

MINUTES-PLANNING COMMISSION/BOARD OF ADJUSTMENTS MEETING

Tuesday, March 14, 2023 7:00 P.M. COMMISSIONERS ROOM, LYON COUNTY GOVERNMENT CENTER, MARSHALL, MN.

MEMBERS PRESENT: DeBaere, Olson, Louwagie, Sleiter

OTHERS PRESENT: Biren, Springstead, Crowley, Graupmann, Brett Muecke, Jim Swenson, Steve Buyck, Stan Pagel, Colin O'Rourke, Carey Johnson, and Jeff Larson.

ABSENT: Meulebroeck

C. Olson opened the meeting at 7:00 p.m.

All present recited the Pledge of Allegiance

Identify any conflicts of interest: None

AMEND/APPROVE AGENDA: Sleiter moved, seconded by DeBaere to approve the agenda as presented. All in favor, motion carried.

Minutes for the February 14, 2023 meeting reviewed. Sleiter moved, seconded by Louwagie to approve the minutes as presented. All in favor motion carries.

BOARD OF ADJUSTMENTS: None

PLANNING COMMISSION:

Biren - Reads Conditional Use Permit for Action Rocks LLC, Jim Swenson for Gravel Pit Conditional Use Permit

A REQUEST HAS BEEN MADE to the Lyon County Planning and Zoning Administrator by Action Rocks, LLC and contact, Jim Swenson for a Conditional Use Permit request to process sand and gravel. The area representing the request is zoned agricultural.

The land is described as follows:

All that part of the Southeast Quarter (SE 1/4) of Section Fifteen (15) Township One Hundred Ten (110) North, Range Forty-three (43) West, Lyon County, Minnesota

Biren explains project – The Gravel Pit is in Coon Creek Township along County Road 66. We have included a map for you to see where it is. There is a township road along here. There is a shoreland setback zone of 100 feet. Majority of the material will be in the hillside. The planned route will be to County Road 66 on a road with an easement from Gary Thooft, who has sold the property to Jim. Biren asks Swenson to explain more of the project.

Swenson – The plan is for excavating rocks for the Landscape portion of the business. We are running short of rock and there is about 42 ton of aggregate available at this site. It isn't a big parcel, but looking for material has been tough. We don't believe we will be there more than 5 years. Grateful for the opportunity. Open for questions and we are certified miners. Very regulated and will play by the rules. There was a question where we would exit out. We have widened out the road and flattened it for ease for the trucks to get in and out on County Road 66.

Biren would like to explain more for the board. Proceeds to explain that it is located in the agricultural district and is allowed under a conditional use permit. We like to address the health, safety and welfare concerns with conditions. There is an overlying zoning shoreland district along the proposed site. Mining should be prohibited in the shoreland area. Met with DNR and said they would have a letter of support, but haven't received yet to what they would allow. Would like to specify that the area in yellow would be in the shoreland area. Kyle Jarcho is the Area Hydrologist for the DNR. We also reached out to the Township and they are meeting tonight. Did receive a comment form from them. I did include the shoreland standards.

Olson – any other question from the board? What are your anticipated hours?

Swenson – dawn to dusk, but not on weekends. Would like to get as much done during the week as we can.

Olson – Please pull the map back up. So just to the south, is that a building site?

Swenson - That is my in-laws

Olson – The road is to the west?

Swenson – would like to stay off the gravel as much as possible.

Biren – the road authority is the Highway Department – they have issued a permit. Need to put in the aprons and would like to see it built up more.

Olson – any more questions? Any public comment?

Biren - I did get a comment from the Township Board. Will read that and get it into the record. Coon Creek board will maintain this portion of the road. Any additional expense for dust control will be at the expense of the landowner or llc. This will go before the township board on March 14, 2023 at 8 p.m.

Swenson – as far as dust, we do have a water truck.

Biren – for the public comment, if people can stand and give their name for the recording

Olson – Any comments from the public in attendance?

Carey Johnson – please pull up the map. The sliver of land that Mr. Swenson has purchased, I am the guy in the middle, it was a 160 yards from my house. This is the distance in relationship Does anyone want a gravel pit in their backyard? Point 1. Point 2 – Value. Why does anyone open a gravel pit? To make money, right? What is that going to do for the value of my place? Drop 100 grand or 150 grand?

Jeff Larson – Please show the access road. Is there a safety issue with the hill for visibility for hauling? Also, look how many building sites are within a ¼ mile of the gravel pit.

Biren – 3, just misses 1

Olson – On County Road 66 is the hill?

Larson – yes – Who is going to maintain the county road? That’s only a 5-ton road.

Louwagie – only a 5-ton road all of the time?

Larson – When the road isn’t posted. It isn’t a great road to begin with.

Swenson – Not a lot of gravel here. There is rules that you need to put back the way you found it. This isn’t going to last for years and years

O’Rourke- Property values with a gravel pit definitely isn’t ideal. Have children and people drive too fast on these roads the way it is. The idea of having more trucks with speed. Have concerns about safety and road condition. You said it was 40,000 tons? You can do 10,000 a day?

Swenson – I can do 200 tons an hour. You could in 5 days get it done

O’Rourke – If it’s a 5-year plan and if you get it done quicker, is there a intention to move the rest of the section?

Swenson – There hasn’t been any other drilling in the other areas. There was a lease, Ted Anderson had a gravel pit years ago in this location

O’Rourke – It still isn’t telling us what your long term plan is

Swenson – there is pockets of gravel out there, a big operator wouldn’t come in and do this, there isn’t enough

Biren – I haven't seen the lease agreement, but Gary Thooft, previous owner, did tell me that there was a lease with Ted Anderson years ago. That there was a job by Florence, but the county did do some probing out there. Let me tell the board, gravel pits can get a little dicey, when we give a permit for a gravel pit, we give it for the use. Like a hog barn, it's for hogs. When you are dealing with a gravel pit, it is hard to define it as a new use. Over time, it can get bigger. What I would suggest with the conversations that we have going on, is to confine it to that parcel for that use. If it goes out beyond that parcel for that use, we would have to have him do another conditional use permit.

Swenson – that is what I understood anyway just for this parcel.

Biren – you are cool with that?

Swenson – I would agree with that

Olson – Any other comments from the public?

Biren – I just pulled up Google Earth so you can see where it is at and the proposed entrance to County Road 66. I did hear about safety concerns. What Jim explained to me is he really wants this to be the main entrance, not to say that there wouldn't be anything on the township road. Would it be safer to move any traffic to the south?

Swenson – my intention was to never go to the north. If they want no truck traffic by there houses, I'm okay with that.

Olson – so on our number one on our list – for 40 acres or the life of the operation. Would we need to amend that for just the parcel in the motion?

Biren – yes, I would suggest that we do that knowing what we know today. I would define it as the legal description on the application.

Olson – any other comments or questions? So this also says haul roads 150th Avenue to County Road 66.

Biren – I think we want to designate the haul road as County Road 66. If there is anything on 150th Avenue must exit to County Road 66. Any incidental traffic? I don't know what I want to say there. And then I did try and do some good faith efforts with the DNR. I don't know why I didn't get a response from them. I do also want to specify that must have appropriate permits from agencies. Jim will also have his OSHA and MPCA stuff, but also want to have the DNR listed specifically.

Olson – Any of you seeing anything else for the motions before we move to findings of fact?

DeBaere – So if it's a 5-ton road and the postings are on – will abide by that?

Swenson – we won't haul

DeBaere – okay

Olson – Are we ready to move onto Findings of Fact?

Biren – these are there to help us do our due diligence with concerns of public health, safety and welfare

Olson - goes on to read the Findings of Fact – we did hear from surround properties and they have been addressed along with resolutions.

Biren – not only have we discussed them, but we will have conditions.

Board goes through the findings of fact and agrees with the findings. Moves onto motions and makes changes to the conditions.

DeBaere moved, seconded by Sleiter to recommend to the Lyon County Board of Commissioners to grant a Conditional Use Permit to Action Rocks, LLC and contact, Jim Swenson to process sand and gravel. The area representing the request is zoned agricultural and described as:

All that part of the Southeast Quarter (SE 1/4) of Section Fifteen (15) Township One Hundred Ten (110) North, Range Forty-three (43) West, Lyon County, Minnesota.

Conditional Use Permit will be reviewed annually.

1. Conditional Use Permit is granted for the life of the operation or within the area described in the legal description provided with the application or whichever is less.
2. Top soil will be stockpiled and used for reclaiming and leveling.
3. Reclaiming and leveling of land is to be done as work progresses.
4. Grade site after extraction is completed so as to render it usable, seeding required avoiding erosion and an unsightly mar of the landscape.
5. Must maintain a backslope of 4:1 or flatter.
6. Responsible for maintenance on roads that trucks will be hauling on.
7. Responsible for dust control on haul roads.
8. Haul roads designated as: County Rd 66. Incidental traffic on 150th avenue must exit south to County Rd 66.
9. Owner must notify Lyon County when work is complete.
10. Must obtain permits from appropriated agencies including but not limited to the DNR.
11. Hours of operation to be Monday through Friday 8:00 AM to 6:00 PM.
12. Adopt Findings of Fact as part of Motion.
12. 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: DeBaere, Sleiter, Olson, Louwagie

OPPOSED: None

ABSTAINED: None

ABSENT: Meulebroeck

DATED: March 14, 2023

Biren - Reads Conditional Use Permit for Brett Muecke for Gravel Pit Conditional Use Permit and introduces him to the board.

Muecke - The material is best suited for township regrading, commercial, ag construction. We currently run to the south and east, but have migrated up to this area.

Olson – The building site – there is no one living there

Muecke – There currently is

Biren – But you own the site?

Muecke – yes I do

Biren – The township made no comment, I haven't received any other phone calls or comments.

Olson – Any other questions or comments?

Louwagie – Anyone living in that other house?

Biren – No one has lived there for quite a few years, been abandoned for a long time.

Olson – do we have anyone in the audience that wants to speak from the public?

Pagel – a couple of concerns – water - was pumped into a reservoir, so if you get water in it what do you plan to do?

Muecke – Intentions are to dredge out of water and leave the water there. Not sure if we need additional permits or not. We are kind of land locked right now.

Pagel – How far to the borders?

Muecke – To the north border most of the way and then to the west property line, but haven't test yet

Pagel – do you think there is gravel there

Muecke – haven't done much to the northwest, need to watch the setbacks

Pagel – just checking

Biren – it's not uncommon for two landowners to work together. There hasn't been a solid setback, but the slopes need to still need to follow the public safety, health and welfare rules – 4 to 1 slope.

Pagel – are the setbacks the same for the county road?

Biren – we don't have setbacks, can mine right up to it, but have to be careful with the county board and retrictions.

Pagel – after the gravel is gone – you have a hole there, what happens - what happens to the use of it? Can it turn into a junk pit

Biren – no, Brett would need to ask for a demo pit permit, the state won't give a permit to do that anymore. This is not allowing him to do that.

Pagel –but could it happen?

Biren – that would have to be through the MPCA, they are not going to give those permits anymore. An exception would be recycled material to reuse

Pagel – across the road, it got way higher than it should have, but it pushes the water up somewhere else.

Biren – this isn't for this meeting, but when this project is done, if we could get this cleaned up, it would be nice to do a retention area, that would be nice. It all ends up in Lake Shetek through Long Lake. Lake of the Hills filled up a few years ago and the water had no where to go, so storage would be nice

Olson – We do have as one of our conditions, for reclaiming the land and leveling, reseeding so that would answer some of your concerns. We do have one of the conditions for the 4 to 1 slope. Any other questions? Moving to Findings of Fact.

Olson reads through the Findings of Fact and all board agrees with the Findings of Fact.

Biren reads through the motion and conditions.

Sleiter moved, seconded by Louwagie to recommend to the Lyon County Board of Commissioners to grant a Conditional Use Permit to Brett Muecke to process sand and gravel. The area representing the request is zoned agricultural and described as:

The Southeast Quarter of the Southeast Quarter (SE 1/4, SE 1/4) of Section Nineteen (19), Township One Hundred Nine (109) North, Range Forty-one (41) West, Lyon County, Minnesota

Conditional Use Permit will be reviewed annually.

1. Conditional Use Permit is granted for 40 acres or the life of the operation whichever is less.

2. Top soil will be stockpiled and used for reclaiming and leveling.
3. Reclaiming and leveling of land is to be done as work progresses.
4. Grade site after extraction is completed so as to render it usable, seeding required avoiding erosion and an unsightly mar of the landscape.
5. Must maintain a backslope of 4:1 or flatter.
6. Responsible for maintenance on roads that trucks will be hauling on.
7. Responsible for dust control on haul roads.
8. Haul roads designated as: 120th Street to County Rd 7.
9. Owner must notify Lyon County when work is complete.
10. Must obtain permits from appropriated agencies.
11. Adopt Findings of Fact as part of Motion.

12. 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: DeBaere, Louwagie, Olson, Sleiter

OPPOSED: None

ABSTAINED: None

ABSENT: Meulebroeck

DATED: March 14, 2023

Motion to adjourn by Sleiter second by DeBaere. All in favor, motion carried.

Board of Adjustments/Planning Commission
Chair

John Biren, Lyon County P&Z Administrator