot sold first. Ideal is to live in their house while building on the same lot, then tear down garage whenever later for convenience. Spoke with M. Wozniak about tearing down or moving original home within 6 months of Home Occupancy.

B. Overby asked if sold the north lot would it tear down garage.

D. Johnson asked Jerdees, they said yes.

M. Patterson asked about staff intent.

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES

M. Wozniak stated staff discussion today with K. Moriarty and L. Hanni and she was less comfortable with allowing garage to remain if building permit issued on either lot even. Staff wants to make sure garage is removed in reasonable amount of time so lot lines not through structures.

D. Johnson said garage needs to come down and it will never stay there just rudimentary shelter for equipment for now.

M. Wozniak stated staff will work with PAC to resolve.

H. Stenerson asked why then split now instead of new house first.

D. Johnson said economic projections and game plan. First step to re-zone, then plat while taxes paid. Then banking steps in progression.

B. Overby said if split where does garage go.

M. Wozniak said cuts it, but no building permits yet.

D. Johnson said he is Wabasha official and gave example in Lake City also.

M. Wozniak stated staff showing some flexibility.

B. Overby asked how enforceable later about garage before title change.

M. Wozniak said yes, with recorders office to watch out for.

D. Rehtzigel asked could recorders red flag or watch over it.

M. Wozniak said yes. Not staff preference though.

D. Johnson said it would be caught in a building permit situation.

B. Overby asked about moving lines.

D. Johnson said set lines to equal it out.

C/m. Michels opened the public hearing. None.

Motioned by B. Schafer to close the public hearing, seconded by M. Patterson. Motion carried 9-0.

H. Stenerson asked about occupancy wording instead.

M. Wozniak said either way a little irregular. How accommodating PAC will be is the decision.

B. Overby said too complicated to approve split with building cut by line.

M. Wozniak said decision to make.

Motion by B. Schafer striking number 5 and following standards that garage be removed prior to plat recorded, seconded by T. Webster to Approve the Preliminary and Final Plat for Jerdee property in Section 24 in R-1 Zone District of Flornence Township. Motion carried 9-0.

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES

Summary

Ross Lundstrom is requesting a Conditional Use Permit for the on parcel 32.130.0150 in Section 12 of Florence Township to construct an elevated replacement dwelling located within flood fringe area of Lake Pepin to one foot above RFPE in accordance with all relevant County, State, and Federal policies and regulations. A conditional use permit is required because Mr. Lundstrom is proposing to utilize an alternative elevation method rather than the use of fill to elevate a structure's lowest floor above the RFPE.

Background Ross Lundstrom currently owns the property involved in the request.

The CUP to allow Ross Lundstrom within an A-2 Zone District is subject to conformance with provision of Section 5 Subdivision 4A, of Article 31 of the Goodhue County Zoning Ordinance (included below).

Subd. 4. Standards for Flood Fringe Conditional Use.

- A. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the RFPE. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above grade enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above grade and not a structure's basement or lowest floor if:
1. If the enclosed area is above grade on at least one side of the structure.
 2. Is designed to internally flood and is constructed with flood-resistant materials.
 3. Is used solely for parking of vehicles, building access or storage.

The above noted alternative elevation methods are subject to the following additional standards:

- a. Design and Certification. The structure's design and as-built condition 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, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the RFPE or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
- b. Specific Standards for Above Grade, Enclosed Areas. Above grade fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
 - (1) The minimum area of openings in the walls where internal flooding is to be used as a flood-proofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, vales or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
 - (2) That the enclosed area will be designed of flood-resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles, or storage.

The applicant has included with the CUP application a description of the use of the property that includes a site plan. Also are included architectural drawings that meet the Ordinance for design of the dwelling being

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES**

constructed with the alternative elevation method. It will be necessary for the applicant to provide an “as built” certification confirming that requirements set forth in Section 5 Subdivision 4A, of Article 31, have been met.

The primary issue of concern is the Flood Fringe area and the property in close proximity to Lake Pepin and State of Minnesota Protected Water.

The subject property is situated within the Shoreland Area, Lake Pepin is bordering the Lundstrom Property. Under the Shoreland Management Regulations structures and parking areas are required to be located a minimum of 100’ from the Ordinary High Water Line of the waterway. In order to ensure that the 100’ setback is adhered to both LUM Staff and MNDNR Area Hydrologist, Bill Huber, recommend that the vehicle parking/storage area be kept a minimum of 100’ from the OHWL of Lake Pepin.

The Shoreland Management regulations require a compliance inspection of the on-site sewer system on the property. In addition the well on the property must be tested to ensure compliance with the Goodhue County Water Quality Ordinance.

Findings of Fact

- The proposed Ross Lundstrom Conditional Use Permit that proposes the construction of a dwelling one foot above the RFPE is consistent with the Goodhue County Comprehensive Plan; and
- The proposed Ross Lundstrom 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 Ross Lundstrom CUP.
- The Lundstrom property is situated within the Shoreland Management Area of Lake Pepin and subject to a minimum 100’ setback from the Ordinary High Water Line.

Staff Recommendations:

Land Use Management Staff recommends that the Planning Advisory Commission recommends approval to the Goodhue County Board of Commissioners of the Ross Lundstrom Conditional Use Permit subject to the following conditions:

1. Construction of the dwelling is one foot above RFPE and dwelling is located on approved site by Goodhue County Zoning Administrator with accordance to Goodhue County Building codes and all State and Federal requirements.
2. Vehicle parking area be kept a minimum of 100’ from the OHWL of Lake Pepin and be subject to approval of the Zoning Administrator; and
3. A compliance inspection of the on-site sewer system on the property must be completed and submitted to the Goodhue County Environmental Health Department within sixty (60) days of approval of the Conditional Use Permit; and

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES

4. The well on the property must be tested to ensure compliance with the Goodhue County Water Quality Ordinance and the results of testing shall be submitted to the Goodhue County Environmental Health Department within sixty (60) days of approval of the Conditional Use Permit; and
5. Proof of liability insurance for the structures, property, occupants, and visitors.
6. The applicant shall provide as-built certification The structure's design and as-built condition 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, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the RFPE or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

Discussion:

M. Wozniak stated summary of the item. He noted Variance request for this property will be on agenda next week.

S. Blue asked about Variance.

M. Wozniak stated BOA issue and background of DNR and Floodplain regulations and federal disaster aid options.

S. Blue said how many homes would have to be removed if only boat access.

M. Wozniak stated not proposing that, just needs CUP and Variance.

S. Michels said they cannot come back on Goodhue County later if flooded.

M. Wozniak said this area does flood and BOA will address.

B. Overby asked about the road.

S. Blue asked how many dwellings.

M. Wozniak said a few, maybe 10.

H. Stenerson asked what is RFPE and number 2 how can you park out of flood area if all in flood area.

M. Wozniak stated 100 feet back from OHWL from Lake Pepin.

S. Blue said County won't change the road.

M. Patterson asked is there a requirement for flood insurance.

M. Wozniak said optional.

B. Overby asked if different than North Dakota floods.

M. Wozniak gave flash flood on Little Cannon example but exception. Lake Pepin homes are valuable properties. Already a dwelling onsite and want to replace it.

C/m. Michels opened the public hearing.

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES

Joe Bearden, owns land behind the Lundstroms, had concern of new building height. Lundstroms assured him would not go higher than Lake Avenue neighbors. All other house down there have been raised up. Spring floods park boats near houses and cars up on pavement.

Motioned by B.Overby to close the public hearing, seconded by T. Webster. Motion carried 9-0.

Motion by H. Stenerson seconded by M. Patterson to Approve the Conditional Use Permit and clarification on number 1 re-wording addition of dwelling floor height for Ross Lundstrom property in Section 12 in A-2 Zone District of Florence Township . Motion carried 9-0 .

Summary

Goodhue Wind LLC and Landowner Robert J. Gadiant are requesting approval of a Conditional Use Permit, CUP for a temporary, tip-up meteorological test pole in an A-1 (Agricultural Protection) Zone District. Goodhue Wind LLC. (Tiff Thompson-Agent) is applying to erect the pole in one of two possible locations (all on the same landowner's property) in Belle Creek Township (see enclosed site location map). The purpose of this meteorological test pole will be to provide a preliminary assessment of the local wind resources. The CUP is requesting that the meteorological test pole be allowed to remain on the approved site for up to 3 years to support testing efforts to establish a solid reference station. Goodhue Wind LLC. is a newly formed company from parent organization National Wind LLC. that has developed Wind Energy Conversion Systems throughout the country including elsewhere in Minnesota.

Background

Goodhue Wind LLC. has submitted a CUP application to install a temporary, tip-up meteorological test pole (197 feet or 60 meters in height) on one of two possible sites located in Belle Creek Township. The potential sites are located on parcel number 25.013.0302 owned by Robert J. Gadiant.

The parcel is currently in agricultural use, planted with either corn or soy beans. Each of potential sites is situated on an 80 acre parcel in the A-1 Zone District.

Belle Creek Township has indicated that it will meet to consider the CUP request from Goodhue Wind LLC. At their November 4, 2008 Meeting. Belle Creek Township consideration of the Goodhue Wind LLC. and Robert J. Gadiant CUP request should be completed prior to consideration of this item by the Planning Advisory Commission.

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 temporary use of one of the two potential sites for a meteorological test pole 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 or A-2 and temporary use any one of the two potential sites for a meteorological test pole 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. Each of the sites offers the potential for access to a County Highway or Township Road (subject to driveway access permit). Electric service that may be necessary for the proposed Meteorological Test Pole would be available to each of potential sites.**
- 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 temporary tip-up meteorological test pole in an A-1 Zone on parcel number 25.013.0302 owned by Robert J. Gadiant with the following conditions:

- 1) Goodhue Wind LLC. and Robert J. Gadiant may construct a 197' (60 meter) temporary, tip-up meteorological test pole on only one of the following two sites on parcel ID# 25.013.0302, 80 acres.**

- 2) The applicant shall provide evidence to the Zoning Administrator that all necessary approval have been obtained from Belle Creek Township prior to issuance of a building permit for the Meteorological Test Pole; and**
- 3) Off street parking shall be provided for any parking needed during installation/construction and for on-going maintenance; and**
- 4) 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 Meteorological Test Pole; and**
- 5) No grading or site work in preparation of installation/construction of the Meteorological Test Pole shall take place prior to issuance of a building permit.**
- 6) The Meteorological Test Pole must be removed from the approved site either when use is discontinued or 3 years from the date of Conditional Use Permit approval by the Goodhue County Board.**

Discussion:

M. Wozniak stated summary of the item.

M. Patterson would like to remind public that we are hear to discuss met tower not wind farm.

M. Wozniak said we have no authority over that project.

C/m. Michels opened the public hearing.

Melody Ryan, asked PAC to consider tabling this. Landowners have not have time to do research, and if this goes through then it just goes to the state. We are not sure they want it in their area. Only 8 out of 48 citizens at Township meeting were for this.

Neal Stenlund, said his dad lives next to proposed site and he has power of attorney of it. Belle Creek voted down project and he has private airstrip within half mile of it. If they put up test tower it could be in other places and another company Geronimo could come next as competitor, doesn't like location.

D. Rehtzigel asked what type of aircraft.

N. Stenlund said Cessna.

M. Patterson asked if in traffic pattern.

N. Stenlund said within traffic pattern.

M. Patterson asked if his strip listed with FAA.

N. Stenlund said not listed, been there 35 years.

B.Overby asked how far away from strip and in direct line.

L.Olson said about a mile away on CSAH 9.

K. Moriarty asked N. Stenlund if airstrip brought up in Township meeting.

N. Stenlund said yes, including meeting restricting planes crop spraying.

Steve McNamara from Belle Creek Board said Township doesn't have authority so let over to county. Agrees with Melody Ryan and asked M. Wozniak what is the process after this.

M. Wozniak explained permitting to Public Utilities Commission. Anticipates Goodhue Wind and Geronimo Windo to do C-BED Projects, so the County has to authorize the financial tool portion of it with 51 percent local ownership. County had been asked by Kenyon Wind for C-BED in the past. County Board looked at C-BED as finance means not leverage. County has to decide, and has tabled C-BED so far.

D. Rehtzigel mentioned Kenyon residents thought turn C-BED down it go away, not true, just money issue. Big projects handled by the state.

M. Wozniak stated PUC and MNDOT holds public meetings but out of county hands.

B. Overby stated companies competing and want to lock land up. Completely controlled by state over 5 MWatts.

S. McNamara asked about more public hearing.

B. Overby said up there at PUC hearings.

D. Rehtzigel said state legislature has made ambitious plan for 25 percent renewable energy in 2020. This is a huge issue.

M. Ryan asked about 50 year leasing and effects on farming.

B. Overby said do not have to but they have to purchase wind rights, etc. and other conditions available for settlements.

M. Wozniak stated setbacks exist.

M. Ryan said that is why they want more time and just trying to get crops out now and see whats right for the community. It ruins future property plans and they are asking for 50 year contracts.

D. Rehtzigel said we need to know how met tower affects you now and that is what we are limited to.

M. Wozniak stated Comp Plan supports this venture. We have no authority, but meets county zoning.

Maurreen McNamara, local farmer has stray voltage concerns, and this is going too fast and asked to table this. She is stunned at how many do not know what is going on. Her contractor sees this all over the country. Well meaning feds giving tax credits. She is scared for this spreading out and could PAC slow it up a little bit.

M. Patterson asked if her contractor had input of stray voltage issues from met towers.

M. McNamara said cattle affected by voltage. Downsides.

S. Blue said we need to know trade-offs for existing uses and hoping that others take into consideration.

D. Rehtzigel asked about what legal regulations could protect county or landowners. We have no control like deciding where nuclear power plants go. He asked is the met tower on a reasonable landscape.

S. Blue is asking about Ag Preservation versus trade-offs.

M. McNamara said getting information late. How many conditions now, 6. She added article copies for distribution.

M. Patterson said met tower in Article and addressed not too long ago.

M. Wozniak said because higher than 100 feet it triggers a CUP. Not advocating either way. Are we going to use this as an obstacle, not why standards adopted.

S. Blue responded to Belle Creek situation and Ordinance not site specific.

M. McNamara asked for tabling of this situation.

M. Wozniak stated mail-out requirements.

S. Michels said there could not be enough wind there anyways.

Tiff Thompson sat down at desk to answer questions. Acknowledge local landowners and look out for County best interest. Wanted to bring meteorologist, sick so not here tonight. They need one year of data to move forward.

M. Patterson asked what area does one met tower collect.

T. Thompson said it will require 2 met towers eventually with another 50 miles away.

M. Patterson asked what if another going in close.

T. Thompson said a few miles between footprints, and information is not public so not shared.

B. Overby asked who T. Thompson who she represents. National Wind for Goodhue LLC.

T. Thompson said National Wind sets up project LLC's.

H. Stenerson asked about second tower.

T. Thompson said not sited yet, a season or two away. Preferences of towers specified.

B. Overby stated past examples of picking best met tower site.

D. Rehtzigel asked how long.

T. Thompson said 1 year per times 3 and number of stumbling blocks for 18-24 month project.

M. McNamara asked is there blades for met tower.

T. Thompson said four levels of tools to measure on tower with guide wires.

M. Wozniak said they keep them below 200 feet for FAA,

M. McNamama asked about low elevations so why a met tower.

T. Thompson said relative to footprint it is high.

B. Overby said how much wind is important, not height.

M. Wozniak stated staff concerns and design reviews.

N. Stenlund said not figured out site then.

Neighbor in audience asked for Goodhue Wind to table if landowners asked.

T. Thompson said if she felt it was a problem she would, but she is rated also, so going forward.

Rick Buck, Belle Creek Town Board, no problem with met tower, meetings later for wind farms.

S. Michels asked will you know any more in a month.

M. Ryan said landowners need to get together.

M. McNamamra feels company not operating in good faith with the citizens.

Donald Nord, believes in conservation, should have been looking at this 30 years ago, met tower is the only thing PAC can act upon, airstrip concern, PAC duty to decide. Believes in Alternate energy and conservation.

Motioned by M. Patterson. to close the public hearing, seconded by B.Overby Motion carried 9-0.

H. Stenerson asked why couldn't it be co-located.

T.Thompson said it needs to go where the farm will be exact.

H. Stenerson questions area of accuracy.

T. Thompson said no specifics not a meteorologist. Project will need 2 towers for the wind farms area.

H.Stenerson asked about co-location again.

M. Wozniak stated regulations not written that way.

H. Stenerson proposed that as point.

B. Overby stated competition and Geronimo next.

B. Schafer said if PAC forces them to share they won't compete.

H.Stenerson said cell tower examples and competitor examples.

B. Overby explained tower stats.

D. Rehtzigel asked T.Thompson about setbacks and timetables.

T.Thompson answered tower down within 3 years.

M. Patterson said Goodhue Wind has met conditions.

Motion by M. Patterson seconded by L. Olson to Approve the Conditional Use Permit for Goodhue Wind LLC and Robert Gadiant property in Section 13 in A-1 Zone District of Belle Creek Township . Motion carried 8-1 H.Stenerson dissenting .

D. Rehtzigel explained tabling limits.

M. Wozniak stated 60 days with reason to extent needed in this situation.

D.Rehtzigel said rare to table issue.

M. Wozniak said this has been done before.

S. Blue said cell tower tabling example and they picked new location that was agreed upon.

B. Overby asked about this affecting nearby cell tower.

T. Thompson said in South Dakota project met towers close to cell towers also.

DRAFT

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES**

Page - 29 -

³Moved by D. Rechtzigel and seconded by B. Overby to adjourn the November 17, 2008 Planning Advisory Commission meeting at 11:37 p.m. Motion carried 9-0.

Respectfully Submitted,

Kelly Moriarty

Recording Secretary

DRAFT

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
November 17, 2008 MEETING MINUTES**

Page - 30 -

MOTIONS

¹ APPROVE November 17, 2008 agenda. Motion carried 9-0.

² APPROVE October 20, 2008 minutes. Motion carried 9-0.