

WRIGHT COUNTY PLANNING COMMISSION

Meeting of: February 8, 2024

MINUTES - (Informational)

The Wright County Planning Commission met on February 8, 2024, in the County Commissioners Board Room at the Wright County Government Center, Buffalo, Minnesota. Chairman, Dan Mol, called the meeting to order at 6:30 p.m. with members present: Dan Mol, Pat Mahlberg, Ken Felger, Jeanne Holland, Jan Thompson & Dan Bravinder. Absent: Sandy Greninger Barry Rhineberger, Planning & Zoning Administrator, represented the Planning & Zoning office; Greg Kryzer, Assistant County Attorney, was legal counsel present.

ACTION ON JANUARY 11, 2024 MINUTES

On a motion by Bravinder, seconded the Holland, all voted to adopt the minutes for the January 11, 2024, meeting as printed.

PUBLIC HEARINGS:

1. MBE, INC. – Cont. 2021, 12/14, 1/11

LOCATION: xxxx State Hwy. 25 N & 50th Street NE– Part of SW ¼ of SW ¼, Section 4, Township 120, Range 25, Wright County, MN. (Buffalo Twp.) Tax #202-000-043206 Owner: MBE Inc.

Petitions for an Interim Use Permit to mine sand and gravel for approximately 7.3 acres to include excavation, screening, washing, and crushing of materials, stockpiling, and processing of recycled materials, and filling for reclamation, as regulated in Section 155.031, 155.048, & 155.100 of the Wright County Code of Ordinances.

Present: The public hearing is closed so the applicant, Bob Perry with MBE Inc., did not step forward but was in the audience.

A. Mol – item was previously closed to public comment with Findings drafted for review. Mol called for a motion.

B. Motion made by Holland to adopt the Notice and Order for Denial of Interim Use Permit with Findings. Motion seconded by Thompson.

DISCUSSION: Felger stated he read the Findings and found them to be accurate as to the evidence that was presented by the petitioner, adjacent property owners and current Land Use Plan. He would like to see a scenario where the extraction of the mineral content could be accomplished in a short order of time. Over the years gravel pits turn into 30-40 year pits and that is something that probably wouldn't work at this particular location. He would have rather seen a plan that encompasses the greater portion of the area where gravel removal can be accomplished in 3-5 years, with no crushing. He would also like to see highway improvements at the intersection of County Road 113 and Highway 25. Preference would be a roundabout. Primary concerns were highway safety and health. Perhaps there could be some accommodation for the Church and its activities, with operation hours adjusted. Residents stated they would like to see shortened working hours that could possibly be included in the working plan. With the points mentioned being considered he feels an agreement between property owners, operator, and residents would establish a win-win situation.

Bravinder stated he went directly to the end of Exhibit 4, General Findings, and having been on the Gravel Committee, for 15 meetings, the Interim Use Permit (IUP) was put into the ordinance for a few reasons. One reason is that the IUP does not follow the land, it follows the applicant. With that being said, this Commission can set the length of the permit, they could go with 3-5 years. In his mind that gives the applicant time to get started and they know if they are not a good neighbor the permit most likely won't be renewed. When it comes to reviewing the standard of being injurious to the enjoyment of others, most IUP discussions cover this. If this were to be approved for a 3-year term and factually proven injurious to others, he would vote against the renewal permit. During the 15 Gravel Committee meetings, the IUP ended up being a huge give for the applicants. In his mind, he is a little disappointed that the public asked for an Environmental Assessment Worksheet (EAW), that was completed and the 4 major concerns were addressed. The hardest fix of the EAW was the Highway 25 intersection and turn lanes with the rest of the concerns noted as doable. When it comes to the way this Commission approaches things, he feels that it is important to review zoning. This property is zoned General Agriculture (AG) and gravel mining is an allowed use and is a commercial use. The future use of the property is in the Land Use Plan as Commercial.

C. Mol called for a vote.

VOTE: Holland, Mol, Felger, Thompson and Mahlberg NAY: Bravinder
MOTION CARRIED

It should be noted that the signed Findings were directly handed to MBE Inc. representative Bob Perry.

2. **PERRY SILTALA** – Cont. 1/11

LOCATION: xxxx Oliver Ave SW – NW1/4 OF NW1/4 in Section 11, Township 119, Range 28, Wright County, Minnesota. (N. Fork Crow - Cokato Twp.) Tax #205-000-112204 Property Owner: Perry J & Lindsey A Siltala

Petitions to rezone from General Agriculture (AG) with a Residential-Recreational Shoreland District Overlay (S-2) to Agricultural/Residential (A/R) with a Residential-Recreational Shoreland District Overlay (S-2) as regulated in Sections 155.028, 155.047, 155.048 & 155.057, Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances

Present: Perry Siltala

- A. Rhineberger reminded the Commission this item was continued from the January meeting to allow time for a site visit, which was completed. A little more information was received from the applicant and included in the Staff Report.
 - B. No comment from the applicant or the public.
 - C. Bravinder – Cokato Township recommended denial, which was a tough decision as they like to allow people to do what they want with their property. The location and being zoned General Agriculture (AG) were large roadblocks for the Township. This is one property that, when the Land Use Plan is reviewed in 2025, will be recommended for Agricultural/Residential (A/R), as well as other properties in the same situation. The property is not good Ag land and, unfortunately, there is no building entitlement.
 - D. Thompson – understands why the Township voted how they did. Questioned the possibility of the applicant's ability to obtain a permit to add a structure for his father's use. Rhineberger – only through this process or through a medical hardship, which limits to a mobile home. The medical hardship situation requires evaluation through Health and Human Services and the home would have to be located on Mr. Siltalas homesteaded property. Holland – is there anything impeding an extension to the home? Rhineberger – no, as long as functional piece of a single-family dwelling. Meaning no separate access or closed-off areas that are only accessible through separate exterior entrance. A separate single-family dwelling or a multi-family dwelling are prohibited.
 - E. Mahlberg – this will be a great spot for a house in 2 years, when the Township re-guides. As it stands this is not a rare and unique property and from a planning perspective this Commission can't allow it unless rare and unique, and this property is not.
 - F. Holland – agrees. Does not want to open a Pandora's box because there are a lot of people who want an entitlement on an existing property. Agrees with Commissioner Mahlberg.
 - G. Kryzer addressed Mr. Siltala and explained the Commission is leaning towards denial so now is the opportunity to withdraw the request. Siltala stated he would like to withdraw.
 - H. Motion made by Mahlberg to dismiss the matter at the applicant's request. Motion seconded by Holland.
- VOTE: CARRIED UNANIMOUSLY

3. **JANE SHANKS** – Cont. 1/11

LOCATION: 852 90th St NW – PRT OF SE1/4 OF SW1/4 & GOV LT4 in Section 13, Township 121, Range 26, Wright County, Minnesota. (Eagle - Silver Creek Twp.) Tax #216-000-133300 Property Owner: Jane E Shanks

Petitions to rezone from General Agriculture (AG) with a Residential-Recreational Shoreland District Overlay (S-2) to Suburban Residential (R2a) with a Residential-Recreational Shoreland District Overlay (S-2) as regulated in Sections 155.028, 155.048, 155.051 & 155.057, Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances

Present: Jane Shanks

- A. Rhineberger reminded the Commission this item was carried over from the January meeting to allow the applicant time to meet with the Township, which has been completed. The Township stated approval of the request from AG to R2a.
- B. No additional comment from Shanks or the public.
- C. Mol asked for Rhineberger to bring up the Land Use Plan (LUP) for the property. Rhineberger stated the property is in the plan for Agricultural/Residential (A/R). As stated in the LUP, rezoning to R2a can occur in rare and unique circumstances, this type of rezoning is not outside of what is allowed in the LUP.
- D. Mahlberg stated this request is in the LUP projecting this type of rezoning. In looking at the area he feels the standard related to rezoning: may be appropriate in unique circumstances such as infill for areas that are already developed similarly; adjacent to developed areas with smaller lot sizes to serve as a transition, and; other unique situations that do not establish R-2a as a new zoning district in a previously "undeveloped" area. This request checks all of those boxes and is a good transition from large lots to smaller lots around the lake.
- E. Motion made by Felger to recommend approval of the rezoning from AG-General Agriculture and part S2 Residential-Recreational Shoreland to R2a Suburban Residential and part S2 Residential Recreational Shoreland to the Count Board as it aligns with the goals and policies of the NW Quadrant Land Use Plan. Seconded by Bravinder.

VOTE: CARRIED UNANIMOUSLY

4. **ESTATE DEVELOPMENT CORPORATION** c/o ~~Tom Gonyea~~ Zeb Haney – Cont. 10/12, 11/16, 12/14, 1/11

LOCATION: 11126 Eastwood Avenue SE – The NW 1/4 as well as part of the NE 1/4 lying westerly of Rice Lake in Section 35, Township 118, Range 25, Wright County, MN. (Rice - Franklin Twp.) Tax #208-200-352102, -352100, -351201. Owner: David Lubben Trust

Petitions to rezoning from rezoning from General Agriculture (AG) with a Residential-Recreational Shorelands District Overlay (S-2) to Agriculture/Residential (A/R) with a Residential-Recreational Shorelands District Overlay (S-2) and establishment of a Rural Planned Unit Development overlay district as regulated in Section 155.028, 155.047, 155.048, 155.057 & 155.059, Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: No representative

A. Rhineberger explained to the Commission this request has a new applicant who has submitted the required information to proceed under the original application. The new applicant, Zeb Haney, and the new engineering firm, Campion Engineering, have met with the Township. The Township indicated further revisions are needed and that has delayed their approval of the Planned Unit Development (PUD) overlay and road, pending seeing those revisions at their March meeting. As such, the applicant has requested continuation to the March 7th meeting.

B. No public comment.

C. Motion made by Thompson to continue the matter to the March 7th meeting at the applicant's request. Seconded by Holland.

VOTE: CARRIED UNANIMOUSLY

5. **JON TERP** – Cont. 1/11

LOCATION: 10054 Cty Rd 17 SE – part of the N 1/2 of the NW 1/4 in Section 25, Township 118, Range 25, Wright County, Minnesota. (Franklin Twp.) Tax #208-200-252100 Property Owner: John Terp & Dalton K Terp

Petitions for a Conditional Use Permit for a land alteration of approximately 4,400 cubic yards for an ATV trail and a pad for a shed as regulated in Section 155.029, 155.048 & 155.101, Chapter 155, of Title XV Land Usage of the Wright County Code of Ordinances.

Present: Jacob Saufley with Larkin Hoffman Daly & Lindgren Ltd., on behalf of the applicant.

- A. Rhineberger reminded the Commission that the item was heard at the last meeting with site inspection held on Monday. Since the January meeting, additional information has been received and is included in the Staff Report.
- B. Saufley – additional material submitted included items such as the Stormwater Pollution Prevention Plan (SWPPP), maps showing the Land Use and Comprehensive plan, and a letter in support from a neighbor to the south. In addition, the letter that was submitted on February 1st has been supplemented with additional factors in Code§155.101 that address the 11 additional criteria related to "substantial alteration" CUP requirements. Any project will disturb the soil and this particular one does require an NPDES permit, which includes a SWPPP. The SWPPP includes Best Management Practices (BMP). Essentially the BMP is supposed to minimize any erosion or sediment mitigation on the property so that the watershed area is minimally affected. The project area is the farm field, north of the driveway, and the building shed just south of the driveway. Land was graded on the south end of the driveway to allow for a filtration pond, related to irrigation, and the north side was graded to construct a dirt track. Before the project, the existing buffer strip was very thin and this project increased the distance to about 30 ft. of vegetation. Natural drainage is to the northeast and drainage along the tree line enters into the watershed that eventually runs into the South Fork of the Crow River. Mahlberg questioned if there are any as-built details for drainage and if the relative "mountains", that have been constructed, changed the drainage. Saufley stated he has no as-built but the SWPPP indicates no change in the general drainage pattern. Questions were brought up about the extent of grading that occurred. One factor is that it was to the most minimal possible, which is true throughout the project. Vegetation has already sprouted and the SWPPP plan does call for vegetation planting, which will be put done come spring. Questions came up regarding steep slopes on the property. Before grading there were no steep slopes, which can be seen on the local county map. Some adjoining properties do have steep slopes but not this particular property. There were comments made regarding ecological damage, wetlands, and wildlife habitat. Some of those ecologies do exist on the west side of County Road 17 but they do not appear to exist on this property. The farm field section is within the corridor of protected land around the Crow River. Saufley reiterated this project and the CUP is related to the grading of dirt. The noise, use of dirt bikes, and post application use of property are not relevant but there has been a lot on record discussing those items. Mahlberg questioned Mr. Saufley if his position is that this Commission may not look at the post-alteration use of the land when considering this and the Commission must entirely disregard the use. Saufley stated it is his position that this CUP relates to grading and substantial alteration. The County code does not look forward to what the use will be and the CUP aims to protect the environment and natural resources during active grading. At a technical level, if you look at the resources of the property, and adjoining properties, today versus 6-months ago, he would argue they are the same. The drainage pattern is the same, if not improved and grading is

consistent with CUP requirements. Mahlberg – hearing position is that the ‘why’ an alteration, as a conditional use, is something this Commission cannot look at. Saufley – confirmed.

- C. Kryzer – in looking at the CUP Statue 394.301 Subd. (2) there is a clause which states, *“In connection with ordering the issuance of a conditional use permit the designated approval authority may impose such additional restrictions or conditions as it deems necessary to protect the public interest, including but not limited to matters relating to appearance, lighting, hours of operation, and performance characteristics.”* Feels the statement is broadly written and the Commission can look beyond just the grading of the dirt and the point Mr. Mahlberg is addressing. Saufley – fine point but under County code, the CUP is addressing the grading and moving of dirt so the factors that relate to light, noise, disruption, and such need to be related to the grading. Without the grading, the request would not be present, and why his position is any conditions applied are limited to the moving of dirt. Hours of operation or light pollution, related to dirt movement, could be conditions. Does not believe this question and the County ordinance related to substantial alteration, allows conditions associated to post-grading use. Believes the CUP essentially expires on itself once the grading is complete. Kryzer – disagrees with that interpretation. There wouldn't be a land alteration need without the client's want to build an ATV track. Putting conditions on an ATV track seems to be reasonably connected with the provisions stated in §394.301. He does not think that as soon as turf is established the conversation is over. The Commission can't dictate what is done in the back of the lot but a use related to this request is reasonable. Saufley – the county is regulating the movement of dirt and that is what triggers the CUP. There is no regulation prohibiting the use of dirt bikes, ATVs, horses, or other recreational means as a permitted use in the AG zone. Agree, there is disagreement related to the scope of conditions and parameters that could be applied. The request is for a CUP to move dirt not a motocross facility and County Code 155.101 relates to dirt movement.
- D. Thompson – there is an ordinance in place that the County Attorney has provided his opinion on related to what this Commission can and cannot review. Questioned why a permit was not obtained. Saufley – it wasn't known to be obtained. Thompson stated it is up to the Commission to determine how the ordinance is interpreted and she will therefore go by the direction Mr. Kryzer is providing.
- E. Rhineberger – agree, the map in the Land Use Plan does not depict steep slopes in the area. With aerial map displayed the areas of steep slopes, by ordinance definition, were reviewed. Though not prevalent there are steep slopes on the property in question.
- F. Mahlberg questioned what conditions, related to the use, that would address the general health, safety, and welfare of neighboring properties. Saufley stated he would have an answer later in the meeting and pointed out that the SWPPP addresses steep slopes and changes to topography.
- G. Christine Hallet – co-owner of JC Hallet Construction and the ones doing the work on the property. Have done work in multiple counties and this is the first project in Wright County. They did not apply for the CUP as they did not know it was required. They have never had this come up in other counties where they have done work but as soon as they became aware they submitted appropriate paperwork. The MPCA inspected the property and all fixes were immediately completed. The SWPPP was completed and filed with the MPCA along with the NPDES application. At the Franklin Township meeting, Mr. Terp made his intentions clear that the use of the property is for his family to use, roughly 15 times a year. The site is not for the public and he is not involved in any clubs, they would probably be present if he was. She lives in the country and living in the country is a lot of

things with a lot of people having different ideas in how they want to use their land. Does not feel Mr. Terp's use of the land is abnormal or injurious to anyone else. Unless these same stipulations are put on every motor track in the county, she doesn't know how this property can be any different. Spoke with Mr. Ashwill, who this Commission might know, and no one had a problem with his track until he made it a commercial venture. They are not asking for a commercial venture; they are asking for 1 man to be allowed to use ATVs on his property a few times a year.

- H. Dalton Terp – co-owner, resides at the property and is the son of the applicant – he stated the property and track will be for family gatherings. They are not trying to rile anyone up or cause any harm or disturbances. This is something where a few times a year family will get together and ride UTVs around the track.
- I. Bravinder questioned Ms. Hallet about where they were in the project when they were made aware of the land alteration permit requirement. C. Hallet – would say the majority land movement was done. They had to move quite a bit of clay for the base of the shed. Not all the hills were done but definitely an ATV track at that point. Bravinder – when made aware did work stop? C. Hallet – no work has been done on the track since being made aware of the CUP requirement. The shed work continued. Bravinder – what type of material was being taken out and what was put back? C. Hallet – cleared topsoil off of the Ag land so they could get down to the clay for the shed pad. Put the dirt back that was not clay and that was used to mold the track.
- J. Holland questioned if the letter from Dane and Terri Strandmo was regarding the property directly to the south. D. Terp – confirmed. Holland – they are the closest neighbors.
- K. Felger – over the last few months the Commission has heard the proposed use, after the track is built, is for family events only. Questioned how many people would be on the track and what family means in terms of the number of people. D. Terp – 10-15 people.
- L. Mahlberg – from the Commission's perspective, the after-the-fact permits are very difficult to deal with. The Commission struggles with these and if making corrective actions should be required, which is yet to be decided in this case. The after-the-fact situations are not fair to the Commission or neighbors and are in violation of ordinances.
- M. Mol opened the floor to the public and asked those speaking to keep commenting time between 3-4 minutes.
 - Elvina Nelson – this is for a family playground but what happens when the family isn't interested in dirt bikes anymore? Will the land have to be cleared or will the property be sold for commercial use and there is a large track now used for a business? That is her concern.
 - Leanne Zimmerman – would like to know how long the company has been in the business of constructing tracks and if so, one would think they would know they needed permits before starting.
 - Roger Nelson – confused about that big of a shed for family only. There are 3 big overhead doors and he is almost positive use will be for more than just family.

- Rich Ostlund – 3rd or 4th closest neighboring property owner. No limitations have been suggested and if the property is sold the next person may be in a club and has friends over as there are no proposed restrictions. The noise of a motocross bike is sound pollution, which under Minnesota and Wright County law noise is. The burden was and is on them to ask for the CUP and present a plan that meets all the guidelines; that was not done and therefore put the burden on the Commission and neighbors. Had they come, in the very beginning, and made it clear to staff that they were going to not just have a shed and ATV trail but had plans to build a large shed with a viewing area and move at least 5,000 yards of dirt; that would be the stage the County, Township, and neighbors deserved to know. If all those things were known there is a process that would deal with restrictions related to the CUP but also if zoning requirements would be met. No one wants to face the argument of requiring the dirt to be bulldozed. If only personal use and used 15 weeks a year there isn't a needed to be that big with jumps 30 ft. high. Feels overbuilt and to be a full-blown motocross track. The reality the use is unlimited at this point. There is not a lot of steep slope on the property but there is quite a large steep slope to the north. At the Township meeting the gentleman that farmed the area stated the water drains to the north and into the Crow River. It is known a lot of money and time was spent in 2011 with the adoption of the County Land Use Plan and that plan identified the Crow River corridor as a sensitive area, which has special treatment. His point is that multiple places in code have been identified that an EAW is required. Required or not there are great arguments that an EAW should be done and allow all interested parties the opportunity to identify the risk of pollutants and fundamentally address noise. Noise, by statute in MN, is pollution and there has been no assessment of the impact on wildlife, birds, people, and animals from the noise. Mr. Terp created his own problem and information was provided that he did this same thing 3 years ago in another community. Feels that denying or going forward with the EAW would be the two options for the Commission. Mahlberg – a comment was made that the use is unlimited, he does not feel that is right. If this was put to commercial outdoor recreational use it would be a different permit. The use for private recreational purposes would be unlimited. Often there are no limits put on rural residential recreational use in Wright County or if done is not done lightly. Assuming this use is 10-15 times a year, is this Commission prepared to say an EAW ought to be done? He feels that might be setting a precedence. Point in 1st letter submitted stated this use is not permitted because it is not listed. The letter focused on the use as a motocross park and as being built bigger than stated. Questioned if what is being said is that the use, in the matter begin proposed, is not an allowed use in the AG district. Ostlund – correct, because what was built is as a motocross facility, with jumps and video showing the intended use and that type of use does not fit in the parameters. Mahlberg – is struggling with the idea that because it was "overbuilt" it would be a different use. Ostlund – unlimited statement means no limitations on the use of this motocross facility, as proposed, other than it is for "personal use", which is not defined in the statute or CUP application. If the Commission doesn't act now then forever going forward the same ability will be there and the next person could be part of a club or have lots of friends that drive motocross bikes. There is a lot of NIMBY (not in my backyard) with this situation. At the Franklin Township meeting, Mr. Terp was in a disagreement with the gentleman who farmed the land over the value of the land change. Mr. Terp stated his property value is now over a million dollars and the question is how that value has increased so much; it is by changing the character of use. Believes that by not complying with the timing and correct process staff and neighbors were deprived of the opportunity to talk through environmental impacts as well as what should go on the land.

There are other motocross facilities in the county but there isn't anything like this. The property is no longer agricultural and is built for something else that is very valuable because the character has completely changed. What should be looked at is how this would be addressed had it come up for review before the work was done. Is there any good reason not to pause and allow time for an EAW? In the end, a judgment call needs to be made and to the neighbors, the thing to do is stand to the rule of the law that is there to protect the county. Mahlberg – is it being stated an EAW is mandatory? Ostlund – saying that if looking at a 40-acre development, an EAW is automatically required. The question becomes if the entire 40 acres is a commercial development, with another phase, and an EAW would be required. In statute, concerning the environmentally sensitive areas, and what is supposed to be considered during a CUP, it states the Commission shall consider the environmental consequences. No one present, at this meeting, has the ability to determine the environmental impact and remedies. In two ways the statute makes the EAW mandatory, but it is permissive, and he does not think the Commission needs to go there. Mahlberg – environmental consequences are considered when the ordinance says to consider the environmental impacts but that is vastly different than a mandatory EAW. Ostlund – one way for mandatory and that is if considered a 40-acre development. Mahlberg – this is a 40-acre parcel but the development, shed, and alteration takes up roughly half, so where is the 40-acre argument? Ostlund – would look at the change of the property and how the character of the 40 acres has changed. The contractor has announced in a YouTube video there are 2 phases to the property and a party pond will be installed. Whether mandatory or discretionary to say it is an investment property, changing character of 40 acres, not subdividing, he does not think there is a court that would question if required mandatory or discretionary. Mahlberg – the Commission does need to consider the environmental effects and what he has heard is the EAW is discretionary. Assuming the CUP were granted, what conditions could be imposed to mitigate the effects of the land alteration, itself? Ostlund – submitted a letter that could be referenced. Statute states the Commission shall consider environmental consequences and concerns have been mentioned. He would say, do you have everything you need to know to make a decision? If the answer is no, the way to address it is with an EAW. The letter states this is a tough decision because all of the environmental impacts are not known and there is some information still needed before a decision should be made. There is a list of items in the letter that are derivative to understanding the environmental impact. Under County code, no more than 500 sq. yards was to be moved without a permit and they moved roughly 5,000 yards. The Commission could require the track to be made smaller, move to another location, and raise berms. There are several items could be required to mitigate the impact on the neighbors.

N. Mol called for a break @ 7:54 pm with the meeting called back to order at 8:03 pm

- Jodi Guckenberger – hopes the Commission considers the impact on the neighbors and the environment. Concerned with dust and noise. They see the hills when they sit on their deck.
- Amy Schmidt – moved to the country and themselves have an ATV but the purpose of country living is to also not have close neighbors and a quieter life. The extent of what is seen does not describe that type of environment. Comment made on the shed, they have a large shed but the extent of the shed and number of garage doors does not look like it would be something used for family. All for having fun and ATVing but the appearance does not

portray what has been stated. As others have mentioned, she is concerned with the noise of several bikes or UTVs running all day. Asks the Commission to be considerate of the neighbors.

- Jay Zimmerman – question came up about this being a 40-acre lot. Everything but the wooded area is being used for the motocross track. No one isn't going to look at this property and state it is no longer farmland. This is a motocross park.
 - Stephen Klingelhoets – builders aren't amateurs, they have several excavators, dump trucks, and professional equipment. He does not like that they claim ignorance of the permit process. Overbuilding has been mentioned and he does think overbuilding is cool but the shed and what was done to the property makes it very commercial in the future, the doors on the shed are massive. That is his concern.
- O. Saufley – the building mirrors the size of the building to the south and that neighbor also uses their shed for personal use. The door size is to accommodate a motorhome. Once you look at a motorhome, boat, trailers, and other toys it doesn't take long to fill a building. The site is 39.99 acres with the SWPPP showing roughly 12 acres disturbed. The total project area is 12 acres, which includes the building pad. A total of 0.3 acres of impervious surface is being added to the property. What that means is the drainage will not be impacted and the SWPPP explains that process. There is a change during the construction phase and the reason for the straw, bio-roll, and seed blankets. Those are industry-accepted standards used to protect watersheds. The use of dirt bikes and ATVs in the county is not regulated or prohibited, track or not. Noise is regulated by the MPCA with a packet provided that includes the MPCA noise control standards. Confident those noise standards will not be exceeded and were not exceeded during grading practices. The neighbor to the south would be most impacted and supports the project. Looking at zoning law, this is an AG-zoned parcel with the permitted use as single-family residential and recreational use as an accessory. The conservation corridor, that bubbles around the South Fork of the Crow River, does include the west side of the farm field. This field has been farmed for a long time, so if farming practices were protective of native habitats and species, he would like to see factual findings. With County Road 17 there are 2,600 cars a day, according to a 2016 survey, and the projection is to carry 2,000 -5,000 vehicles in the future. There is a snowmobile trail running adjacent to County Road 17 and there are no restrictions or regulations for snowmobile use. Mr. Mahlberg is correct, an EAW could be required but he feels that it is reserved for heavy industrial usage. When you disturb 1 acre or more of wetland an EAW is then mandatory. To his knowledge, no wetland is being disturbed and the SWPPP notes an EAW is not recommended and falls below mandatory standards. Regarding dust, vegetation will grow back and Mr. Terp has plans to irrigate the property, which will prevent dirt from blowing around. While there is a lot of passion, he is not hearing any facts that would dislodge the arguments in support of the application. He feels the CUP requirements have been met and requirements for the substantial alteration permit have been met. Understands they should have been here on the frontend but this also produces a unique opportunity to see grading on the backend. This is a large parcel with only a handful of homeowners that can see the track. The discussion is about the moving of dirt because the county does not regulate dirt tracks or dirt bikes and that use is an accessory as a personal use on AG property. The building application did indicate there would be an ATV track constructed, there were no plans for drawings. The track wasn't specifically called out but it was also not done under the darkness of the night. Mistakes happen and it is important to recognize this process is not punitive. Mahlberg – does not think it is casting aspersions to suggest

this, which looks out of place for the average person in the Wright County countryside, feels and looks commercial. Testimony at that last meeting was that a sawmill was purchased with a comment made regarding a potential commercial tax component or write-off. Feels that no one is casting aspersions that are not based on the questions that have been drawn out by what has occurred. Had previously asked what appropriate conditions could be put in place, with an approval, that would mitigate some of the concerns. Saufley – berms and trees are the most effective considerations to soften the impact. If talking about mitigating the use of the property for recreational use, which he doesn't think is tied to the request. Feels a site visit is illustrative; the hills roll in that part of the county and when you look at the largest feature it is the only item that sticks out. Mahlberg stated the Commission was at the site and they can judge what they feel sticks out. Regarding the issue of berms and vegetation screening, he does not know if berming will be effective. At times the Commission does require trees to be planted, according to a vegetation plan, and maybe if the trees survive in 30 years, they provide some screening. Personally, not sure trees are going to do anything to address the concerns. Looking into the future, if a purchaser of the property is a member of a motocross club or BMX club, if not for profit, they could ride the track to their heart's content. Kryzer – correct. As long as not for commercial use they could invite their friends and it could be a large number of friends. Mahlberg – commercial use in the ordinance is for profit. Kryzer – requirements are it is a commercial endeavor and open to the public. Saufley – believes permitted use is as single-family. Mahlberg – if Mr. Terp is a member of a motocross club he could invite all members of the club to use the track and that is a different use than the single-family residential use. Saufley – no, that would be a factual interpretation of what is happening at the property and the County has the right to evaluate anytime they would like. Mahlberg – under what reason could an investigation occur? Concern is the door is left wide open. Saufley – feels the County is sufficiently protected. The primary use is single-family recreation and by a factual determination one would be able to establish the use is a ruse. Mahlberg – hypothetically, Dalton Terp continues to live on the property and 16 times in 2024 the 10-15 members of the Terp family use the track. Under the view presented, there is nothing wrong with that and nothing the county could do in factually finding use is a ruse. The following year they join a club and members are invited to use the track. Could the County address that as the use has mushroomed? Saufley – feels the county has the authority to enforce the zoning code and if felt activity occurring wasn't allowed, they would be able to enforce it. If there was a problem with noise there could be MPCA noise rules being violated and not solely a zoning action; there are other tools of enforcement available. Mahlberg – statement that the County has a zoning ordinance hook, in that 2nd year with a moto-club use, that it doesn't have in 1st year, is of interest to him and finding that hook. The use of commercial outdoor recreation would be open to the public, with intent to profit, and is not the hypothetical example he was giving. Saufley – understands the concept but he does not have an answer. Zoning enforcement is a powerful tool and the County has the ability to interpret code as it sees fit and consistent with past practices. Mahlberg – what condition could be suggested that would prevent that hypothetical from coming into being? He does not want to prohibit friends from using the track. Dirt was moved, without a permit, and the door opened and most likely will go away with no additional word but when it doesn't, he wants to propose a lawful, actable condition that addresses the concern. Saufley – when talking conditions there needs to be a nexus in proportionality to the use. He does not believe there has been a factual determination of what the harm will be and therefore condition to control is not known. He can't craft a specific noise condition but there are MPCA regulations related to noise. Mahlberg – could there be something like no motocross club allowed? Saufley – feels somewhat getting into first amendment rights and is not prepared to discuss. Kryzer – RDNT (MN Supreme Court Case), if there is a reasonable condition related to the use it can be put on the proposed use. Seems to be speaking against RDNT and saying there are no reasonable conditions that will alleviate any of the

concerns presented. That seems to be telling the Commission they need to deny because there is not a single condition that could be put on the use that would satisfy any of the concerns. RDNT would articulate that is a legal basis for denial. Either there is a condition or there isn't and if there isn't this looks like a denial situation. Saufley – conditions aren't known because the findings aren't present to establish the conditions.

- P. Mol – a condition for him could be related to 6 family weekend events in the summer. If someone wants to run a bike or two during the week, that is fine, not 10-30 people. This Commission could propose allowing 6 weekends a summer for large gathering of family and friends. There is a track in Clearwater Township that is way bigger than this track and more intense, so there are bigger tracks in Wright County that are frequently used. His feeling is that if the applicant could offer up a condition such as what was mentioned, or similar, it would go a long way with the neighbors. If this request would have been seen on the frontend, some of this would have been discussed. Mr. Ashwill is known by this Commission and he was permitted, on the frontend, by this Commission. Neighbors were in opposition to that request but conditions were worked through and approval was given. Understands how people want to use their land in the country and does not want to tell people they can't ride their dirt bike or ATV on their own property. But work has been done without a permit and frontend review wasn't done so he feels there has to be a little give and take. D. Terp – insurance will not allow anyone, other than family, to ride the track. Mahlberg – assume when saying family there is a distinction between a larger group of say a motocross group coming out. Would assume still allowed to have buddies or friends ride the track. D. Terp – will be limited to just family, insurance will not allow outside of the family. Kryzer – any amount of money can buy any insurance policy. Mahlberg questioned if an acceptable condition would be that only the family can utilize the track. D. Terp – yes, believes so. Mahlberg – would like to explore the boundary of family. Discussion among Commission, Saufley and D. Terp continued around the definition of family and the implications of using the term family as part of a condition. Saufley – as stated, 6 weekends a year is an acceptable condition but not sure how family is defined or not defined. Mahlberg – other than those 6 weekends per year, where it would be a larger family gathering, the use would otherwise be for the occasional ride by something less than a larger family gathering. Saufley – correct. Mahlberg questioned if memorializing such a condition could be acceptable. Saufley stated he does not have the authority, at this time, to answer.
- Q. Bravinder – a bit dismayed by the 5,000 yards illegally moved with no permit. Regarding the amount of use, he is on the fence. Does the Commission have the right to dictate the amount of use of private property? If a nuisance occurred and was reported to the Sheriff's Office, is that something investigated and mitigated through the MCPA? Maybe this is outside the Planning Commission's scope. Mahlberg – believes a nuisance complaint would be outside the Commission's scope. The least attractive option would be to sue the neighbor related to private nuisance, but not sure it could be supported through MN law. Feels a shutdown of use would have to come through a zoning enforcement action. Bravinder – there are some items outside the scope of this Commission and that was his question with the nuisance and noise. If the property owners were agreeable to the mentioned condition, related to a land alteration, he could approve. The condition would be a give on the applicant's part but as mentioned this is also an after-the-fact. With after-the-fact situations the standards aren't looked at differently but it does make it harder to determine the conditions.

- R. Mol – if reviewed, at the frontend, would there have been a discussion regarding the possibility of a filtration basin for water runoff? Feels it would likely have been discussed and possibly an added condition to include a filtration basin.
- S. Thompson – agree with that comment. There are a lot of questions that have come up that she doesn't know the answer to and if applied for before doing the work would have allowed time for those questions to be answered. At this point, she would be looking to staff to provide information to the questions before making the decisions. Rhineberger – at this point, he has not heard questions that need answers. Thompson – should they have asked for a basin? This property runoff eventually drains to the Mississippi River and what does that mean for this Commission? Rhineberger – the Planning & Zoning staff are not drainage experts. In this case, due to the amount of disturbance on the site, the drainage experts have been to the site and recommended a stormwater pollution and management plan that has been prepared by the applicant already. In these situations, it is the MPCA that handles these types of permits. A condition could be that they are required to follow all requirements for state and federal stormwater permitting. Thompson – staff would be prepared to make a list of those requirements to review. Rhineberger – those requirements come from the MPCA. What he would recommend is the Commission continue to have discussions around conditions and in the end close the public hearing and direct counsel to prepare findings.
- T. Holland – it is upsetting there was no permit. What bothers her is now anyone in the county can do what they want and come here after-the-fact. Is there anything, now, that can be said to maybe downgrade some of the hills and meet standards of what would have been asked of anyone else? Are the hills of standard height? A tractor could create dust and noise. She raised her family next to a farm and there were days she couldn't hang her clothes on the line. She is not prepared to say what someone can and cannot do with the property. At the site, she was very content with the fencing and gate because the owner was concerned with people accessing the property. Also, saw the RV's sitting on the property that will be going into the shed. She does not feel, at this time, that the property will be a commercial property. Her concern is if the hills that high are what any other owner in Wright County would be allowed. If they applied for a permit today, would they be allowed to do the land alteration and have height to that standard? Rhineberger – that would be up to the Commission, there is no standard related to the height of a pile of dirt, no matter the use. Holland questioned if there is a precedence, of this magnitude. Mahlberg – it might have had comparable volumes on some applications, that are unrelated to this use. Bravinder – the Ashwill track was already established as a private track and he didn't move a lot of dirt as he was able to use the natural topography of the land. The Commission approved outside training on the track. Rhineberger – not sure what evaluation of dirt work was done at that time.
- U. Mol – need to look at the permit being for dirt altering. If this was a farmer, a corn dryer system will run 45 days in the fall and whichever way the fan is directed it will be heard. Thompson – corn dryer has a specific use that is positive to society and part of agriculture. Mol – not arguing that point but if you are the one hearing that noise you might have a different opinion. Holland – one could say recreation is for mental health. Also takes into consideration the closest neighbor is in favor.
- V. Felger asked the applicant to explain why the magnitude of the track and building if it is only for family use. Seems to be encroaching on almost a professional track. D. Terp – it was his father's wish to design the track this way. Felger – this CUP will run with the land, in perpetuity. That means the Terp family could improve to the standards they are engaged in and ultimately sell the property.

The property will now have a professional track, a huge building with a viewing deck, and may attract enthusiasts from the motocross industry. What would prevent a motocross club from purchasing and turning it into a professional motocross track? Kryzer – the only thing that could be done to prevent this is the condition that D. Terp agreed to where the use is limited to the immediate or extended family of those that own the property. A corporation would not have a family but the person owning would and in theory, the condition would transfer to the next property owner. Mahlberg – there is a limit on the use for that commercial operation to purchase the property without getting a CUP for commercial outdoor recreation use. That is what prevents the for-profit operation using the track. The mentioned condition addresses both uses. Kryzer – can't open for commercial or public without coming back to this Commission for a CUP related to commercial use and if they do not obtain a CUP the operation would be violating the zoning ordinance.

W. Holland closed the matter to further oral and written comment and closed the public hearing. Motion made to direct staff to prepare findings consistent with approval; with the added condition that was agreed upon during the meeting, by D. Terp, that use will be limited to family as well as any other conditions that Planning & Zoning staff would like to recommend to the Commission for consideration and review at the March 7th meeting. Motion seconded by Bravinder.

DISCUSSION: Felger questioned D. Terp if he is speaking for the fee owner or is a fee owner. D. Terp stated he is one of the property owners.

VOTE: Holland, Mol, Bravinder and Mahlberg NAY: Thompson and Felger
MOTION CARRIED

Meeting Adjured: 9:06 pm

Respectfully submitted,



Barry Rhineberger
Planning & Zoning Administrator

BR: sd

cc: Planning Commission
Kryzer
Twp. Clerks