

MINUTES - PLANNING COMMISSION/BOARD OF ADJUSTMENT MEETING

MONDAY, MARCH 11, 2013, 7:00 P.M., COMMISSIONER ROOMS, LYON COUNTY GOVERNMENT CENTER, MARSHALL, MINNESOTA

MEMBERS PRESENT: Steen, Sturrock, Ludeman, Thooft, Chalmers, Ritter, Anderson, Zimmer, Olson, and Biren

Thooft opened meeting at 7:00 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Thooft turned meeting over to Biren.

ELECTION OF OFFICERS – CHAIR AND VICE-CHAIR POSITIONS. Biren asked for nomination for the Chair position. Will ask three times for nominations. Motion by Thooft to elect Ludeman. Biren asked for nominations twice more. Motion by Chalmers that nominations cease and to cast a unanimous ballot for Ludeman for Chairperson, seconded by Sturrock. All members voted in favor. Motion carried.

Election for Vice-Chairman position. Biren asked for nominations for the Vice-Chairman position. Will ask three times for nominations. Motion by Chalmers to elect Thooft as Vice-Chairman. Motion by Sturrock that nominations cease and to cast a unanimous ballot for Thooft for Vice-Chairperson, seconded by Chalmers. All members voted in favor. Motion carried.

IDENTIFY ANY CONFLICT OF INTEREST. Ludeman abstains from Condition Use Permit/Public Hearing, Porkpass LLC. Thooft elects to moderate this agenda item.

AMEND/APPROVE AGENDA. Motion by Thooft, seconded by Steen to approve agenda. All voted in favor. Motion carried.

CORRECT/APPROVE MINUTES FROM THE JANUARY 8, 2013, MEETING. Motion by Thooft, seconded by Chalmers to approve minutes as presented. All vote in favor. David Sturrock abstains. Motion carries.

BOARD OF ADJUSTMENT: None

PLANNING COMMISSION:

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

1. Public Hearing, Loyson Farms, Inc. Doug Loyson for a conditional use permit request to construct a partial confinement barn to house cattle. This request is considered an expansion of an existing feedlot. Currently there are 995 animal units registered. The proposal will not increase the number of animal units. Total number of animal units will be 995. The land is described as the West One-Half of the Northeast Quarter, Section Nine (9), Grandview Township and is zoned agricultural. *Board Action-motion recommendation to County Board.* Doug Loyson was present from Loyson Farms. Biren- Existing feedlot with 995 AU, no expansion in number of head, construction of building and open lot to hold cattle. Showed location of the proposed building and stated that existing barn would be used for equipment/feed storage. Loyson- Completely open lot currently, wants to provide roof/shade for cattle. Chalmers- Existing CUP on feedlot? Biren- Does not believe, the feedlot previously was not required to have a CUP. Chalmers- Existing conditions? Biren- No. Thooft- Is there a manure management plan on file? Biren- Yes, the file contains the manure management plan and meets the odor offset requirements. Ludeman asked if comment was provided by Grandview Township and Biren stated that no comment was received. Thooft makes motion and reads aloud, as attached with the minutes. One stipulation was made to the original motion, that Monroe Township be changed to Grandview Township. Biren discusses manure application requirement and described that Loyson Farms hauls when they are able, only solid manure currently. Ludeman would like to see change to motion item four (4), removing “in a slurry or liquid form that is” and “shall be injected or spread and incorporated within 24 hours of spreading except for approved emergency spreading.” Motion is made by Thooft with said stipulations, seconded by Chalmers. All vote in favor. Motion carried.

2. Public Hearing, ABL Custom Finishers, Bernard DeCock for a conditional use permit request to construct a confinement barn to house finishing pigs. This request is considered a new feedlot. Currently there are 0 animal units registered. The proposal will include 720 animal units. The land is described as the Southwest Quarter Section Seventeen (17) Westerheim Township and is zone agricultural. *Board Action-motion recommendation to County Board.* Bernard Decock was present and represented ABL Custom Finishing. Biren was given the floor. Biren- new feedlot site, public notice sent out, proposed location in west ½ of SW 1/4. Biren shows location on map and describes facility as a 2400 head finishing barn where road setbacks from the right-of-way will be met. Bernard Decock is then asked to describe the proposed project. B. Decock- Family in hog business years ago and began phasing out. Son is joining business. ABL built a hog finishing unit last year in Grandview township. Manure will be spread on fields by Westerheim site. Hauling manure is expensive, so they will build in this location to reduce costs of hauling. Before meeting, B. Decock tried to communicate with neighbors, mailing a letter with names and phone numbers of individuals who are dealing with hog facilities. This document is attached with the minutes. Board is given the letter along with a wind rose for Marshall. Biren reads letter aloud and pulls up Marshall, MN wind rose on screen, describes the wind rose as the average predominant wind direction

based on the date. Ludeman opens discussion for public comment. Jim Brewer- property line to road center is 1100 feet. Seven days since letter was sent by B. Decock, wind was out of east. Picnics during summer will not be enjoyed with wind out of southeast. J Brewers went to drive past B Decock's Grandview hog barn and smelled the barn from three different locations: next to the lot, one mile west, and two and a half miles from the lot. Charles Dalager indicated that Feedlot Specialist Jerry Holien verified that a 94 percent pollution odor offset should be conducted for all livestock operations within a half (1/2) mile. Biren indicated that B. Decock's half (1/2) mile area of impact does not intersect the areas of impact from surrounding livestock operations. C. Dalager disagrees. Biren- 94 percent odor offset predicts the level of annoyance, six (6) percent in this case, is the level on average that a person would feel the odor is an annoyance. This does not mean that the facility will only be smelt six (6) percent of the time. C. Dalager indicated that he has sinus problems and that the combination of turkey barns and a hog facility will be unbearable. He also showed concern about the potential for well contamination, the fact of road safety and that there is a no passing zone on County Road 10 where semi-trucks will block the entire road, that more preparation should be conducted regarding safety, environmental pollution, air pollution, and site location. C. Dalager- Is economics the only reason for this location? B. Decock- Economically, hauling manure from a potential Grandview site would depreciate the value of the manure based on inputs to hauling. C. Dalager would like to see the figures of how much it will cost to drive 365 days per year to operate facility. Christy Brewers is concerned about devaluation of surrounding real estate, was previously a hog farmer and understands operations, the traffic safety of the hill on County Road 10 and visibility beyond and around slowing traffic, that ABL Custom Finishing has three (3) different 911 address with no hog barns on them, how many feedlot facilities should be located within a square mile, and that liquid manure pits will leak and who is going to check for leaks. Adam Decock states that ABL's first barn is southwest of his house, about 1800 feet, and their family is always outside in summer. For the proposed facility, building on a hill which makes it easier for excavation. To address the other potential sites, the east most site has no room because of the road setback and drainage ditch, the old farm site has no room and debris is buried, and the Grandview site would not work because it is six (6) miles to haul manure which results in increased fuel and time of drivers. C. Dalager- Feedlots in a half (1/2) mile area of your home, addressing A. Decock. A. Decock- would have to map, but three (3) other sites which are all turkey barns. J. Brewers- Addressing A. Decock that northeast wind goes into grove but southwest wind does not affect him. Biren reads letter from Chris Swedzinski which conveyed his positive experience with Decock's Grandview hog facility. C. Brewers- Semi-truck height of vision is much higher than a car. Ken Buysse- no passing zone should be considered for safety reasons. C. Dalager- Biren indicated that hog barns will smell and Feedlot Specialist Jerry Holien also said this. Biren- Reiterates that he said hog barns will smell. Ludeman- Sensor, not required by law, are available for probably a relatively low price. Biren- MPCA performs these tests using a Jerome meter, the Jerome meter measures the level of hydrogen sulfide, which is quantified and enforced by state rule. Complaints are

dealt with in this matter. C. Dalager- Could we put a sensor by their other barn to determine what we might be dealing with. Biren feels this is an option that could be taken. Biren reads letter from Allan Orsen who offers an alternate site at the intersection in the southwest corner of section 17 of Westerheim Township to eliminate problems with driveway on County Road 10. Biren reads letter from Ken Buysse who is not in favor and has concerns about the smell and devaluation of property value. Biren indicates that Westerheim town board had no concerns at this time and also indicated that the County Road Authority submitted no comment. Howard Huso- moving the project to the south would result in other homes to the west of County Road 10 being affected, referring to Allan Orsen's alternative site. J Brewers- indicates that his property is further to the east than Buysse's house to the south. B. Decock- regarding safety, does not consider field approach difficult, but those exiting must stop first and look. Ludeman- Plans to provide water? B. Decock- well and rural water are options but quality water is hard to find in this area. Lyle Decock- regarding safety, stop, watch from field exit off County Road 10. The owners know to do this. C. Dalager- Do you personally haul pigs or are they custom hauled drivers unfamiliar with area? L. Decock- CDL drivers should know how to manage a hill. C. Brewers- Drives a car and is concerned about low visibility drivers, it is a no passing zone over hill for a reason. C. Dalager- in summary, neighborhood strongly opposes it and the existing facility neighborhood (Grandview Township) does not mind it. Transfer manure vs. daily servicing of facility. A. Decock- Traffic going to building would be two (2) semi loads per week per year for feed. Fourteen (14) semis come three (3) times per year over a two or three week period. B. Decock- all neighbors against is not true. Some neighbors support and one even asked if he could buy manure. Ludeman closes public comment period. Finding of Facts discussion: Thooft- address additional locations. B. Decock- southeast corner of SW1/4, section 17, this area is minimum maintenance road, not graded up, not strong enough, and a snow concern. Tile along base of any proposed building is required, and this location's low elevation does not promote tile. Also low area is not good for weight of heavy equipment. The old building site is an option but all debris from demolition is buried there. Thooft- will tile be installed around the pit to monitor the manure storage area? B. Decock- Yes, twelve (12) inch tile along base. Chalmers- question for Jim Brewers, whether attempts were made to contact the neighbors Bernie provided in letter. Brewers- Yes, contacted Lori Dyce and she had issues but did not want to upset neighbors. He would not have issue if barn was going to southwest but it is going to the southeast.

Thooft- Zoned agricultural, discussion about odor. Thooft- asks Biren distance of Brewers's house from the proposed site. Biren- 1320 feet and he will have the county surveyor verify this distance. Thooft- asks Biren the distance of the Buysse's house to the southwest from the proposed site. Biren- one quarter (1/4) mile. Chalmers- does proposed site fit normal and/or orderly development? Sturrock- The purpose of this area is defined by how it is zoned, agricultural. Biren- acceptable uses here would force the county highway engineer to look at safety of the driveway. Thooft- county highway

engineer should look at driveway access safety. Ludeman- asks board if this is a reasonable request. All members of board agree. Ludeman- asks B. Decock if this is a tunnel ventilated barn or a curtain system. B. Decock- tunnel barn. Thooft- Additional odor controls? B. Decock- by positioning vent fans away from existing building sites, separation distance will increase another 200 feet. Manure spreading is most noticeable odor and they will limit spreading to one or two times per year. Enzyme mixture will be added to manure in pit to reduce odor. Chalmers- using enzyme in existing barn? B. Decock- yes. Sturrock-asks Tricia Zimmer what party does the burden of proof lie in a conditional use case. Zimmer- Not sure if there is a burden of proof, consider all sides presented. Sturrock- totality of circumstances? Zimmer- correct. Ludeman- there will be other regulations required by outside agencies beyond just the conditions of the permit. Ludeman- plans to plant trees? B. Decock- trees can be helpful but in this instance, they make it worse, no clear results with trees. Biren- trees do more for visibility than odor. Chalmers- addresses audience and describes Planning Commission/Board's responsibilities on this matter. Chalmers- motion made, Seconded by Ludeman. All voted in favor. Motion carried with stipulation that the County Highway Engineer must review plans for a driveway location. Thooft- ensure that trees are sixty (60) feet from road right-of-way.

3. Public Hearing, Porkpass, LLC, Ben Ludeman for a conditional use permit request to construct a confinement barn to house finishing pigs. This request is considered a new feedlot. Currently there are 0 animal units registered. The proposal will include 900 animal units. The land is described as the Southeast Quarter, Section Eight (8), Monroe Township and is zoned agricultural. *Board Action-motion recommendation to County Board.* Cal Ludeman was present and representing Porkpass, LLC in place of his son, Ben Ludeman. Biren- Brand new site, existing driveway will be used, feedlot permit will come from the State of Minnesota because of the number of livestock head, meets setbacks from stream and neighbors. Letters received concerned individuals, and no comment was received from Monroe Township. C. Ludeman- Has looked at site locations, away from 310th Ave. Shelterbelt will likely be planted to the north of proposed facility, tunnel style barn, economics and management of manure are the benefits of building new site, the location will reduce passage of manure wagons past neighbors. Thooft opens discussion for public comment. Lori Hilleren lives in nearest home to proposed site on 310th Ave. Concerned about odor being an issue, Hilleren has chronic asthma and allergies with documentation from the Mayo Clinic and clinic in Twin Cities, purchased property was her dream and she plans to retire there. Thooft- asking Hilleren is the property is on the corner of 150th and 310th Ave. Hillerend- correct, cross the creek and it is C. Ludeman's property. Thooft closes public comment. Biren reads letter from Corey Kreuger whose concerns are air quality, resale of property, well problems, and rendering or composting of dead animals. Biren reads letter from Rodney Kreuger whose concerns are air quality, resale of property, well problems, and rendering or composting of dead animals. Biren reads letter from William Bornitz, whose home is SE of lot, regarding concerns of odor or quality of air, interfering with enjoyment of

property, resale devaluation of property. Biren reads letter from Lowell and Betty Bornitz whose concerns are air quality, impact on property value and enjoyment of property, water table issues, road problems from increased traffic. Biren reads letter from David Anderson regarding concerns of odors from surrounding barns within two and a quarter (2 ¼) mile, resale value of home and devaluation of property, wells, and hog disposal. Thooft- asks C. Ludeman to address the water table and composting/disposal concerns from the letters. C. Ludeman- Ben can drill wells or can tap into rural water, either are options. Thooft- has Ben contact rural water? C. Ludeman- believes so. Thooft- what will be done with dead animals? Is composting an option? Ludeman- closed, concrete site. Thooft- covered site? C. Ludeman- believes so but Ben has not decided on composting. Hillerend- life threatening to live on the property. Thooft reassures Hillerend that this will be included as part of the decision process. Hillerend- this is a public health issues and she will provide documentation. This facility will prohibit enjoyment of her property. Chalmers- regulations and set guidelines are provided for the Planning Commission and we follow them. Hillerend- Is the stream protected? Biren- stream is protected by setbacks but is not a DNR protected water. Hillerend- believes this to be a protected area. Biren- unrelated to stream but board if a condition could be applied to the permit that would account for Hillerend's asthma condition. Chalmers- questions Hillerend's asthma during harvest season. Ludeman- dust free, insect free tunnel system, not a curtain system. Aesthetics will be well managed. Thooft asks C. Ludeman if there is intent to plan trees. C. Ludeman- trees are seen as aesthetics but also as a buffer from odor. Chalmers asks Hillerend if her current property has a grove on it. Hillerend- grove on west side of property. Chalmers asks if these areas had effect on her asthma. Hillerend- no. Thooft asks if there is anything else. C. Ludeman- No. Chalmers- If odors were an issue, would additional steps be pursued? C. Ludeman- cannot make promises for his son, but he feels that these avenues would be taken by his son. No manure being removed. Thooft- additives are currently being used? C. Ludeman- Not aware of this. Sandy Ludeman- additives are only experimental as of now. Thooft- area is zoned agricultural. With offset model, could landowners' call Biren. Biren- yes. Chalmers- offset of 94 percent, what is the distance. Biren explains offset distances. Chalmers- what is the nearest lot to the proposed site? C. Ludeman- 3000 feet. Chalmers- 3000 feet is nearer the 97 or 98 percent odor offset level. Thooft entertains a motion. Motion made by Steen, seconded by Sturrock. All vote in favor, Sandy Ludeman abstains. Motion carries.

4. Public Hearing, RALCO Nutrition Research Facility, Knochenmus Enterprises Contact Robert Falconer for a conditional use permit request to construct a confinement barn to house finishing pigs. This request is considered a new feedlot. Currently there are 0 animal units registered. The proposal will include 720 animal units. The land is described as the Southwest of the Southeast Quarter Section Thirty-two (32), Rock Lake Township. *Board Action-motion recommendation to County Boar*. Robert Falconer is present and is representing RALCO. Ludeman discusses conditional use permitting process. Biren explains that this is a research barn, the nature of a research barn, and

overview of project. The Rock Lake Township board is represented. Falconer- locally brining facility to nutritionists, brining local economics to area. Leroy Johnson is present and represents town board. Johnson indicates that the Rock Lake Town Board has no issues, mentioning that a previous permit for cost share for road maintenance existed for damage beyond normal use. Bob Moline is present, represents Murray County Commissioners, and supports the project. Ludeman asks Falconer to address water and well issues. Falconer- water available on site, hunting habitat may be pursued on rest of property. He indicates that he will attend the next Rock Lake township board meeting. Thooft- discussion of potential nursery site. Falconer- intent is to have 320 chickens. Thooft- what types of research are planned? Falconer- vitamin and trace mineral research. Thooft- what will be done with manure from facility? Will it be applied? Falconer- land is farmed by Jim Tutt and he will apply manure the same property as the proposed site. Ludeman- tunnel ventilation barn? Falconer- yes. Motion made by Ludeman, seconded by Chalmers. All vote in favor. Motion carries.

RENEWAL - CONDITIONAL USE PERMITS – FEBRUARY: None

RENEWAL - CONDITIONAL USE PERMITS – MARCH: None

Discussion: None

Ludeman makes motion to adjourn. All vote in favor.

Meeting adjourned at 9:45 p.m.

Respectfully submitted,

Sandy Ludeman, Chairman

Planning and Zoning/Board of Adjustments

Luke Olson, Planning Assistant

Planning and Zoning