

**MINUTES - PLANNING COMMISSION/BOARD OF ADJUSTMENT MEETING**

TUESDAY, DECEMBER 13, 2011, 7:00 P.M., COMMISSIONER ROOMS, LYON COUNTY GOVERNMENT CENTER, MARSHALL, MINNESOTA

MEMBERS PRESENT: Vroman, Buesing, Ludeman, Ritter, Anderson, Zimmer and Biren

MEMBERS ABSENT: Thooft (excused) Nassif (unexcused)

PLEDGE OF ALLEGIANCE TO THE FLAG

IDENTIFY ANY CONFLICT OF INTEREST

Vroman – own land next to hog house, any conflict? Biren – benefit financially or otherwise?  
Vroman – no. Anderson – excuse myself on all discussion on permits, my relation.

AMEND/APPROVE AGENDA – Motion by Ludeman, seconded by Buesing to approve agenda.  
All voted in favor. Motion carried.

CORRECT/APPROVE MINUTES FROM THE OCTOBER 11, 2011 MEETING – Motion by Buesing, seconded by Ludeman to approve minutes as presented. All voted in favor. Motion carried.

**BOARD OF ADJUSTMENTS:** None

**PLANNING COMMISSION:** None

**CONDITIONAL USE PERMIT/PUBLIC HEARING – MINNESOTA SESSION LAW 2000 – MINN. STAT. §116.07, SUBD. 7(1), FEEDLOT:**

Greg Boerboom, operator, and Paula Boerboom, property owner, for a Conditional Use Permit request for a new feedlot and to hear public comment to fulfill Minnesota Session Law 2000 – Minn. Stat. § 116.07, subd 7 (1), to construct or expand a feedlot with a capacity of 300 animal units or more. Odor OFFSET setback requirement is 94%. Minimum setback for a new feedlot is 1320’. The land is zoned agricultural and described as the Northwest Fractional Quarter of Section Four (4), Clifton Township.

Proposed Facility to Consist of:

**(new) Finishing Hogs (2400 x .3 animal factor) = 720 Animal Units**

Type of Building:

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Biren – will clarify requests. Working with Mike Boerboom on both requests for 60 days or so. His mom owns a half section of land. Looking to site two hog buildings. Mike Boerboom and Boerboom Ag Resources owns other. Located on the west and east parts of section. Early stages

of conversations with Mike told him we need to get MPCA involved in process. 2400 head each barn. If you would call them one feedlot, require NPDS permit from State of Minnesota. If called two feedlots, two CUPs needed and each apply for a Construction Short Form Permit from MPCA. We met with Steve Howe, MPCA, process called a multi-site determination. MPCA made the call that it was two sites based on proximity of being close to one mile apart; on two different parcels owned by the same person; and Mike is different ownership than Boerboom Ag Resources. That was the logic used in calling this two feedlots. Will do each request separately. In terms of Feedlot Regulations, Article 19, minimum standards: 1) lot size 10 acres; 2) set back from neighboring homes and other feedlots is 1320' and 94% Odor Offset model, whichever is greater; 3) CUP conditions are set if permit is granted. With MPCA side of things, will need to complete a feedlot application, which is being worked on, part is the hearing tonight, prerequisite of the application. Not complete until tonight is over with. Construction short form permit, issued by me. Manure application plan, design standards (pit) and public notices will be made part of the application. Showed site. Did odor offset model. One barn 101'x200' with pit, 94% Offset Odor means 6% time at levels most people don't like. County is on record saying that is our County Ordinance and we feel that is what being in the ag district means. 1086' minimum footage for 94% odor offset, which ¼ mile is greater. Ran model with both barns together at 94% is 1627'. Look at map that is not an issue if they both were sited together for the setbacks. Showed design plans.

Will do Greg Boerboom site first. Received a letter by fax regarding feedlot and Township brought a comment letter as well. Greg and Paula Boerboom were present. Vroman – any additions you want to make to John's presentation? Greg Boerboom – we put a lot of time and thought where a good site would be, considering agronomic benefits to the land, neighbors and transportation situation. We did not come about it lightly. Vroman – township comments? Oakland – read township comments. Attached to minutes is a copy of their comments. Vroman – I am on the township board. What we are saying is that as of now it is a minimum maintenance road, township has no problem with calling it a regular road. But if they see that there is damage done when the roads are posted in spring, serious damage to the road, we would like you to be involved with repairing that. Boerboom – understand it. Vroman – town board said that it will be maintained like a regular township road. Minimum maintenance road sign won't be removed. Will maintain it like we do otherwise. Snow removal may be a problem. Don't get there every morning. Greg Boerboom – have equipment if need to get there. Ludeman – question regarding manure. You own 320 acres, do you have plans for manure? Talked to other producers? Access to land? Manure management plan will require more land than 320 acres. Greg Boerboom – not talked to anyone yet, Mike done most of the work on that, going by what he said. Have to have that plan in place when submitted to the State. We will have to have that lined up between ours and neighbors. Paula Boerboom – have considered it, will need to talk to others. Greg Boerboom – part of siting, the way the two barns are located, we will probably make a field road on the back property line, half section line, pumping the manure, be able to do without going on township or county road. Vroman – one site small parcel cut off by dredge ditch and the other one is a little bit bigger but cut off by dredge ditch, makes sense. Vroman – Audience comments? None. Ludeman – this is when the public needs to speak up. Biren – note letter for record. Board reviewed Findings of Fact. #2. Buesing – how far will building be from drainage ditch? Mike Boerboom – 150' from the edge of the ditch or 180'-200' center of ditch. Greg Boerboom - 2-3 times MPCA setback requirement. Biren – setback from the center of the

drainage ditch. Protected water 300'. Reason for setback from ditch is for maintenance on ditch. Think it is 100' or 90'. Oakland – on application requirements are listed: 120' center of ditch and 50' from center of tile lines. Attached to the minutes is a copy of the Findings of Fact.

          Ludeman           moved, seconded by           Vroman           to recommend to the Lyon County Board of Commissioners to grant a Conditional Use Permit to the Greg Boerboom, operator, and Paula Boerboom, property owner, for a new feedlot and to hear public comment to fulfill Minnesota Session Law 2000 – Minn. Stat. § 116.07, subd 7 (l), to construct or expand a feedlot with a capacity of 300 animal units or more. Odor OFFSET setback requirement is 94%. Minimum setback for a new feedlot is 1320'. The land is zoned agricultural and described as the Northwest Fractional Quarter of Section Four (4), Clifton Township.

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The Total Animal Unit Capacity = 720 Animal Units

With the following stipulations:

1. That the applicant undertakes the project according to the plans and specifications submitted to the county with the application.
2. That the permit is invalid if the holder has not started construction on the feedlot within a year of the issued land use permit. (A land use permit is valid for one year, and can be renewed administratively for a second consecutive year.)
3. That the county may enter onto the premises at reasonable times and in a reasonable manner to insure the permit holder is in compliance with the conditions and other applicable statutes, rules, and ordinances.
4. Manure in a slurry or liquid form that is being applied in accordance to the manure management plan on file with the MPCA shall be injected or spread and incorporated within 24 hours of spreading except for approved emergency spreading.
5. Manure being hauled on public roads must adhere to policies of the particular road authority involved.
6. The applicant shall obtain all appropriate licenses and permits relevant to the request. Agency involved could be the DNR, MPCA, Board of Animal Health, MDA, MDH, etc.
7. Dead animals shall be disposed of in accordance with the Board of Animal Health Regulations. (Structures used for storing dead animals prior to rendering or structures used for composting shall meet appropriate county and state regulations.)
8. The offset model must indicate 94% annoyance odor free. Any odor control technologies used in the offset model must be in place and maintained. Minimum setback to be 1320'.
9. The feedlot shall meet the minimum standards side, rear, and road right of way setbacks, other setbacks, and lot size. Any trees to be planted shall be at least 60 feet from the road right of way.
10. Violations of these conditions or other regulations found in the Lyon County Zoning Ordinance are grounds for enforcement proceedings.
11. Minimum lot size for a new animal feedlot is 10 acres.

- 12. Must apply for and sign property with an E-911 address.
- 13. Adopt Findings of Fact as part of Motion.
- 14. A copy of the County Board's Motion shall be filed with the County Recorder's Office along with the legal description of the property. Additional fees to be paid by the applicant for the actual costs incurred by the county for the recording fees.

VOTING FOR: Ludeman, Vroman, Buesing

OPPOSED: None

ABSTAINED: None

ABSENT: Thooft, Nassif

Motion carried.

Mike Boerboom, operator, and Paula Boerboom, property owner, for a Conditional Use Permit request for a new feedlot and to hear public comment to fulfill Minnesota Session Law 2000 – Minn. Stat. § 116.07, subd 7 (1), to construct or expand a feedlot with a capacity of 300 animal units or more. Odor OFFSET setback requirement is 94%. Minimum setback for a new feedlot is 1320'. The land is zoned agricultural and described as the Northeast Quarter (NE1/4) of Section Four (4), Clifton Township.

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Mike Boerboom was present. Vroman - same thing, different spot. Mike Boerboom – correct. Ludeman – do you know how much acreage is in that spot? Mike Boerboom – 5 acres south of dredge ditch. Ludeman – need 10 acres, will have to go around ditch with land. Mike Boerboom – yes, legally. Vroman – recorded that way? Biren – right now the legal description is the quarter section, nothing split off. I don't know if their intention is to split it off. But if they would, they need to have 10 acres to be in compliance with our ordinance. Condition on the CUP. Buesing – now have quarter section. Biren – correct. Ludeman read letter that was faxed into office from Faye Ellis which affects the Greg Boerboom site, prior hearing. Attached to the minutes is a copy of the letter. Vroman – no township comments, don't apply, not along township road. Vroman – comments/questions from audience? None. Board reviewed Findings of Fact. Attached to the minutes is a copy of the Findings of Fact. In motion stated NW1/4, should be NE1/4.

Vroman moved, seconded by Buesing to recommend to the Lyon County Board of Commissioners to grant a Conditional Use Permit to the Mike Boerboom, operator, and Paula Boerboom, property owner, for a new feedlot and to hear public comment to fulfill Minnesota Session Law 2000 – Minn. Stat. § 116.07, subd 7 (1), to construct or expand a feedlot with a capacity of 300 animal units or more. Odor OFFSET setback requirement is 94%. Minimum setback for a new feedlot is 1320'. The land is zoned agricultural and described as the Northeast Quarter of Section Four (4), Clifton Township.

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VOTING FOR: Buesing, Vroman, Ludeman

OPPOSED: None

ABSTAINED: None

ABSENT: Thooft, Nassif

Motion carried.

## **RENEWAL/REVIEW – CONDITIONAL USE PERMITS – NOVEMBER:**

Scott Boerboom, Business, Used Car Sales, W1/2 NE1/4, Section 15, Grandview Township. Issued: November 2001 (5 years). Reinspect. Biren – keep it in place, fix up wrecked cars, sell them, nothing outside. Float along, has license to buy cars.

Southwest Towing (Tom Wilzbacher and United Southwest Bank) Rural - Oriented Commercial Use, Operating a Towing Business. N1/2SW1/4, Section 17, Lake Marshall Township. Issued: November 2009, Recorded. Review annually. Biren – have not received any complaints, in compliance with the conditions. He is looking for a place within eye sight of business to build a house. Would like to build a house out there, a lot of buried concrete, not a very big property, access issues as well. Property is located off of County Road 7, cleaned it up, getting along with neighbors.

## **RENEWAL/REVIEW – CONDITIONAL USE PERMITS – DECEMBER:**

Adam Willert, Manufacture and Recycle Pallets, N1/2NE1/4, Section 36, Fairview Township, Rural - Oriented Commercial Use. Issued: December 2007, Recorded. Review and Inspect yearly. Biren – no complaints or issues.

## **DISCUSSION:**

2012 MEETING SCHEDULE – went over list, attached to minutes is a copy of the meeting schedule. Discussion on whose terms are up (Vroman and Buesing). January meeting is last meeting for present board members. February meeting new board members will attend. Biren – have a few gravel pits working on, not sure if having a January meeting. January meeting would be January 10<sup>th</sup> if there is a meeting.

UPDATE AIRPORT REGULATIONS – Marshall Airport. FAA/City of Marshall Zoning Regulations. Impact on area outside of city limits. Mike Mortier and Tom Regnier serving on that board. FAA wrote a model ordinance, this board will have nothing to do with it. They trump us. Ritter – Biren and Goodenow attend the meetings to have county input. Biren – mostly farm land affected. Couple building sites Mortier and Senden that will be somewhat impacted. Buesing – township involved? Biren – not involved, not saying they should or shouldn't be. Anderson – have to do with glide space? Biren – yes, three zones, ABC zone. A zone - most restrictive; B zone – goes out almost 2 miles; C zone - is a circle around the airport that goes out to the Klein Addition. Restriction to structure height. Close to airport very restrictive. Ritter – City is in the process of buying out Helena, Bud Rose, Propane Company, and taking a bunch of trees down by Bud Rose because of height.

DRAINAGE ISSUES – Biren – Lyon County has a fair amount of land covered under the drainage law for county and judicial ditches. What triggered this are complaints to Commissioners and Soil and Water Conservation Supervisors on upstream/downstream concerns. Adding tiling and dumping water into an inadequate outlet. What and if anything we can do about it. Todd Hammer has spoken to a couple of legal authorities, one is Kurt Deter, and he

doesn't have a good enough answer, but basically said upstream versus downstream. Taking it on a zoning responsibility, not saying we couldn't do it, but you have legal issues writing something, then enforcement. NRCS, Jamie Thomazin, district conservationist, knows of a contractor that has close to a million feet of tile in first part of season himself. If you had a permitting program in place, by the time that you would perform engineering to see if it could handle it or not, and what do you do when it doesn't, deny permit/grant it how do you handle it? At this point what I think we are going to do is, Todd and I will be meeting with Soil & Water Board on December 27<sup>th</sup> to have this discussion with them. Maybe try to develop some type of packet for landowners of drainage, facts of drainage, (U of M on sizing tile), give people good information. Then throw some Attorney cards in. Zimmer – attorney cards for who? You have to be careful, you cannot be recommending attorneys to the member of the public. Biren – could give them the Minnesota Viewers Association Website. Anderson – everyone is starting to buy their own tile machine, farmers doing their own tiling. Ludeman – try to manage tiling, problems are going to multiply. Biren – thinking the answer we are going to have is not our business but we were asked to bring it up. Certain watershed districts give out tile permits, program in place have to get permission from downstream landowner. Not aware of very many permits that were ever denied. Vroman - DNR involved? Biren - DNR's role is with public waters.

Other items: Buesing – Redwood River, Gruhot Bridge, working on project, rip rapping. Biren – didn't know that project was going forward. Buesing - D&G doing work.

Ludeman – City of Tracy Sewage Lagoons, approaching agricultural landowners. Biren - will need CUP if not in city limits, in city limits we have no control. Biren – under capacity with current waste water treatment system, need to do something to handle the water.

Vroman adjourned meeting.

Respectfully submitted,

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Richard Vroman, Chairman  
Planning and Zoning/Board of Adjustments

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Carol Oakland, Secretary  
Planning and Zoning/Board of Adjustments